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CHILDREN'S RIGHTS IN AOTEAROA NEW ZEALAND



REFLECTIONS ON THE 30TH ANNIVERSARY OF
THE CONVENTION ON THE RIGHTS OF THE CHILD



The nature of children is to explore their world and the objects in it, which can lead to them breaking precious items. This is highlighted in the proverb ‘Ko te mahi a te tamariki, he wāwāhi tahā’ (the activities of children break calabashes). This whakataukī (proverb) also served to remind families that it was their responsibility to teach children, and not to respond to accidents with anger – children might not always appreciate the value of taonga, but should not be punished for being inquisitive.

Rawinia Higgins me Paul Meredith, ‘Ngā tamariki – Māori childhoods’, Te Ara - the Encyclopedia of New Zealand, www.TeAra.govt.nz/en/nga-tamariki-maori-childhoods (accessed 7 December 2019)

SUPPORTED BY



NESSA LYNCH

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This collection brings together a series of reflections on the rights of children/tamariki on the occasion of the 30th anniversary of the United Nations Convention on the Rights of the Child. These reflections arose out of a symposium held in Wellington in August 2019. Some are written by those who presented at the symposium, others from participants.

In this introduction, I want to trace the journey of the symposium which was the setting for these reflections and to acknowledge those who supported the event and this collection.

Last winter, after returning from an autumn trip to the northern hemisphere, I started thinking about having an event to mark the 30th anniversary of the Convention. It seemed also that there was a groundswell of reforms for children/ tamariki, most notably the redrawing of the legislation governing care and protection and youth justice, including major changes in guiding principles. Issues such as child-wellbeing, child poverty, national care standards, and the establishment of a Royal Commission to look into abuse in state care meant an increased consciousness of the rights and interests of children. An initial meeting with Judge Andrew Becroft, Sarah Morris and Dr Claire Achmad sparked the idea for a symposium in Wellington.

Sincere thanks to the Law Foundation of New Zealand for funding the costs of our international experts, as well as three bursaries for postgraduate students, and the costs of this publication. In a co-funding arrangement with the Michael and Suzanne Borrin Foundation, the cost was split between both foundations. Professors Roseanna Bourke and John O'Neill from Massey University's Institute of Education also contributed funding and joined our steering group. The Faculty of Law, Victoria University of Wellington hosted the symposium, and my particular thanks to Sharelle Kooyman who co-ordinated the event.

The symposium took place on 20/21 August and was attended by an invited list of people, including academics, members of the judiciary, public sector colleagues, NGO colleagues and postgraduate students. The symposium was structured around a series of panels, where presenters shared brief reflections, and had time for questions and interaction with the symposium participants.

Our funding allowed us to bring four international experts to New Zealand to guide and inspire our discussion. These were:

- Professor Ursula Kilkelly, University College Cork
- Professor Laura Lundy, Queen's University Belfast
- Justice Clarence Nelson, Justice of the Supreme Court of Samoa and member of the United Nations Committee on the Rights of the Child
- Bruce Adamson, Children and Young People's Commissioner for Scotland

Across the two days, we explored the children's rights framework and its application in contemporary Aotearoa. Day One considered the fundamental principles and concepts such as participation and well-being, explored how we use the children's rights framework already, and what its potential uses may be. Interaction with other areas of rights discourse such as disability were considered and there was considerable interest in points of convergence and divergence between the children's rights framework and the indigenous rights frameworks.

Day Two considered the application of the children's rights framework apply to four particular spheres: the care and protection and family justice systems, the education system, the criminal justice system and where children are deprived of their liberty.

The symposium was followed by a well-attended public lecture.

Outcomes from the symposium have been increased consciousness of the children's rights framework amongst the attendees and its application in their work, consideration of the priorities for action and strategies for advocacy, and perhaps most importantly, community building amongst those who work for children's rights.

Again, I thank the members of the steering group for the symposium, Andrew Becroft, Sarah Morris, Donna Provoost, Kelsey Brown, John O'Neill, Roseanna Bourke and Claire Achmad, and all those who participated in the symposium and submitted to this publication.

CHILDREN'S RIGHTS AND THE FAMILY JUSTICE SYSTEM — THE KOROWAI AS A NEW MOTIF

01

The law of children in New Zealand could well be described as a “dog’s breakfast”. There is not one neat code, in which we find all the keys rules. Instead we have the Children’s and Young People’s Well-being Act 1989 (Oranga Tamariki Act 1989, until recently the Children, Young Persons, and Their Families Act 1989), the Care of Children Act 2004, the Children’s Act 2014 and the Status of Children Act 1969, along with sundry other pieces of legislation such as the Family Dispute Resolution Act 2013 the Child Support Act 1991, the Children’s Commissioner Act 2003 and the Adoption Act 1955. Yet other legislation deals with birth, age of majority, paternity orders, assisted reproduction, and on it goes. In the light of this, is a new motif needed?

Where do children’s rights, in particular the United Nations Convention, fit into all this? The answer is in a piecemeal way, not as a general touchstone that impacts on the whole canon of child law. So, the Children’s Commissioner must have regard to the Convention,¹ but the inclusion of the Convention in Schedule 2 of the legislation is “for public information and reference purposes only...” and “the inclusion of the text of the Convention in this Act does not affect the legal status of the Convention”.² In other words, the inclusion of the Convention in the Children’s Commissioner Act does not give it full status as part of domestic New Zealand law.

Since 1 July 2019, the Oranga Tamariki Act 1989 contains a reference to the Convention in the Act’s section setting out the principles that govern the Act, with the requirement that children’s rights “must be respected and upheld”.³ Again, this does not “domesticate” the Convention wholly into New Zealand law but flags that it must be taken account of in the context of the 1989 Act.

The 1989 Act deals with issues relating to child abuse and youth justice. If disputes arise that

do not fit into these categories, for example where parents separate, then we turn to the Care of Children Act 2004. The underlying concepts and mechanisms in this Act are very different from the 1989 Act, although the child’s welfare and best interests are “the first and paramount consideration”.⁴ The Convention is not mentioned.

In 2014, major changes were made to the latter system. In short, these included the abolition of the previous ability to request free counselling, mandatory mediation in place of counselling, restrictions on going to court and on legal representation in court, and user-pays for most people. The general view is that these changes were a failure. The system is now fragmented, not well used, with equivocal results, enforced self-litigation, and an emphasis on private remedies. Children’s rights remain obscure.

Late 2017 saw a change of government. The new Minister of Justice, Andrew Little, appointed an “Independent Panel” to examine the 2014 “family justice reforms” and in May 2019 the Panel reported.⁵ Wisely, the Panel did not limit its sights to the dubious 2014 changes but, rather, looked more broadly at the Family Court and allied services. The recommendations are not simply about putting 2014 into reverse – in fact, this is only true in part anyway – but about refocusing the Court and the system as a whole. In place of the 2014 fragmentation, the Panel has called for a new integrated “joined-up” approach. Instead of the various parts working in isolation and not necessarily following the same principles, the future model would bring together the “siloes” elements of the current services, so that there is one “family justice service”.⁶ This is not really radical: it is entirely consistent with the Beattie Royal Commission that led to the formation of the Family Court.⁷

The Report uses the image of “korowai” or cloak to capture the thinking. This “symbolises the mana of the family justice service; it affirms that

all who draw on it for protection, support and empowerment will be treated with dignity and respect”.⁸ In my view, the metaphor is valuable. The cloak is something we can all share. It is a woven garment, that weaves people together – children, whānau, parents, grandparents, judges, social workers, lawyers, counsellors, mediators, psychologists and psychiatrists ... There is a sense of warmth, shelter and security about the korowai, just what children need.

The Report makes a wide range of recommendations and it is not possible to discuss them in any detail here. It is worth noting that, under the heading “Te ao Māori”, a reference to the Treaty of Waitangi, modelled on those now found in the Oranga Tamariki Act 1989,⁹ would be included in the Care of Children Act.

A little needs to be said about children’s participation. Section 6 of the 2004 Act was regarded as a major step forward when enacted, with its obligations on obtaining children’s views and providing them with reasonable opportunities to express those views, often through lawyer for child. The Panel suggests that the revised version of this found in the Oranga Tamariki Act¹⁰ should find its way into

the Care of Children Act as well as the Family Dispute Resolution Act 2013 where currently there is a big gap when it comes to any kind of involvement by children.¹¹ One of the significant shifts here is from views simpliciter to the wider notion of “participation”. Undergirding this is a recommendation that express reference should be made to the Children’s Convention. Symbolically at the very least, this would be a major improvement from a children’s rights point of view. Maybe we can see the principles and provisions of the Convention as part of the woven fabric, providing vital threads in the motif of the korowai.

What is missing from the Report? The obvious omission is the lack of integration with the Oranga Tamariki Act. The Panel’s terms of reference and timeframe were inevitably narrow, and so we could not have expected a total re-jig of the whole of child law in New Zealand. Even so and as already noted, the Panel was well aware of the latest changes to the 1989 Act, but it was not in a position to address directly the yawning gap in the approaches found in the Care of Children Act and the Oranga Tamariki Act. An underlying question is therefore whether children’s rights suffer as a result.

ENDNOTES

- 1 Children’s Commissioner Act 2003, s 11(a).
 - 2 Children’s Commissioner Act 2003, s 36.
 - 3 Oranga Tamariki Act 1989 (Children’s and Young People’s Well-being Act 1989), s 5(1)(b)(i). See S Bookman and A Becroft “CROCodile tears or provisions with bite?” [2019] NZLJ 267 and S Otene “Te Hurihanga Tuarua? – Examining amendments to the Oranga Tamariki Act 1989 that took effect on 1 July 2019” (2019) 9 NZFLJ 139 especially 141-142.
 - 4 Care of Children Act 2004, s 4, expanded in s 5.
 - 5 The Final Report of the Independent Panel Examining the 2014 Family Justice Reforms *Te Korowai Ture ā-Whānau* (Ministry of Justice, Wellington 2019).
 - 6 At 5-6.
 - 7 D Beattie (Chair) *Report of the Royal Commission on the Courts* (Government Printer, Wellington, 1978).
 - 8 *Te Korowai Ture ā-Whānau* at 6.
 - 9 Oranga Tamariki Act 1989, ss 4(1)(f) and 7AA.
 - 10 See Oranga Tamariki Act 1989, s 5, and in more detail s 11. The Panel also recommends borrowing from s 159 of the Oranga Tamariki Act 1989 in relation to the appointment of lawyer for child: *Te Korowai Ture ā-Whānau* at [3.5].
 - 11 How the voice of the child is to be heard in mediation is uncertain, and may depend on the age of the child, the presence of legal or other representatives, the nature of the mediation, the added cost and delay of getting specialist reports, etc.
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**we went to the sick
bay and he [the
psychologist] asked
me a whole lot of
dumb questions, so I
gave him a whole lot
of dumb answers.**

**Māori year 7 child reporting on experiences of an
IQ test and resultant invalid, low score**

Bourke 2018, p 218

**“TROUBLING THE
HEGEMONY OF THE
NORM”¹ — LEARNING
FROM DISABLED
CHILDREN’S RIGHTS
TO UPHOLD THE
RIGHTS OF ALL
CHILDREN**

02

ANDREA JAMISON

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Disabled children have rights as both children and as disabled people. Yet, ironically, despite protection and promotion of their rights under both the Children's (CRC)² and the Disability (CRPD)³ Conventions, "[W]hen children's rights are considered, children with disabilities tend to be forgotten. When the rights of people with disabilities are considered, children with disabilities tend to be forgotten."⁴ What if we flipped this dichotomy and looked to see how intersectionality could be used to strengthen respect for all children's rights?

When the CRC was adopted in 1989 it was groundbreaking in that it included Article 23, which deals specifically with the rights of disabled children. CRC Article 23 provides *The disabled child "...should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation."*

The CRPD was adopted 17 years later in 2006. Both conventions are products of their time. Broadly speaking, Article 23 of the CRC reflects a medical model of disability, with disability seen as an individual problem that necessitates assistance and support for the child. The CRPD, on the other hand, is based on the social model of disability – disability is located in society's response to a person's impairment not in the impairment or the person themselves.

Children's rights advocates involved in drafting the CRPD saw the need to build on the rights contained in the CRC, for disabled children. A concerted effort was made to ensure the rights of disabled children were both mainstreamed in the CRPD and, where necessary, covered by specific articles.⁵ As a result the CRPD makes it explicit that disabled children enjoy all their human rights and fundamental freedoms on an equal basis with other children; all the CRC rights apply to children with disability, as "children first". The CRPD also

- Re-affirms the CRC's general principles⁶
- Covers issues of specific importance to children with disabilities: birth registration; rights to family life; right to play.
- Confirms certain rights apply to disabled children: consultation; sterilisation and bodily integrity.
- Adapts some disability rights to apply to children: autonomy; protection from violence (child protection systems extend to children with disabilities; family violence systems include children).

I believe, and very much hope, we are seeing a move from focussing on technical compliance with our international human rights obligations towards more consideration of progressive implementation. Such a shift would open many opportunities to develop clear lines of sight between disabled children's rights and assessments of how wider legislative and policy settings impact families and whānau, hapu and iwi, and communities, and what that means for disabled children.

As you would expect, given rights are about real, everyday life, implementing disabled children's rights is consistent with contemporary thinking and understanding about children and disability, as illustrated in the emerging field of disabled children's childhood studies and current best practice in early childhood intervention.

In disabled children's childhood studies *"...disabled children are not viewed as having problems or being problems, but as having childhoods."*⁷

Similarly, current best practice in early childhood intervention⁸ emphasises the importance of supporting parents and caregivers in developing positive and responsive relationships with children with developmental disabilities from as early an age as possible.

Dr Tim Moore, a leading researcher in the field, has commented: *“The reason we want children to be meaningful participants in everyday environments is because meaningful participation is the engine of development and the key to attaining a true sense of belonging and a satisfactory quality of life”*.⁹ Reasoning that applies to all children, not just those with disabilities, and reasoning that aligns strongly with a children’s rights approach.

I suggest that starting with the rights of disabled children strengthens the realisation of rights for all children because it requires us to *“trouble the hegemony of the ‘norm’”*. Considering disabled children’s rights requires us, (those who have the power to make decisions that impact the lives of disabled children, whether as a parent or whānau member, service provider or policy maker) to think beyond the generalisations and assumptions we have about what childhood looks like; to listen to the child, and children, about their views and experiences; and to collect and seek to understand other data essential to ensuring our decisions are truly in children’s best interests.

Implementing disabled children’s rights requires consideration be given to the State’s role, under CRC Article 27 and others, in building a society in which all children, including those with disability, grow up in an atmosphere of “happiness, love and understanding”¹⁰ to know who they are, have hope and feel valued in their world. Aspirational yes, but with practical ramifications and underpinnings. Here are some current examples:

- Is the learning support update sufficiently integrated with broader education system reform and will the changes mean disabled children are able to realise their rights under articles 28 and 29 of the CRC, as well as their rights to inclusive education under the CRPD?
- Both Conventions are included in the Oranga Tamariki legislation but what does this mean in practice? For example - what assistance do disabled children and young people get to share their views; how are family welfare and disability support systems linked, how do they work together

to maintain the disabled child’s rights to family?

- Households with disabled children are significantly more likely to experience income poverty.¹¹ What does this mean for how we understand the child’s right to an adequate standard of living when the child has a disability? What are the policy implications?
- Lastly, but by no means least, are disabled children’s rights being factored into climate justice work and, if so, how? If not, should they be?

For me, this convergence of children’s rights, research, academic thought and best practice underscores how much there is to learn from the intersectionality of disabled children’s rights. Intersectionality is one key to unlocking and breaking down the conceptual divide that exists between children’s rights and their lived experiences. Perhaps then every child, including those with disability, would have their best childhood.

ENDNOTES

- 1 This idea of troubling the hegemony of the Eurocentric 'norm' is cited by Curran and Runswick-Cole, along with considering disabled children's childhoods outside the 'normative shadows'. Tillie Curran & Katherine Runswick-Cole (2014) *Disabled children's childhood studies: a distinct approach?*, *Disability & Society*, 29:10, 1617-1630, DOI:10.1080/09687599.2014.966187
- 2 United Nations Convention on the Rights of the Child
- 3 United Nations Convention on the Rights of People with Disabilities
- 4 Gerison Lansdown (2013) 'Children with disabilities' in Maya Sabatello and Marianne Schulze (eds), *Human Rights and Disability Advocacy*, University of Pennsylvania Press, page 97.
- 5 For more detail on the drafting process see Gerison Lansdown, above n4.
- 6 These are: non-discrimination (CRC, article 2); best interests (CRC, article 3); right to life, survival and development (CRC, article 6); and participation (CRC, article 12).
- 7 Curran and Runswick -Cole, above n1, page 1617.
- 8 Moore, T. G, Rethinking early childhood intervention services: Implications for policy and practice. *Pauline McGregor Memorial Address* presented at the 10th Biennial National Conference of Early Childhood Intervention Australia, and the 1st Asia-Pacific Early Childhood Intervention Conference, Perth, Western Australia, 9th August.
- 9 Moore, T.G, above n8.
- 10 Preamble to the United Nations Convention on the Rights of the Child
- 11 Sam Murray (November 2018) 'Breaking the link between disability and child and whānau poverty' *Policy Quarterly*, Volume 14, Issue 4, Page 68.

**WHEN IT'S ABOUT
ME, MAKE SURE
TO INCLUDE ME:
THE IMPORTANCE
OF THE VOICE
OF THE CHILD IN
PROFESSIONAL
SETTINGS**

03

JAZZ ROBSON

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“To say children are experts in their own lives is wrong, but children do have expertise in their own lives, and this must be understood with the perspective of other adult experts too” (Anonymous, 2019). In August 2019, I attended the 30-year anniversary symposium on children’s rights, hosted by the Law School of Victoria University of Wellington. This symposium hosted some of the very best we have, globally, advocating for children’s rights. Combined, they presented invigorating ideas and hope for children’s rights, whilst also showing how far we have yet to go to really make a “rights” difference for all children, in all aspects of their lives, especially in the New Zealand context.

While there were so many worthwhile points made, that are each worthy of further discussion, something that struck a chord with me, that I kept thinking about during the symposium, was this notion of “nothing about me without me”. Children are rarely invited to take a seat on academic/professional or government panels, lectures, discussions, or symposiums about and for them. Discouragingly, when they are given a seat, if not provided with the full opportunity to take part, it can sometimes appear either ad hoc or, worse, tokenistic. While Article 12 and Article 13 of the United Nations Convention on the Rights of the Child (UNCRC), some of the most contentious of all the articles, represent children’s rights to be included and informed, it is not to dismiss or underestimate the challenges that can be faced providing children with a voice in these settings. Acknowledging only the challenges, however, gives rise to the notion that, in certain spheres, children’s voices can be and readily are excused from the very platforms where their voices should be, and inherently require being, heard.

This symposium was refreshingly a little different. We were privileged to hear Sophie, a young person, speak. Sophie showed, when given the opportunity to take part, and to be listened to, children can speak truth to power, they can be empowering, eloquent, informed, capable, and vested. This got me thinking, in professional settings such as academically based symposiums, and discussions about children’s rights, why are there not more children taking a seat next to the adult experts? After all, children’s rights exists because they exist. It is **about** them and **for** them. Doverberg and Pramling¹ refer to the idea that children’s thinking is not inferior to adults just qualitatively different, and it is this qualitative difference that is needed, in part, to ensure we, as the experts, are doing the very best we can for all children.

Hearing Sophie speak so passionately about climate change and her work with the climate change protests in Aotearoa, New Zealand, with conviction and an informed understanding, showed that when children are provided, often by adults, with knowledge and necessary information to make their own informed decisions, children can share their views and they can take a seat at the table with the very experts who advocate for their rights. I hope this reflection and example provides others, who plan to host symposiums or other professional discussions about children’s rights, with the impetus to ensure that they too, make the choice to include, encourage, and listen to children. After all, Article 12 and 13 of the UNCRC demand it.

ENDNOTES

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- 1 Doverborg, E., & Pramling, I. (1993). *To understand children’s thinking: Methods for interviewing children*. Gothenburg, Sweden: Department of Methodology, University of Goteborg. Retrieved from eric.ed.gov/?id=ED434726
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THE LANGUAGE OF CHILDREN'S RIGHTS: IMPACT ON CHILDREN IN CONFLICT WITH THE LAW

04

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INTRODUCTION

Internationally, 2019 is a very significant year for children's rights, with the 30-year anniversary of the United Nations Convention on the Rights of the Child in November. The Convention is one of the most ratified rights treaties in history, and it plays an important role in defining, as well as upholding the rights of children. However, worldwide progress in implementing and upholding the rights of children has been uneven, resulting in the violation of the rights of many millions of children.

While many governments such as the Australian Government signed up to the Convention in 1990, as a country it is deeply concerning that it still does not have a national strategy or national measures to ensure the implementation of appropriate protection of children's rights. The language of children's rights has not been embedded into policy developments, training, or into practice in the area of youth justice in Australia, and the repeated significant breaches of the international standards and guidelines paints a very confronting picture of how children and young people in conflict with the law, are mistreated and demonised.

LANGUAGE MATTERS: MEDIA REPRESENTATIONS OF CHILDREN AND CHILDREN'S RIGHTS

As the academic literature tells us, media representations are central to how a group is seen and this determines how they are treated, thus, how others treat them is 'based on' how they 'see them' (Dyer 1993, cited in Gordon 2018). The United Nations Committee on the Rights of the Child have long been highlighting the media's role in creating negative stereotypes of children and young people and at the sharp end of this continuum of demonisation are

representations of children who come into conflict with the law. The Committee has referred to the 'general climate of intolerance and negative public attitudes towards children ... appears to exist in the State party, including in the media' and the state that significantly, this 'may be often the underlying cause of further infringements of [children's] ... rights' (CRC, October 2008: para 24).

My research over the past eleven years has focused on the media's portrayal of children and young people, and representations of children's rights, advocates and the impact on service provision. I have written about the power and impact of language, labels and stereotypes particularly in the context of children and young people in Northern Ireland and the United Kingdom. The following discussion refers to data derived in a larger study referred to in my monograph published in 2018 entitled: *Children, Young People and the Press in a Transitioning Society: Representations, Reactions and Criminalisation*, Palgrave Macmillan, *Socio-Legal Series*.

One aspect of this research involved collecting media content over six months and creating an evidence-base as to how children, young people, their advocates and children's rights are portrayed in mainstream media. The research analysed over 2,500 media items and throughout the six months, only thirty-four news items actually made reference to children and youth sector organisations in Northern Ireland and children's rights. This figure was low in comparison to the overall number of news items identified and the findings demonstrated how marginalised this sector was within media discourse. In those news items, journalists and editors typically employed negative language

to describe the children and youth sector organisations and children's rights discourse.

The then Children's Commissioner stressed that in her experience the media and society in general viewed "rights ... as a really bad word ... people feel threatened by the word" and as a routine the media 'pitch adults' rights against children's rights". Other advocates interviewed noted similar and highlighted that the media pitch children's rights, particularly those in conflict with the law, against general rights and well-being of the community:

"There is a sense that we are really getting carried away and that is why we have the problems we have because children ... are having these rights and holding them up and using them against others".

This typically results in the negative construction and popular understanding of children's rights and ultimately the denial of rights protections for the most marginalised.

The implications of the 'backlash against children' and children's rights discourse has a long legacy in the United Kingdom, particularly following the death of two-year-old James Bulger in England and the conviction of two ten-year-old boys. This has had long-term consequences. As I have argued in my book, blame placed on children's rights for constraining adults in their reactions towards children and young people's perceived misbehaviour was evident throughout the media coverage I analysed. Many examples illustrated how popular discourses were promoting the stripping back of children's rights and a return to particular punishment models, with one such representative example entitled: 'Bring Back the Cane To Sort Out Unruly Children' (Belfast Telegraph, 21 August 2010: 26), calling for a return of corporal punishment.

Noting the increasing incarceration rates, one politician I interviewed discussed the media's portrayal and perception of the rights agenda and stated that:

"I don't think the media is particularly interested in portraying any rights agenda ... the media is ... hostile to the concept ... The media find it too easy to generalise and to editorialise ... positions which are not just ill-

informed but are potentially dangerous ... the lack of human rights agenda means that we send too many people to prison ... they treat them as if they are lost to society and that is it".

NEGATIVE IMPACT ON CHILDREN, ADVOCATES AND ON SERVICE PROVISION

Children and young people's advocates emphasised the impact of this negative reporting and the personal attacks by the media, on individuals working in the children and youth sector and on service provision. This was something that no other research study in the area of media representations, had previously explored. Many advocates described their personal experience of being targeted by newspapers and journalists and how this had impacted upon them personally. They also spoke of the perceived impact on public perceptions of service provision for children.

My research also documented how negative media reporting and 'naming and shaming' has damaging and serious consequences for the lives and well being of children and young people. Many advocates interviewed documented the "huge impact on young people who are the victims of that demonisation". Youth workers spoke of the positioning of children and young people as "outcasts", resulting them being "disconnect [ed] ... in terms of becoming stakeholders in society".

Based on their experiences of working with children and young people, advocates asserted that many "young people ... have not heard a positive ... encouraging word" and "when they start to hear things that are positive about themselves", many young people "think ... I don't have to live up to ... this negative stereotype ... [and] turn their lives around".

At the sharp end of the continuum of demonisation, several youth workers described how young people "are getting punishment beatings" as a consequence of 'getting such a bad press' and a number of children and young people who were involved in focus groups for this research described how they had been physically attacked for challenging mainstream media stereotypes.

CONCLUSION

Language matters and the way in which children's rights are reported on can negatively impact on wider society's understanding and impression of rights. It is those working with children and young people who clearly know the reality in terms of the impact of the denial of children's rights and the very challenging circumstances which many children and young people navigate on a daily basis. Children's and young people's experiences are often exacerbated by failures in the formalised systems they have to engage with, such as the criminal justice system.

As the international community shines a spotlight on children's rights in 2019, it is an opportune time for advocates, practitioners, academics and decision-makers to come together to reflect on the concerns raised by the UN Committee on the Rights of the Child. The newly released General Comment on 'child justice' gives us a renewed focus and key principles to push for much needed change in the criminal justice space.

The inspiring and informative two-day event in New Zealand was a shining example of the benefits of bringing people together to share experiences; to inform one another of international, national and local research findings, advocacy and practice challenges and to reflect on what we need to work on in order to be better upholding the rights of children and the spirit of the 1989 Convention. The commitment of the range of key stakeholders in attendance represented such positivity in relation to advocacy, social work, legal professionals and research academics. The inspiring young person who spoke at the event about the active climate change movement and the mobilisation of children and young people to challenge politicians on their lack of progress, illustrates how many children and young people are utilising social media and other forms of media as 'tools of resistance', in order to have a voice. Children's and young people's voices matter and they need to be at the centre of all discussions, debates and policy development. In moving forward, we clearly now need political will to bring about much needed change.

**STRENGTHENING
ADVOCACY USING THE
CONVENTION ON THE
RIGHTS OF THE CHILD
AS A GUIDING
FRAMEWORK TO ADVANCE
THE ISSUE OF ENDING THE
PHYSICAL PUNISHMENT
OF CHILDREN**

05

JACQUI SOUTHEY

Save the Children, New Zealand

DEFINING ADVOCACY

Advocacy originates from *advocare*, ‘call to one’s aid’ or to speak out on behalf of someone as a legal counsellor. Conceptually, advocacy fits into a range of activities that include organising, lobbying and campaigning.¹ Advocacy has broadened outside of the original legal confines to a process of speaking up for or with others, with the intention to bring about change on specific issues.

The role of advocacy for children is to bring about sustainable change for good, in the short and long term, legally, politically, and socially. Through advocacy we work to fulfil the rights of children ourselves and seek to change the systems and policies around us so that children’s rights are realised more sustainably and widely.² It is a core process for tackling the disparities children face where issues are raised and amplified to bring them to the forefront of public consciousness, thereby putting them directly on the agenda for decision makers.³ Advocacy requires, organisation, collaboration and amplification, and when effective, influences decisions, actions and policies.⁴

ADVOCACY AND THE CONVENTION ON THE RIGHTS OF THE CHILD, AN EFFECTIVE FRAMEWORK THROUGH WHICH TO ACHIEVE POSITIVE OUTCOMES FOR CHILDREN

Advocacy has played, and continues to play, a key role in amplifying, protecting and upholding children’s rights. It can be argued that advocacy was central in establishing children’s rights. Eglantyne Jebb, the founder of Save the Children in 1919, held very strong convictions on the way children should be treated. She believed children held rights as individual citizens, rather than being considered as lesser humans or the property of adults. Her beliefs led her to advocate on behalf of children and the way they should be treated. As part of her

advocacy, she drafted the original document of children’s rights, the Declaration of the Rights of the Child.⁵

This document is considered the founding document of children’s rights, and eventually led to the United Nations Convention on the Rights of the Child (the Convention) as we know it today.⁶

The Convention is the most widely ratified treaty in history. The Convention is a powerful instrument that recognises children as citizens in their own right, according every child up to 18 years of age civil, cultural, economic, political and social rights regardless of their gender, ethnicity, wealth, religion, ability or disability.⁷ The Convention establishes children’s rights as enduring ethical principles and international standards of behaviour towards children.⁸

Using the Convention as a framework for advocacy is effective in strengthening the content and intended outcomes with the ultimate goal being improving the lives and wellbeing of our children.⁹

Children’s rights and children’s issues are completely interconnected, yet this relationship is not to be taken for granted nor expected that it takes place automatically. Advocacy brings the opportunity to make explicit links between the Convention and children’s issues.¹⁰ It is not uncommon for the Convention to be treated as a separate issue, or an unrelated United Nations instrument that receives the greatest attention when countries are required to review and report on their progress to the United Nations.

The Convention presents a structured framework, that if realised, ensures children will be protected, provided for, can participate, and ultimately reach their fullest potential.¹¹ The Convention gives political, legal and moral weight when advocating for children’s issues. Countries that have ratified the Convention,

such as New Zealand, have legal and political obligations to implement the Convention.¹² Children's rights are 'not nice to have', they are essentials for all children, this means there is a moral imperative to ensure all children – not just the lucky ones, have their rights realised.

PROHIBITING THE PHYSICAL PUNISHMENT OF CHILDREN IN NEW ZEALAND

An example of strengthening advocacy using the Convention, is the issue of physically punishing children. In 1993 New Zealand ratified the Convention¹³ according every child the right to be free of violence. This includes violence within the home. Yet it took until 2007 for New Zealand to provide children with the same legal protections from assault as adults. At this time New Zealand amended Section 59 of the Crimes Act to protect children from physical punishment.¹⁴ In the time since the law change, New Zealand continues to see a change in attitude toward physically punishing children. In 2008, just 20% of parents believed there was never a reason to physically punish children, this has risen to 50% of parents in 2018 (Save the Children, 2018).

Whilst public tolerance of physical punishment continues to decline, there is still a large cohort of parents that are either uncertain whether physical punishment is acceptable (30%) or do believe that it is acceptable (19%).¹⁵ Therefore, it can be assumed from the statistics.^{16 17} that only 50% of our children have their right to be protected from physical punishment fulfilled. From an advocacy point of view there is much more work to be done to ensure all children are guaranteed this protection, and that parents are supported in their use of positive non-violent discipline practices.

This issue has real urgency as there is a wealth of research that correlates physical punishment with poor adult mental health outcomes including; suicidal ideation and self-harm, alcohol and drug abuse, depression and anxiety.¹⁸ Violence against children is a global issue with millions of children enduring some form of violence and most being at risk of violence within the home.¹⁹ This violence comes at a significant cost to economies. In economic terms the cost of violence against children has

been estimated at between 3% to 8% of global GDP.²⁰ Research has found that three out of four children between two and four years of age experience violent discipline in the home.²¹ Therefore, if we were to eliminate violence in the home, which includes physical punishment, significant reductions in harm against children and economic costs would be achieved.

Within New Zealand, violence against children is a significant issue. On average, every four minutes there is a call to emergency services due to family violence related incidents.²² We have seriously high rates of abuse and family violence and it is significant that physical punishment has been found to sit along the same continuum of harm as physical abuse.²³ Therefore, it is reasonable to argue that if we are to reduce family violence in New Zealand, eliminating physical punishment is key to achieving this goal.

As well as contributing to overall levels of violence against children, research has found physical punishment to be ineffective, and importantly not a single study that has found physical punishment to improve the wellbeing and development of children.²⁴ It is heartening that the number of parents that choose never to use physical punishment to discipline their children is growing. Excellent gains have been made in protecting 50% of our children from the harms of the physical punishment.²⁵ Imagine the potential if New Zealand could make these gains for 100% of our children?

Researchers and key children's organisations^{26 27 28 29} continue to recommend that physical punishment is eliminated and key to elimination is supporting families in the care of their children, including support for positive parenting and provision of welfare support for families in need.³⁰ Whilst a number of initiatives currently exist to support parents, it is difficult to find evidence of universal supports for parents in their early years of parenting that include positive discipline practices. Based on the current research and in consideration of this potential gap in resourcing positive discipline practices, it would appear that greater attention paid to understanding this gap with the view to strengthening positive violence free parenting would be to New Zealand's benefit.

CONCLUSION

Prohibiting the physical punishment of children in New Zealand is a rich example of how advocacy, the Convention on the Rights of the Child, and compelling research have come together to effect positive change for children. Advocacy to abolish the physical punishment of children has taken place over many decades beginning in the 1960s.³¹ Physical punishment in schools was abolished in 1989.³² Continued advocacy campaigns from parents, child advocates, health and education professionals, successive Children's Commissioners, and Members of Parliament – notably MP Sue Bradford, along with organised community support and political action led to the prohibition of physical punishment in New Zealand in 2007.³³ The Convention played an important role in changing this legislation as New Zealand had committed to protecting children from all forms of violence when ratifying the Convention in 1993.³⁴ Advocacy was key in bringing together and strengthening voices calling for the protection of children from physical punishment and reminding political leaders of the commitments they had made to children and their rights.

Advocacy to eliminate the physical punishment of children in New Zealand continues today. As long as adults continue to report either using, or supporting, physically punishing children in some form, there will remain a continued need to advocate and educate, with the view to eliminate this harmful and outdated practice. Only then will we ensure all children have their rights met to be protected from violence in the form of physical punishment.

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**The ability to be heard
and taken seriously on
what they have to say.**

13 year old New Zealand European boy

Office of the Children's Commissioner and Oranga Tamariki (2019). *What makes a good life? Children and young people's views on wellbeing*. Wellington: New Zealand

USING THE INTERNATIONAL CHILDREN'S RIGHTS FRAMEWORK IN RESEARCH

06

NICOLA TAYLOR

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The United Nations Convention on the Rights of the Child (UNCRC), ratified by New Zealand in 1993, has significantly influenced the research agenda in the child and family law field, both domestically and internationally. This has been particularly so with respect to child participation (Article 12) where research and commentary on ascertaining children's views in family justice proceedings (by parents and professionals) has flourished. The children's rights framework, together with Childhood Studies, provided the momentum for undertaking research 'with', rather than 'on' or 'about', children and for promoting the skills needed to authentically engage with children and take their thoughts, feelings and views into account for both their benefit and that of the dispute resolution outcome.¹ Children "want their input to be added to the decisional scale" by weighing in on their parents', or the Court's, decisions because they know that these affect their futures.² Many feel hurt, frustrated and anxious about being left in the dark when they are not included in decision-making processes.

Much of my own socio-legal research agenda over the past 25 years has been devoted to child and family law issues involving post-separation parenting arrangements, day-to-day care, contact, guardianship, relocation, international child abduction and relationship property division. UNCRC Articles 3, 5, 9, 12, 19 – and their interplay – have underpinned many of the studies I have conducted. PhD and LLM students I have supervised have also contributed hugely to the evidence-base developing in New Zealand and influencing legal policy and practice in such areas as state care of children,³ self-representation in the civil courts,⁴ and consent to medical treatment by children under 16 years of age.⁵ Some research projects I am currently co-leading in New Zealand and internationally include:

Evaluating New Zealand's 2014 Family Law Reforms (2016-2020): Funded by the New

Zealand Law Foundation, this project has involved a nationwide online survey with 655 separated parents/caregivers, follow-up surveys with 429 parents/caregivers, and interviews with 192 of them.⁶ As well, 364 family justice professionals completed a nationwide online survey and 100 of them were interviewed.⁷ These surveys and interviews evaluated the 2014 reforms from the perspectives of family justice professionals and separated parents, and also explored the range of pathways that families use to resolve decisions about their children's post-separation care. This included the expression of children's thoughts, feelings and views and their influence on the making of parenting arrangements by parents or the Family Court. When this study commenced we had not anticipated the 2018 appointment of an Independent Panel to review the 2014 reforms. However, this provided a welcome avenue for the experiences and perspectives of the several hundred parents, caregivers and professionals in our sample to contribute directly to the future of New Zealand's family justice system. Our independent study thus complemented the Panel's own nationwide consultations and helped to underpin their extensive recommendations.⁸

Relationship Property Division (2017-2021): Funded by the Borrin Foundation, this project has informed the Law Commission's review of the Property (Relationships) Act (PRA) 1976.⁹ Phase One involved a nationwide telephone survey with a representative sample of 1361 people aged 18 years and over (including booster samples of Māori (161), Pacific (100) and Asian (100) peoples) to ascertain whether the PRA still reflects society's values and attitudes as to what is fair in the context of relationship breakdown.¹⁰ Phase Two, which is currently underway, involves a nationwide online survey and individual interviews focused on how separated couples divide their property and resolve disputes at the end of a relationship.

International Child Abduction (2017-2020): Funded by the British Academy, this project investigated the use of the child's objections exception in Article 13(2) of the 1980 Hague Convention. It involved an online global survey of 97 family justice professionals, Central Authorities, Hague Network of Judges and NGOs from 32 countries; interviews with parents, abducted children and professionals; and 2018 workshops in Auckland, Genoa and London. A round-table meeting on *The voices of children in abduction proceedings under the 1980 Convention* was subsequently held in Israel (July 2019).¹¹ Given the wide variation found in the backgrounds, expertise and training of professionals who are hearing children in Hague Convention proceedings, and in the diversity of processes utilised, a central challenge in these cases is extending beyond the narrower issue of children's objections to properly embed children's participation rights as recognised in Article 12 of the UNCRC and, within the European Union Member States, in Article 11(2) of the Brussels IIa Regulation 2201/2003 and its Re-cast.¹² We are producing a child-friendly summary of the 1980 Hague Convention with the assistance of children and young people and are also working closely with the HCCH Permanent Bureau in The Hague about how best to encourage good practice within State Parties for those tasked with hearing children under relevant Hague Conventions.

Ethical Research Involving Children (ERIC) (2010-2021): This project initially involved 257 researchers from 46 countries who responded to a 2010 survey, and then expanded in 2011 following a grant from the UNICEF Office of Research, Innocenti, to develop a charter and guidelines on child research ethics underpinned by 'the 3 Rs: reflexivity, rights, relationships'. Project meetings were held in London and Florence, an expert advisory group established and extensive consultations undertaken with the international research community. The ERIC compendium and interactive website (www.childethics.com) was launched in 2013 and has since been translated into French, Spanish, Korean, Turkish and Bahasa Indonesian. An Australian Research Council grant (2018-2021) is now enabling us to examine the role of ethical practice in improving children and young people's safety and wellbeing in schools,

residential care and disability organisations through a project entitled **Beyond Safety: Ethical Practice Involving Children (EPIC)**.

CRC-IP Implementation Project: I have been one of the international child law experts invited to participate in a series of Colloquia examining specific UNCRC Articles of the UNCRC:

- Article 12: *Child's right to express views* (University of Auckland, 2013)
- Article 6: *Child's right to life* (University of Stellenbosch, 2014)
- Article 3: *Best interests of the child* (University of Stirling, 2015)
- Article 2: *Protecting the child against all forms of discrimination* (University of Bergen, 2017)
- Article 5: *Evolving capacities of the child* (University of Cambridge, 2019)

CONCLUSION

These examples all reflect my use of a children's rights framework in my research, policy and practice work. This approach has been beneficial in ensuring that research is respectful of children and advances their rights, wellbeing and development, while also being mindful of the importance of connectedness with family/whānau, peers and community. How family justice professionals (such as lawyers, lawyer for child, judges etc.) foster their relationships with children to better support, engage, listen to and hear children, has also always been important to me. Opportunities to involve children directly in studies on sensitive personal issues, like what happens in the aftermath of their parents' separation, has been crucial in reorienting not just professional practice, but also statutory reforms (like s6 and s7, Care of Children Act 2004) and other legal policy developments in New Zealand and internationally.

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REFLECTIONS ON THE CHILDREN'S RIGHTS SYMPOSIUM

07

TONY FITZGERALD

Acting Principal Youth Court Judge

Like many others in New Zealand I suspect, the Children's Rights Framework was something I was aware of but did not understand properly. So I arrived at this refreshingly different symposium ignorant about important aspects of that Framework – but left truly inspired by what I learnt in a way that has profoundly changed how I work. For that, and the new friends made there, I am very grateful.

A poster of the Convention on the Rights of the Child now occupies a wall in my office and I try to read at least one article each day and, more importantly, look for opportunities to apply them. The broader perspective I now have of children's rights, which the international speakers in particular brought to the event, helps me see opportunities for better outcomes for children in various ways I had missed previously. Every day I now see situations where I can apply the Convention and related instruments (e.g; the Beijing Rules and Riyadh Guidelines) and other resources (eg: the UN General Comments the latest of which, number 24, was released on 18 September 2019). Principles gleaned from the Framework are often what tips the balance in making decisions in difficult cases.

This new-found awareness is timely given that the amendments to the Oranga Tamariki Act 1989 ("the OT Act") require that such rights (and those under the UN Convention on the Rights of Persons with Disabilities) must be respected and upheld.

Reflecting on it now, I realise I had not appreciated the real significance and tremendous scope of the Convention on the Rights of the Child. Although I had relied on aspects of it in the past, that was by focusing on particular articles only as an additional aid to applying our domestic statute and case law.

Perhaps our distance from the international courts, where rights under the Convention can be enforced, is a factor in not seeing it for what

it is here in New Zealand; namely, a solemn commitment that every single child in this country is entitled to every single right contained in the Convention without qualification or compromise; but also that every such child must be able to claim all of those rights and we are accountable for ensuring those rights are realised. I had not quite grasped that before.

However, I do understand now that we must strive for that ideal which the Convention promises children and not settle for proxies. What Professor Laura Lundy said about that resonated strongly in terms of what I know happens here in practice all the time.

Looking back, I see in a variety of ways how we have often settled for proxies for rights being good enough to fulfil our obligations. For example, we have recently been through a phase of promoting the importance of listening to the voice of children and seeing that as being sufficient to discharge our duties in terms of enabling them to participate. Now we must guard against settling for wellbeing as an adequate substitute for rights, particularly given the prominence wellbeing has in the recent amendments to the OT Act. Of course, those things I have referred to are important and laudable – but I see now that they fall short of what the Children's Rights Framework promises children and requires of us.

One of the key messages still ringing in my ears is that we do not get to pick and choose which children are entitled to the rights contained in the Convention and nor do we get to choose what rights they are entitled to. Every child is entitled to every right and we are accountable for ensuring that happens. Amongst the most vulnerable children are those who have lost their liberty, many of whom I see day after day. They are those most in need of protection and empowerment, but in reality are the least likely to receive it but we must strive harder to see that they do.

I am pleased to now have a more accurate and balanced perspective on the compatibility of the Treaty of Waitangi, as our founding document, and the Convention. In the lead up to the amendments to the OT Act coming into force on 1 July 2019, there was concern often voiced about the new emphasis on the individual rights and wellbeing of young Māori being in conflict with the Māori world view. Given the over-representation of young Māori amongst the most vulnerable children, I see it as extremely important to ensure the compatibility of these two vitally important documents is explained well and widely.

A reason I found the symposium so refreshingly different was that most seminars and conferences I attend are, naturally, focussed on addressing work-related issues and skills. Again, that inevitably narrows the focus to those things we think we need to know to do our job better so as to deal with the practical work-related problems and issues we face. A risk in doing so is to miss the wider and more important relevance of the rights framework.

Here the conversation was different, with academic and policy perspectives that emphasised the ideals for which we must strive and the need for us to be ambitious when setting our sights on what must be achieved if we are to meet our obligations under the Convention. By better understanding that wider context, and the ideal we must aim for, I feel better equipped to apply aspects of the Framework in practice.

Another thing I took from this, and from information sent to me since the symposium by people I met there, was the use I should be making of authorities other than our domestic statute and case law to base decisions on; not only the Children's Rights Framework but also up to date, evidence-based research as well. I see this as hugely important especially in those areas where law still lags far behind the science.

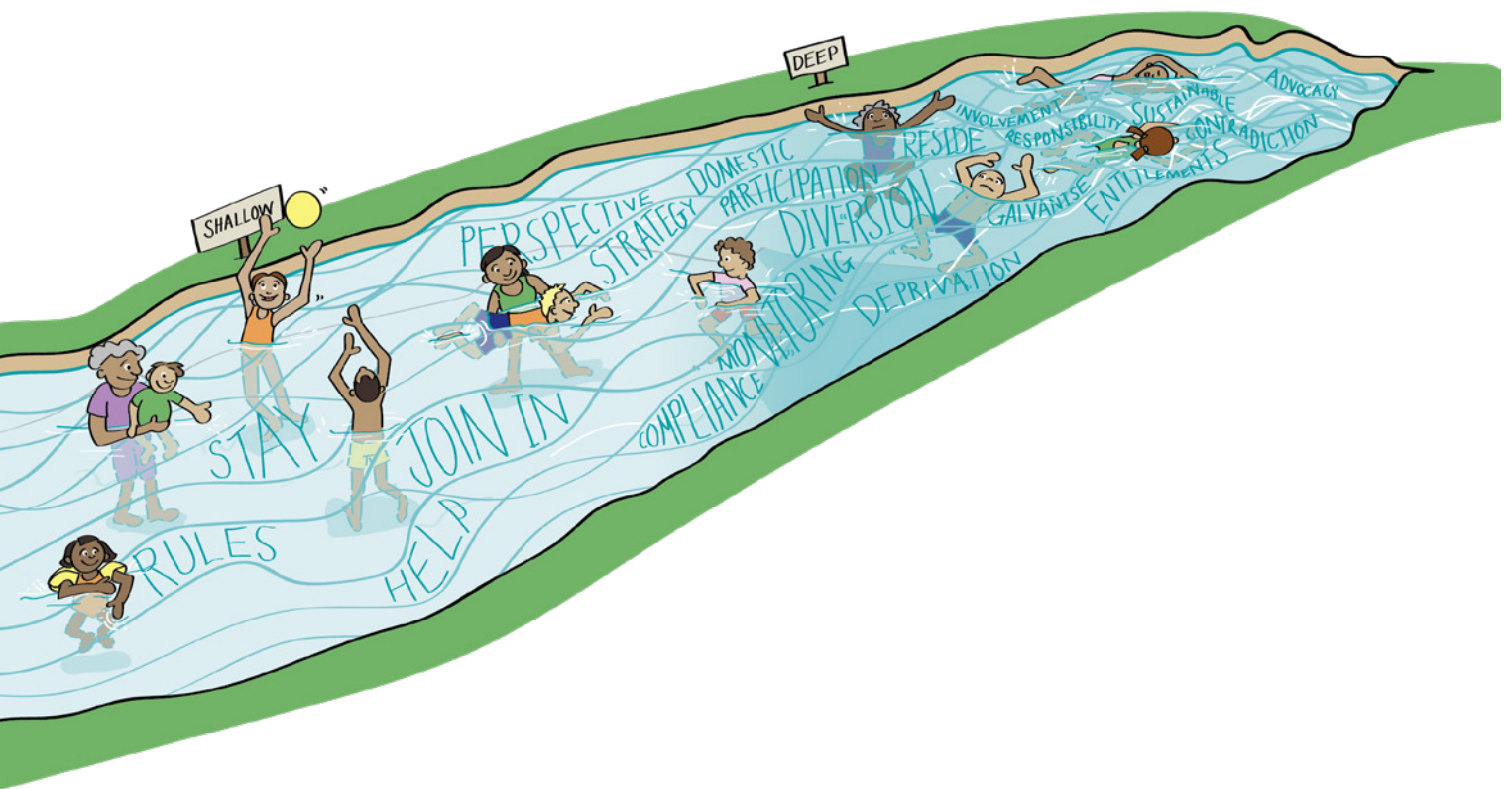
“

C: You see my brain goes round and round. I got a machine in my brain, goes really fast.

R: So, when your brain is going round and round and someone shows you something new to do, what happens to your brain?

C: My brain is like this ‘hello there, did you ask a question?’ And my brain makes a paper aeroplane and my brain goes in circles, like this machine I told you, and then it is transformed to a mega spinner.

LEARNING TO SWIM CONFIDENTLY IN A RIVER OF WORDS



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Words swirl around us all the time – spoken, printed, scribbled, yelled, whispered. Our language and communication skills are the tools we use to engage with our fellow-humans and get our stuff done, including enacting our rights. Indeed, the ideas, discussion and opinions at the Children's Rights Symposium flowed along on waves of words - conversations over coffee, passionate positions declared in eloquent sentences, curly questions posed to panellists, scribbled notes to decipher later, slide presentations we read while listening which helped us keep track of the points being made.

I suspect that those of us at the Symposium managed this deluge of words without effort. Most of us probably take our linguistic power for granted. We were familiar with the words needed to comprehend the presentations and panels, to enable us to decode and understand the slides, and to speak up and have our say in the discussions. We could say if we were puzzled or unclear, or could point out that we disagreed with what others said. We could tell our own stories or the stories of others. We could listen carefully and could concentrate on deriving meaning from what we heard and could then weigh up how the information fitted with our own views. Over our lives we have been equipped with a rich oral and written language toolkit that allows us to easily cope with the communication demands of a symposium and the interactions in our daily lives. We are lucky.

I am particularly lucky because I spend my professional life as a speech-language therapist immersed in considering people's strengths and needs in managing words, sentences and social interaction, and my job is to create ways to make communication easier. My training as a speech-language therapist has added a lens to my glasses and a filter to my ears that keep me alert to language and communication.

The overlap between communication and human rights is highlighted daily in my work contexts – care and protection, justice, mental health and behaviour services. The work of

our team is about spotting when people might be drowning in the flow of words they find themselves in and finding ways to keep them buoyant and thriving so they can join in and have their say. It was through that communication lens that I have been thinking about the Children's Rights Symposium and what it means to improve access to rights for children and young people in Aotearoa.

Communication itself is a human right, as the wide range of articles contained in the 2018 special edition¹ (open access) of *The International Journal of Speech-Language Pathology* explored. Language and social communication skills are required to participate in many of the rights outlined in UNCROC. Being consulted and expressing views generally involves talk and social interaction.

While writing this reflection, three examples have cropped up that bring this to life for me, and clarify the need for children and adults to work together for effective communication:

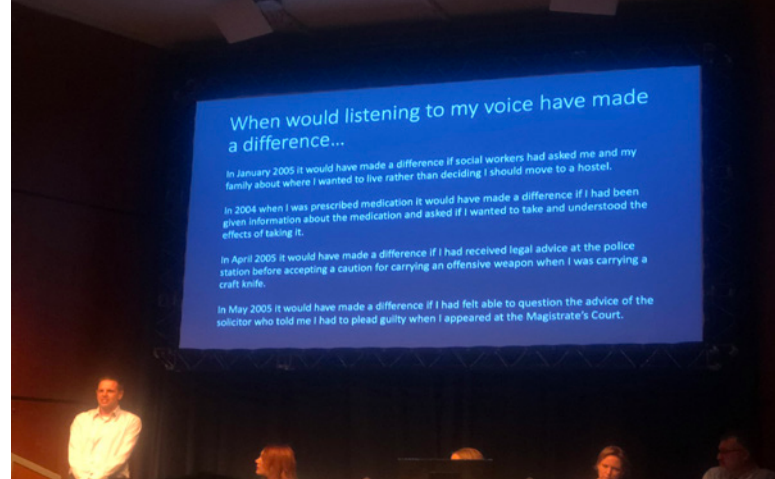
1. A photograph² that popped up on Twitter this week struck a chord. Nick Clark presented a slide titled, 'When would listening to my voice have made a difference...' at a recent conference (5th International Conference on Law Enforcement and Public Health, Edinburgh October 2019). It appears that there were grave consequences for him because he was not consulted, was not provided with information at the right time and the right level for him to engage with, and was not supported to question those who held power. A commitment to accessible communication could have prevented this breach of his rights.
2. A colleague's assessment report of young person's views of how communicating in court contained comments like this one 'I don't understand nothing they're talking about' and discussed how the nervous giggling that resulted from feeling confused and embarrassed could be misinterpreted as disengagement. To enable participation

in future court appearances, the young person needs the adults to understand her communication needs, adapt the information so it is at an appropriate level for her to understand, and help her acquire the skills she needs to participate and have her say. Plans are already underway to make sure this happens.

3. A young person had taken a punt on answering 'no' during a meeting with his lawyer when asked 'have you got any siblings?' as he was not sure what 'siblings' were. What if the question had been 'have you got any remorse?' or 'have you got any prior convictions?' Having a good guess is a normal strategy most of us use, but it can result in serious problems. In this case, the young person had a good relationship with a staff member who he felt comfortable enough to ask about the meaning of 'siblings'. That staff member took the opportunity to add skills to that young person's communication toolkit.

Children's communication skills need to be nurtured so they are well-equipped to participate fully in their lives. This is everybody's business. The following questions must be asked:

What are the communication demands involved in the various talk-fests that children need to participate in? Is the complexity involved recognised and addressed so appropriate resources and strategies are used? Do adults recognise a child's strengths in communication and ask them what will work best for them? Do adults pitch their interactions to a level of language development that works best for the children they are interacting with? Do they know how to do



that in sensitive and respectful ways, and if not, is appropriate training and support available?

Are we equipping children with the words they need to understand information and express their views and understand the information they need to thrive? This starts with keeping children in education with appropriate support, but is something all who work with children can do, across all contexts. Every interaction is a chance to build language and communication confidence and skills.

Let's get communication glasses and a well-functioning blahometer fitted for all who work with children so they can carefully examine the systems, processes and daily interactions involved and tweak them to enable children to fully participate. We need to keep children and young people afloat in the rivers of words they find themselves in; not just floating but swimming confidently with power to where they want to get to.



ENDNOTES

- 1 International Journal of Speech-Language Pathology (2018, volume 20, issue 1)
- 2 www.twitter.com/hayleympassmore/status/1186946518022049795/photo1

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**I am a library,
quiet but filled with
knowledge - it's dumb
[that I'm not asked].**

Student in alternative education unit, Māori

Office of the Children's Commissioner (2017). *Education Matters to me*. Wellington: New Zealand.

INTERESTING, INTENSE, INSPIRING: REFLECTIONS FROM THE SYMPOSIUM

09

Co-Director of the Centre for Children's Rights and a Professor in the School of Social Sciences, Education and Social Work at Queen's University, Belfast

Interesting, intense, inspiring – the words that come to mind when I reflect on the five days spent in Wellington in August with my colleagues Professor Ursula Kilkelly, Bruce Adamson and Justice Vui Clarence Nelson. I gave 10 talks in those five days – which is a bit of a personal record. Most focused on my core areas of interest and expertise: children's rights to participate in decision-making, education rights and children's rights-based research. It was, as ever, a pleasure to discuss my research and ideas with colleagues from practice and academia across the country. However, one request from our host, Associate Professor Nessa Lynch, was unexpected. It was, on the face of it, really straightforward. She asked each of the international visitors to open the first event with a short, 5-7 minute, reflection on our understanding of a children's rights-based approach. That should be something I can do in my sleep or so you would think.

What is a children's rights-based approach? I have written a lot about this in the context of research, drawing on the UN Statement of Common Understanding of Human Rights-Based Approach ('The Stanford Statement'). This states that the goal should be the realization of human rights; that the process should be right respecting; and that the activity should build the capacity of human rights-holders to claim their rights and duty-bearers to fulfill their obligations. I could have just said that. On the other hand, the Committee on the Rights of the Child has defined a child rights approach to be a combination of the four general principles of the UNCRC read alongside Article 4 (on implementation) and Article 5 (adults' right and duty to advise and guide in accordance with the child's evolving capacities). I could have just said that too. But I didn't. The seemingly easy conference opener prompted a lot of reflection – one that kept bringing me back to the very opposite question – what is *not* a children's rights-based approach?

The catalyst for approaching the task this way was a growing concern that the reluctance of some to accept the notion that children are, or should be rights-holders has generated a revised or alternative lexicon for talking about children's rights that is increasingly problematic. In short, child rights discourse is being substituted, truncated and diluted to a status that I have previously dubbed child rights 'lite'. Discourses of children's rights have emerged that have the potential to undermine both practice and scholarship and I took Nessa's prompt to take some time to think about and then articulate my perspective on what a child lens or approach is *not*. I argued that a child rights approach is not pity (it's entitlement); is not just protection (it's also agency); it's not just participation (it's a whole package of substantive rights) and it is not a number of 'proxies'. These proxies include the four general principles of the CRC, 'well-being' and the Sustainable Development Goals.

I argued that some of these reductions/alternatives are being deployed as an alternative lexicon for children's rights – one that is seen as more palatable to critics and cynics. I urged participants to call them what they are and engage with children's rights as human rights and their core features of entitlement and accountability. The talk appeared to strike a chord. Since returning to the Northern Hemisphere, I expanded on the ideas, presenting them at the annual conference of the European Network of Ombudsmen for Children. I have tucked the shorter version into many of my lectures and talks and the presentation has also provided the basis for the next editorial of the *International Journal of Children's Rights* where I am using it to define what we will accept as children's rights scholarship and, importantly, what should be published elsewhere. In this way, this short 'ice-breaker' talk in Wellington has become a defining point for me and, I hope, for the wider field of study.

That's what I brought to Wellington. But I left with so much more from the hugely diverse range of presentations and conversations. It was an opportunity to spend some face-time with wonderful colleagues with whom I have existing links including Nessa, Professor Roseanna Bourke, Professor John O'Neill, Professor Mark Henaghan and Alayne McKee from Talking Trouble. And I finally met Sarah Te One in person. But it was also wonderful to meet so many others and, in particular to be inspired by the work of Judge Tony Fitzgerald and Children's Commissioner Judge Andrew Becroft and his amazing staff especially Sarah Morris and Kelsey Brown. The interaction with the Pasifika lawyers and students was also a particular highlight, even if I did confess, unfashionably, that I do not have an ounce of imposter syndrome...

Apart from the main symposium, two events stand out for me in what was a very busy week. The first was a meeting in the Children's Commissioner's office where we had a frank conversation as to whether the Convention on the Rights of the Child was a western construct that does not reflect indigenous values. The concern and critique is real but it prompted me to reflect on how this 'universal' treaty might be deployed by those who had no input into its content (and that includes children of course). It seems to me that the Convention, while a flawed political compromise, is as good as we have got and flexible enough to be of value to anyone that wishes to challenge discrimination and inequality. I also think that legitimate interpretations of provisions such as Article 5 (right of adults to guide and advise) are possible that can embrace diverse cultures and contexts. The second was a training session on my approach to participation with staff at Oranga Tamariki. There was a tangible commitment to improving the scope and depth of child participation in its work and, as ever, the questions and concerns gave me food for thought. I presented on some of the myths of child participation. One of these for me is the claim that children are *the* experts in their own lives. I argue that they are not 'the' experts but that they do have important expertise that must be included in the decisions that affect them. A participant rightly suggested that children are 'the' experts in their own feelings.

I hadn't thought of it that way before but I agree and this perceptive remark has since become integrated into my training. As ever, the opportunity to meet, speak and discuss children's rights with informed and interested people from academia and practice in a very different context was invaluable and I am deeply grateful for the privilege.



CENTRING INDIGENOUS CHILDREN'S RIGHTS – THE PROBLEM WITH UNIVERSALISM

10

LUKE FITZMAURICE (TE AUPŌURI)

PhD Candidate at University of Otago

There is a sentence in *Pūao-Te-Ata-Tū*, the landmark 1988 report on institutional racism within the Department of Social Welfare, that has stuck with me ever since I first read it. The sentence that stuck with me says this:¹ “at the heart of the issue is a profound misunderstanding or ignorance of the place of Māori children within their whānau, hapū and iwi.” What struck me was that those words, written 31 years ago, continue to be true.

In some respects, Aotearoa New Zealand has come a long way since then. But many of the wero (challenges) that were laid down in *Pūao-Te-Ata-Tū* remain relevant today. As a society, we have failed to address the issues that were laid bare in that report. Why is it that 31 years later, tamariki Māori (Māori children) are still more likely than non-Māori children to face significant challenges? As children’s rights advocates, how do we respond to that?

To answer that question, I would like to take a step back and examine an underlying principle of the international framework for children’s rights. At the symposium in August, a recurring theme of the kōrero (conversations) was the universal nature of children’s rights. I think it is worth examining the idea of universalism more closely.

Professor Ursula Kilkelly spoke at the symposium about the fact that children’s rights are about all children, all rights, all circumstances. Adults cannot just pick and choose when they choose to uphold children’s rights. Those rights are universal and should not be subject to adult decisions about whether they apply. Later that day, Human Rights Commissioner Paul Hunt argued that one reason for the global pushback against human rights is that we have lost sight of their universal orientation. Professor Hunt’s argument was that although some groups may need particular attention, those efforts must be located within an understanding that human rights are for everybody.

I agree with these sentiments in principle. All children have rights and all children deserve to have their rights upheld. However, I worry about the way the principle of universalism is applied in practice. In my view, the idea that universalism should be the starting point if we are to uphold children’s rights risks privileging the rights of those children who are more likely to be having their rights upheld already. We need to do better than that if we want to meaningfully address historical injustices.

Universally upholding children’s rights must be the goal for children’s rights advocates, but I have doubts about whether that it is possible if we centre a universal perspective. I worry that, in practice, starting with universalism means starting with the dominant perspective, which will perpetuate the problems we are trying to solve. There is a difference between universalism being the goal and universalism being the method by which that goal is achieved. The former is important, the latter, I believe, is flawed.

Universalism works when all other things are equal. But all other things are not equal, at least not in Aotearoa New Zealand. The ongoing impacts of colonisation means that many tamariki Māori start out at a disadvantage. If we start from a position of universalism in our advocacy for those children, we risk making things worse. To overcome the impacts of colonisation we need to privilege indigenous perspectives. We need to pay attention to mātauranga Māori (Māori knowledge) and Māori ways of knowing. We cannot continue to pretend that all other things are equal.

I am not trying to undermine the fundamental principles of children’s rights. I agree with Professor Kilkelly that adults should not be able to cherry-pick which children’s rights they uphold. I agree with Professor Hunt that we must rebuild buy-in to the idea that all humans have rights. But in my view the principle of

universalism is sometimes less important than privileging the perspectives of disadvantaged groups. Those who believe in universalism should recognise that achieving this goal will sometimes require privileging the rights of children who have traditionally been most marginalised.

Are the solutions to these tensions to be found within indigenous rights frameworks? Paula King spoke at the symposium about grounding the rights of tamariki Māori in their rights as tangata whenua. That perspective views tamariki Māori as indigenous rights holders first and children's rights holders second. This does not diminish their rights as children, but it does centre an indigenous perspective instead of the dominant Western perspective.

The United Nations Declaration on the Rights of Indigenous Peoples, Te Tiriti o Waitangi and He Whakaputanga o te Rangatiratanga o Nu Tirenī are all sources through which children's rights advocates should fight for the rights of indigenous children. Making those documents the starting point in our advocacy does not preclude us from drawing on rights enshrined by the United Nation Convention on the Rights of the Child, but it does force us to consider alternative perspectives. That should be a crucial first step.

In my view, the most important parts of *Pūao-Te-Ata-Tū* were not about changing policies. Fundamentally, *Pūao-Te-Ata-Tū* was about an underlying shift in the way Māori perspectives were considered, in government departments and in society generally. The reason the place of tamariki Māori remains misunderstood is because the underlying shift never happened.

31 years later, do we have the courage to change that? I believe that as children's rights advocates in Aotearoa New Zealand, we need to be brave enough to challenge the assumption that universalism in children's rights advocacy is the most effective way forward. Instead, we need to centre indigenous perspectives and be willing to use indigenous rights frameworks as the starting point.

ENDNOTES

- 1 Ministerial Advisory Committee for a Māori Perspective on the Department of Social Welfare (1988). *Pūao-Te-Ata-Tū (Daybreak)*. Wellington. Retrieved from: www.msd.govt.nz/documents/about-msd-and-our-work/publications-resources/archive/1988-puaoteatatu.pdf
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We are expected to know our language, to know songs and the haka but we aren't given the opportunity to actually learn it. It just makes me feel bad.

Student in alternative education unit, Māori

THE ORIGINS OF CHILDREN'S RIGHTS — A PATHWAY TO PARTICIPATION

MARIA DACRE

Senior Tutor, Massey University

I am currently working on my PhD in education, focusing on children's rights and the way children¹ can directly influence both pedagogical practice and educational policy. My attendance at the Children's Rights Symposium in Wellington this year, enabled me to focus on the legal implications of UNCRC, and I have explored what triggered this international commitment to children.

The historic Geneva Declaration of the Rights of the Child (1924)² and the Universal Declaration of Human Rights (1948)³ paved the way in recognising children in their own right. Decades on, the adoption of the Convention on the Rights of the Child (UNCRC) by the General Assembly of the United Nations (1989)⁴ demonstrates an international commitment to this landmark document. Now policymakers, practitioners, social scientists, and researchers are working to understand what this means in children's lives.

In the year 1919 a key advocate for children, Eglantyne Jebb, began her historic campaign to secure special protection and recognition for children in the aftermath of World War I. Jebb's motivation was her observation of daily misery and abuse of many children across Europe, along with the apparent 'inaction' of the British Government in addressing the plight of these children. This initiated her determined crusade on behalf of all children. She subsequently founded the Save the Children Fund, later to become the Save the Children International Union (1920).⁵ In 1923, Jebb penned a five-point declaration that ultimately foreshadowed children's rights today.

Jebb's stalwart social activism and her influence in political and social circles led to the British delegation presenting the draft Declaration to the League of Nations.⁶ This was adopted unanimously, almost without alteration by the League of Nations in 1924, and subsequently known as the Declaration of Geneva.⁷

The Declaration on the Rights of the Child (DRC)⁸ was another milestone. Central were the child's entitlement to special protection, adequate housing, care, and opportunities. There was also a shift to include the child's right to freedom from discrimination⁹.

As with the Declaration of Geneva, DRC was not enforceable by international law. Like Jebb and the League of Nations before them, DRC also appealed to government bodies and non-government agencies to elevate the profile of DRC with recommendations to "publize as widely as possible the text of the Declaration of the Rights of the Child" (p. 20).¹⁰

At this time, Janusz Korczak, a physician whose work spanned 1910-1940s, worked in the Warsaw orphanages.¹¹ Best known for his radical campaigning on behalf of the child, Korczak held an aspirational view of children's rights. His stance went beyond the Declaration of Geneva's notion of protection and welfare, where in his eyes children were seen as objects of charity.¹² Instead, Korczak pleaded for the rights of responsibility, learning from experience and respecting the integrity of the child.¹³

Instigating a *child's republic* in the orphanages of Warsaw, Korczak placed children's right to participate in decision-making, the right to speak and the right to be listened to as fundamental to his teaching.¹⁴ This has been identified as the introduction of the ideas within Article 12 of the UNCRC.¹⁵ Korczak's unyielding stance that all children were unique and must be recognised as 'active agents' resonates with advocates for children's rights today.

In 1979, the twentieth anniversary of DRC was celebrated with 'The Year of the Child', promoting the end to discrimination, the right to protection, healthy lives, education and respect as human beings.¹⁶ This also signalled the 10-year-long drafting period for what we now know as UNCRC: the first international, legally binding convention that serves to

uphold the convention partners' obligation for the rights of the child.¹⁷

A century on from Jebb's initial campaign to seek protection for the child, it was a privilege to bear witness to the gathering of international and local experts, advocates, government and NGOs at the Children's Rights Symposium. This Symposium was a 'call to action' and marks yet another step in actuating the UNCRC to its fullest potential. As a teacher, principal, and now teaching in higher education and a researcher in education, it excites me, that this year, 2019, marks the thirtieth anniversary of the signing of

UNCRC. As the most ratified treaty of our time, the recognition of children's rights has gained momentum. The Symposium highlighted the imperative that as researchers, educationalists, and advocates for children, we must continue the campaign instituted by Jebb and Korczak to ensure that UNCRC is realised to its full extent, for children to be duly recognised as equal rights holders and active participants in the decision-making in their own lives.

ENDNOTES

- 1 According to the UNCRC, Article 1 (1989) human beings under the age of 18 are referred to children.
- 2 Humanium. (2019). Geneva Declaration of the Rights of the Child, 1924. www.humanium.org/en/geneva-declaration/
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- 4 United Nations General Assembly. (1989). *Convention on the rights of the child*. www.ohchr.org/en/professionalinterest/pages/crc.aspx
- 5 Stornig, K. (2019). Geneva, 1924: The Geneva Declaration of the Rights of the Child. hr-atlas.ieg-mainz.de/articles/stornig-geneva
- 6 Moore, W. H. (1931). The Dominion of the British Commonwealth in the League of Nations. *International Affairs (Royal Institute of International Affairs 1931—1939)*, 10(3), 372—391. www.doi.org/10.2307/3016180
- 7 Humanium, DRC, 1.
- 8 Alston, P. (1986). Children's rights in international law. *Cultural Survival Quarterly Magazine*, 40(4).
- 9 United Nations General Assembly. (1959). *The Declaration on the Rights of the Child & resolutions adopted on the reports of the third committee* (pp. 19–20). New York, NY: United Nations.
- 10 Ibid.
- 11 Hammarberg, T. (2009a). Korczak—Our teacher on the rights of the child. In Commissioner for Human Rights (Ed.), *Janusz Korczak the child's right to respect* (p. 5–8). France: Council of Europe Publishing.
- 12 Ibid.
- 13 Ibid.
- 14 Hartman, S. (2009). Janusz Korczak's legacy: An inestimable source of inspiration. In Commissioner for Human Rights (Ed.), *Janusz Korczak the child's right to speak* (p. 134–21). France: Council of Europe Publishing.
- 15 Hammarberg, T. (2009b). Children have the right to be heard and adults should listen to their views. In Commissioner for Human Rights (Ed.), *Janusz Korczak the child's right to respect* (p. 81–90). France: Council of Europe Publishing.
- 16 Kerber-Ganse, W. (2015). Eglantyne Jebb—A pioneer of the Convention on the Rights of the Child. *International Journal of Children's Rights*, 23, 272–282. www.doi.org/10.1163/15718182-02302003
- 17 UN General Assembly, UNCRC, 1.

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**I feel like I just need
someone to be by
my side, not be alone.
Because the worst
feeling ever for me is
to be alone.**

Secondary school student, undisclosed ethnicity

Office of the Children's Commissioner (2017). *Education Matters to me*. Wellington: New Zealand.

**A TIME FOR CHANGE?
TE TIRITI O WAITANGI
AND THE CHILDREN'S
CONVENTION - THE
INTERSECTION OF
CHILDREN'S
CULTURE AND
RIGHTS**

12

SARAH MORRIS, KELSEY BROWN AND JUDGE ANDREW BECROFT

Office of the Children's Commissioner

The fact that the child rights symposium took place on the same day as the Whānau Ora hui to discuss the Māori response to increasing numbers of Māori pēpē being removed through Oranga Tamariki applications to the Family Court is worth noting.

The story that triggered the Whānau Ora hui (and four other inquiries including an urgent Waitangi Tribunal investigation), showed an attempt to remove a seven-day-old pēpē from whānau by Oranga Tamariki in the Hawke's Bay. This current day reality was raised from time to time in our conversations during the symposium and was a constant reminder of the importance of our considerations of the rights of children in our laws, policies and practices.

The current context for children's rights, and the rights of tangata whenua, specifically mokopuna Māori, should be forefront in our minds at this time of change and progress for children.

In Aotearoa, the Children's Convention needs to be implemented in the context of Te Tiriti o Waitangi. Te Tiriti o Waitangi, te ao Māori (a Māori world view), the adoption of British laws and views of childhood, and the impact of colonisation provide a unique setting in which children's rights are adopted and implemented in New Zealand law and practices.

The discussion of Dr Paula King's Oranga Mokopuna framework for children's rights in New Zealand allowed us to explore how He Whakaputanga o Te Rangatiratanga o Nu Tireni, Te Tiriti o Waitangi, the United Nations Declaration on the Rights of Indigenous Peoples and the Children's Convention can be complementary frameworks that reinforce the rights of tamariki Māori as tangata whenua. There are diverse opinions from Māori scholars on the links between, and application of, these documents that provide positive ways forward.

One perspective is that the Children's Convention can be used to affirm tamariki and rangatahi Māori rights to culture, religion and language. Governments must take unique measures to ensure tamariki and rangatahi Māori have their individual and collective rights as indigenous children fulfilled.

Visiting experts, Professors Laura Lundy and Ursula Kilkelly and Justice Vui Clarence Nelson helped to shift the conversation about the intersection between the application of the Children's Convention and children's culture. Discussions about the interrelated nature of the Articles of the Convention, for example the complementary nature of Article 12 and Article 5 when conceptualising children's right to participate, while also respecting their place within whānau, hapū and iwi was helpful. This lens can be applied to the current discourse that seeks to compare and contrast child-centred and whānau-centred approaches. Article 5 expects that "*States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom...*" This Article, read in line with all of the Articles of the Convention, can help us to take this universal document and ground it in the specific cultural context of Aotearoa and Te Tiriti o Waitangi.

There is no denying that some hesitation and distrust of the Children's Convention comes from a tension related to the Western construct of individual rights versus an indigenous conception of collective rights. Child right's advocates should not shy away from this tension and continue to seek and explore how we address this in New Zealand. Dr Moana Jackson has addressed this tension directly as a result of people misinterpreting the notion of connectivity and tikanga and affirmed that you cannot isolate a child from the whakapapa to which they belong. Jackson teaches us that to

discuss the paramountcy of the child (in their individual rights) is to discuss the paramountcy of the whakapapa to which the child belongs. The discussion at the symposium created space to think about how we can harness the Children's Convention in a way that advances the rights of mokopuna Māori, and all children, in the unique context of Aotearoa.

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When I started at this school I had a Māori name but none of the teachers could say it. So now I am Tania.

**ORANGA TAMARIKI
REFORMS: CAN LAW
BE IMPLEMENTED
WHERE
UNDERSTANDING IS
LACKING?**

13

ALISON CLELAND

Senior Lecturer, AUT School of Law, Auckland

*“There are systemic failures that are seeing tamariki taken from their whānau, from their whakapapa connections, from their whole sense of who they are. Their identity is left in tatters, this is the creation of a lost generation.”**

In 1988, Puao-te-ata-tu delivered a damning indictment of Department of Social Welfare’s ability to meet the needs of Māori. Anguished responses from hui around the country reflected the harm done by care and protection social workers. Those staff “[r]endered children and parents helpless at great cost to racial, tribal and personal integrity”.¹ Puao-te-ata-tu recommended that care and protection law maintain Māori children within their hapū: “the process of law must enable the kinds of skills and experience for dealing with Maori children and young persons’ hapu members to be demonstrated, understood and constantly applied”.²

Children, Young Persons and their Families Act 1989 responded by enacting three care and protection decision principles: whānau, hapū and iwi should be involved; relationships between children, whānau, hapū and iwi should be maintained and strengthened; and the stability of the child’s whānau, hapū and iwi should be considered.³ The care and protection Family Group Conference (FGC) was intended to place decision-making power with whānau, hapū and iwi.⁴

Implementation of those principles requires an understanding that Māori children’s identity comes from their whakapapa. If that connection is disrupted, children, whānau, hapu and iwi are damaged. Implementation would mean fewer Māori children coming into care, staying for shorter times and remaining connected with their hapū and family groups. Thirty years after the 1989 Act enactment, evidence suggests that children’s rights to cultural identity through whakapapa is not well understood. In June 2019, Oranga Tamariki (OT)⁵ had 6,450 young people in its care – 59% Māori, a further 9%

Māori and Pacific.⁶ More Māori babies (under a year old) are coming into OT care.⁷

Children are being harmed in state care, the majority of them Māori.⁸ Māori leaders, launching a Māori-led Inquiry into Oranga Tamariki, stated that OT’s actions in removing children from whānau and hapū are perpetuating inter-generational harm of Māori whānau.⁹ A Children’s Commissioner review of care and protection sites found that practice does not involve hapū and that “hui-a-whanau and whakapapa searching were only in the early stages of development”.¹⁰ Young people in care expressed distress at being placed far from whānau.¹¹

This evidence emerges as the latest reforms of the 1989 Act come into force.¹² The new principles are – at first glance – exciting. For the first time, there is an explicit attempt to state the importance of hapū and cultural connections. There is a new duty to protect “mana tamaiti”¹³ – recognition of children’s whakapapa and whanaungatanga responsibilities of their family, whānau, hapū, iwi and family group. The Act defines whakapapa as the multi-generational kinship relationships that help to describe who the person is in terms of their mātua and tūpuna, from whom they descend¹⁴. Most exciting is the new duty placed on the OT Chief Executive to provide a practical commitment to the principles of the Treaty of Waitangi, te Tiriti o Waitangi, to ensure that OT’s policies and practices have regard to mana tamaiti and the whakapapa of Māori children and young persons and the whanaungatanga responsibilities of their hapū and iwi.¹⁵

Implementation of the new duties would mean making decisions in partnership with children’s

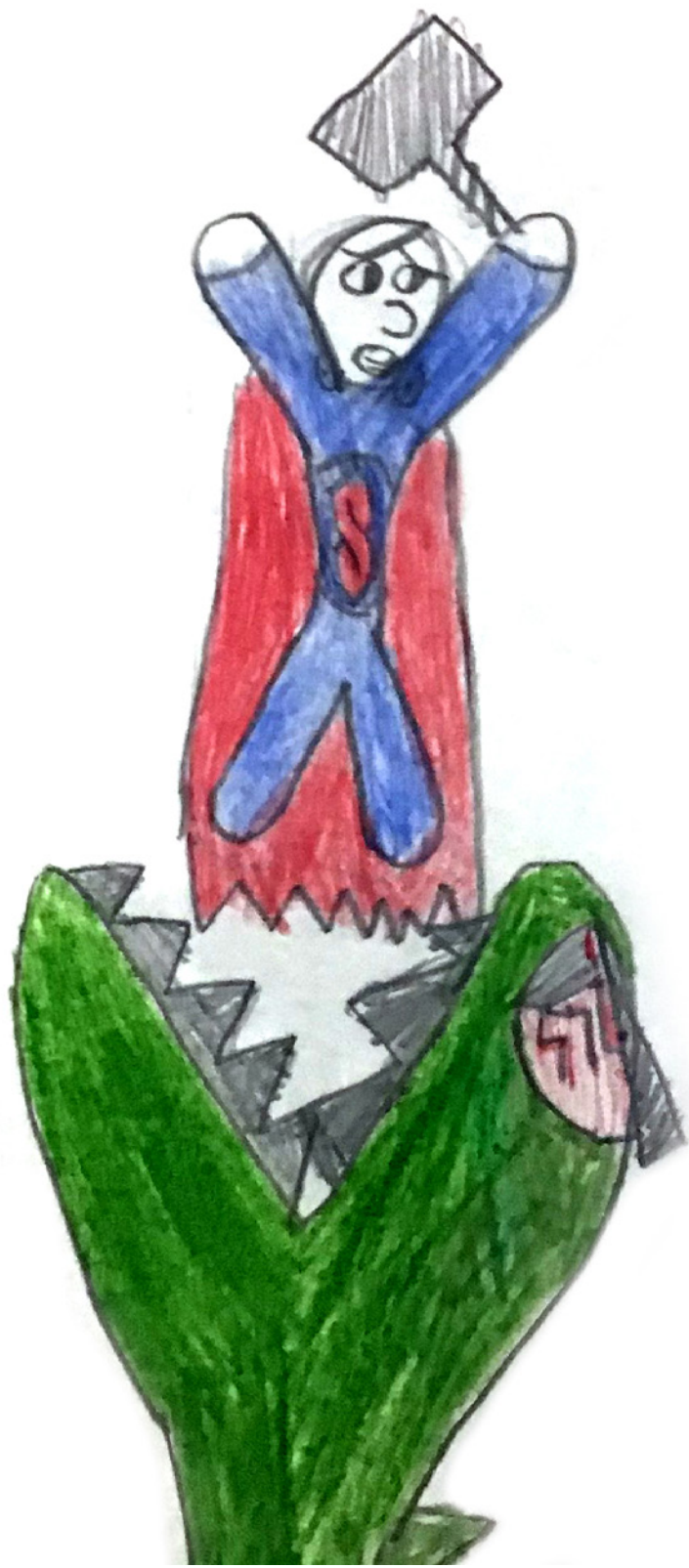
hapū. It would mean placing a Māori child with whanaunga in their hapū. OT mechanisms would need to recognise the skills and experience of children's whanaunga to guide decisions about those children. OT would need to fully understand the trauma and damage caused by not respecting children's whakapapa by removing them from their hapū.

In OT's most recent published annual report, there is no acknowledgement of the damage to mana caused by the actions of OT itself. There is mention of partnerships with iwi, but no reference to hapu.¹⁶ Do procedures ensure that no child is removed, without discussions

with and consent of the hapū? OT has existing Memoranda of Agreement with several iwi and has recently announced additional strategic partnerships, but practice has not changed discernibly. The fear must be that the principles in the law have not yet been fully understood by those in the system, resulting in continuing denial of the rights of Māori children. To address that fear, OT must answer this question: what training, resources and practices are now in place, which guarantee culturally competent decisions and practices, to implement the duty to protect mana tamaiti?

ENDNOTES

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- * Merepeka Raukawa-Tait, Chair of the Māori Inquiry into Oranga Tamariki, launched 27 June 2019 *Puao-te-ata-tu, The Report of the Ministerial Advisory Committee on the Maori Perspective for the Department of Social Welfare* (1988, Wellington)
 - 1 Ibid, p21
 - 2 Ibid, recommendations 4(c)(i),(iv)
 - 3 Children, Young Persons and Their Families Act 1989, ss5(a), (b) and (c)(ii)
 - 4 CYPF Act 1989, s70(1); there were exceptions in s70(2), but the intention that the FGC be the primary decision-making forum was clear
 - 5 Current successor to Department of Social Welfare
 - 6 www.orangatamariki.govt.nz/statistics/quarterly-reporting/quarterly-report-june-2019/care-and-protection-statistics-3/
 - 7 orangatamariki.govt.nz/assets/Uploads/OIA-responses/children-in-care/20190628-Babies-and-children-entering-Oranga-Tamariki-care.pdf
 - 8 Oranga Tamariki *Safety of Children in Care, Quarter 3, January – March 2019*, available at www.orangatamariki.govt.nz/assets/Uploads/safety-of-children-in-care/2019/Safety-of-children-in-care-Q3.pdf; the failure of the state to provide safety for children in care is being addressed in the Royal Commission of Inquiry into Abuse in Care, terms of which were finalised in November 2018
 - 9 The outrage in te Ao Maori was galvanised by the release of footage of the attempted removal of a Maori new born baby; www.newsroom.co.nz/2019/06/27/655449/maori-leaders-launch-fourth-inquiry-into-oranga-tamariki
 - 10 Office of the Children's Commissioner, *Fulfilling the Vision: Improving Family Group Conference preparation and participation* (State of Care Series, Dec 2017), p7
 - 11 Children's Commissioner *A Hard Place to be Happy – Voices of Children and Young People in Care and Protection Residences* (Insights Report October 2019)
 - 12 Many reforms (including FGC provisions) under the Children, Young Persons and their Families (Oranga Tamariki) Legislation 2017 commenced on day of royal assent; remainder of the provisions, including those enacting new principles for the implementation of care and protection processes, commenced 1 July 2019
 - 13 Oranga Tamariki Act 1989, s5(1)(b)(iv)
 - 14 Ibid, s2(1)
 - 15 Ibid, s7AA(2)(b)
 - 16 Oranga Tamariki *Annual Report 2017/2018*, available at www.orangatamariki.govt.nz/assets/Uploads/Publications/Annual-Report/Oranga-Tamariki-Annual-Report-2018.pdf
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CHILDREN'S RIGHTS IN CONTEMPORARY AOTEAROA NEW ZEALAND

14

ALAYNE MCKEE CF

Speech-language Therapist, Talking Trouble Aotearoa NZ

My reflection on two fabulous days spent listening to advocates for children's rights discuss the enactment of children's rights led me to the Parable of the Hummingbird.¹ I kept trying to solve the problem of why the United Nations Convention on the Rights of the Child does not consistently underpin all interactions relating to children when that feels like such an obvious course of action to me. Then I heard the hummingbird story

One day there was a massive fire in the forest. All of the animals ran as far away as they could except for the hummingbird. The hummingbird flew to the river to collect water in its beak and then flew to the fire to drop the water it had collected on the fire. The hummingbird repeated this journey again and again. The other animals were perplexed and asked the hummingbird "what are you doing?" and the hummingbird simply said "I'm doing what I can."

The story ends without revealing whether the fire is extinguished or not, but the hummingbird story reminded me of a few important truths:

- Amazing things can happen when everyone shares the same values and approach, however you can make a difference even if you are on your own.
- You don't always know if your efforts will be successful, but that's not the most important thing. The important thing is to do something, be active, and do what you can.
- Sometimes giving people opportunities to hear, see, and experience what you do to enable children and young people to enact their own rights may be more effective than telling people what they are expected to do. After all, as one presenter at the Symposium put it, some people are not necessarily opposed to children's rights, they just haven't thought about how to enact them.

In my life that means making sure that I use every opportunity to remind people that children, and young people have the right to have influence in their world and in the decisions that involve them regardless of their age, ability, actions, or origin. Furthermore,

when a child or young person's rights conflict with someone else's rights (whether the other party is their whānau, a child, a group of students, an adult, or an organisation) I need to encourage everyone to ensure that the child or young person's rights and cultural context are respected and that any solutions balance everyone's rights fairly.

A child's ability to influence their world is not a one-off event but an on-going process,² so I need to challenge adults (including myself) and organisations to think about whether or not their practices and environments accommodate diverse worldviews and cultivate children's agentive capacity or restrict it. I need to ask them what they are doing to enable children and young people to find their role in their own solutions.

When a child or young person has speech, language, and/or communication needs they may find it hard to understand or participate in discussions and processes that involve them. There is a greater risk that adults will make decisions for them, or that the child might misunderstand the issue, or the consequences of the decisions that are made. I need to keep showing adults children, and young people alternative ways to have these conversations so that everyone gets to have a say in their own life.



In closing, I encourage all New Zealanders, young and old, to familiarise themselves with the United Nations Convention on the Rights of the Child and to seek professional development around embedding and implementing those rights. I have a sense that my best learning and training will come from children and young people themselves. They will tell me about what works for them, what is consistent with their worldview and cultural context, and what is important to them. I will continue to do what I can.

I leave the final comment to a young person I'm working alongside in a care and protection residence. I told him about our symposium and that I wanted to write something about it. I showed him my mind-map of all the key themes that emerged and asked him what advice he wanted to give everyone about children and young people's rights. He had a look at the mind map and paused at the comment that stated that sometimes adults think that they know what's better for children than children do themselves. Lack of access to a phone and the internet is a constant source of irritation to him and so he reflected for a while and said "Oranga Tamariki kids should always get I-phones."



ENDNOTES

- 1 Yahulanaas, M.N. Parable of the Hummingbird. [YouTube]: 2009 [cited 1 October 2019]. Available from: www.youtube.com/watch?v=ptdjC4DIC2Y
- 2 United Nations Committee on the Rights of the Child. Working methods for the participation of children in the reporting process of the Committee on the Rights of the Child. [Internet]: 2014 [cited 15 May 2018]. Available from: www.ohchr.org/Documents/HRBodies/CRC/CRC-C-66-2.doc
- 3 Stalford, H., Hollingsworth, K., and Gilmore, S. eds. Rewriting Children's Rights Judgments. From Academic Vision to New Practice. England. Hart Publishing. 2017.

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**Just talk to us, don't
see us as too hard.**

Student in learning support unit, Samoan

REFLECTIONS ON THE CHILDREN'S RIGHTS SYMPOSIUM

15

I am writing my reflections on the Children's Rights symposium having just returned from a committee meeting for the Children's Rights Alliance Aotearoa New Zealand. I mention this because the Symposium is responsible for this by providing a forum where making such connections was possible.

Going back a step to the Symposium itself, as a PhD student I was over excited about being able to attend. My first impression on arrival was how amazing it was to be in a room with so many talented people who were all committed to Children's Rights. Often as a student/Barrister working in the Family Court it feels like you are an iceberg floating in the vast ocean by yourself. To then discover all the different organisations and hear what they are contributing to the field was inspiring. At times I felt despondent over the hurdles we are all facing in our efforts to ensure realisation of Children's Rights , but I was mostly invigorated.

I believe the Children's Rights movement has a significant task facing it, to challenge centuries of entrenched attitudes towards children and while you won't find many adults who argue children shouldn't have protection and provision rights, the right to participate is far from being globally accepted. In English case law dating back to 1857 submissions were made in opposition to the principle of listening to children in private law disputes. It was submitted the principle of listening to the child was a threat to parental authority, with parental authority being noted as "essential for the survival of mankind". Whilst a highly dramatic denouncement, this statement is representative of widely held beliefs in this current day and age.

One of the key tasks for the Children's Rights movement, I believe is, how we work to challenge such beliefs so we can ensure Children's Rights are not treated in a decorative or tokenistic manner. Children's Rights are after all Human Rights.

What the Symposium highlighted for me was the need to share our knowledge and work together in our approach to the promotion of Children's Rights, in the hope a united front can have real impact in challenging the century old attitudes. I also propose a new approach to Article 12 be considered in order to overcome many of the barriers facing realisation of Article 12 rights. I have developed a Thought Model to illustrate the change proposed. It represents the current theoretical underpinnings of children's participation rights and can contribute to re-defining what child participation is.

Further, my thesis highlights the fragmented approach to implementation of children's rights in policy alongside the lack of consensus in the approach to children's participation processes, how they are developed and implemented. I have developed a new Child Participation Model that depicts the essential elements for all child participation processes. When applied it will ensure Article 12 rights are realised, children's participation is meaningful and improved quality of information elicited from the child to ensure the child's views have the confidence of all adult participants and are able to be relied upon by the decision maker. My thesis and model will be published early next year.

THE 'BEST INTERESTS' OF THE CHILD AND THE 'MICROPRACTICES' OF SCHOOLING

16

UNCRC¹ states that the best interests of the child shall be a primary consideration in all actions concerning children,² and that State Parties must ensure such protection and care as is necessary for the wellbeing of the child, taking into account the rights and duties of parents and caregivers.³ General Comment No. 14⁴ elaborates the principle of best interests and discusses how it might be implemented and safeguarded in institutional settings and procedures. The stated objective of the General Comment is to “to promote a real change in attitudes leading to the full respect of children as rights holders.”⁵

As far as schooling is concerned, the best educational interests of children are always hotly debated by adults. For example, there is little adult consensus on the emphasis that schools should give to the wellbeing of the child, as opposed to their academic achievement. These ideological differences help explain how the state system can allow schooling experiences for children that are as dramatically different as those offered by Auckland Grammar School and Ao Tawhiti Unlimited Discovery.

One imagines that each school's charter or plan uses all the right words in statements about the interests, wellbeing, and achievement of students being at the centre of what they do. But the ‘proof is in the pudding’ of what children actually experience on a daily basis as students. And it is often in these ordinary, everyday, unremarkable rituals and routines of the classroom and the school, that is in the ‘micropractices’ of power,⁶ that we can begin to make meaningful judgments about the extent to which schools genuinely respect children as rights holders, and act in children's, rather than parents' or educators', best interests.

My twin daughters' first day at primary school over twenty years ago was rather bewildering, for them and for me. At the end of the previous term they had experienced a joyful farewell ritual ('Let's count the bruises on your shins to

see if you are ready to go to big school!') at the kindergarten where they had spent a couple of years freely choosing from a large menu of loosely-organized spaces and activities, what they wanted to do (play, bake, make, make-believe, 'help yourself – but only one please!'), and with whom, throughout the course of each morning or afternoon, indoors or out, rain or shine. I particularly remember how popular the wooden shed framing was with both boys and girls because they had access to real hammers, nails, saws, off-cuts of wood and almost empty cans of house-paint (albeit continually monitored at a short distance).

On the first day of the new school term, we were all required to wait outside the bare-walled classroom until the children were invited in to sit on the mat by the teacher – no parents allowed – for a group phonics drill session, to be followed by a practical painting session, seated at rows of tables that were already laid out in identical fashion with large sheet paper, brushes, solid paints and water. Most parents drifted away as the mat session began. I must surely have imagined the teacher saying, 'Now we're all going to paint a How do you paint a ...?', but when I returned at the end of the day to collect my girls, the finished paintings, by now displayed in neat rows on the classroom pinboards, all looked pretty much the same to me.

The key point is that the classroom teacher appeared to interpret the best interests and wellbeing of the children to be ensuring that they (and their parents) received as quick and unambiguous as possible a socialization into the standard behaviour patterns and adult-child power relations that would (and did at least in my children's experience) apply throughout their future 13 years of schooling.

Now, on the one hand, what the teacher did was no doubt done with the best of professional motives and is consistent with the qualifying statement in UNCRC that gives educators and

parents the right and duty to “provide direction to the child in a manner consistent with the evolving capacities of the child”.⁷ On the other hand, there is an ever growing body of research evidence that even young children are able to make rational and thoughtful decisions in their personal and collective best interests within their childhood worlds, provided adults respect them enough to give children the space and structured opportunities to do so. You don’t, for example, just hand a four year old a hammer and nails but you can create the conditions in which they may safely be shown how to use them, and develop their manual skills through trial and error.

When we think of the child’s right to education, then, we need to be clear about what we mean by that education. And here there is a vital distinction to be made between ‘welfare rights’ and ‘non-interference’ rights.⁸ First, adults have a duty to provide what the very young child needs for their survival and upbringing

(such nurturance is a welfare right). Second, adults have a duty to help children acquire the skills, beliefs and habits they need for life in a particular society (such socialization is also a welfare right). But third, is the much more complex right to be supported to “experience a life-style in action, to ‘try it on for size’ and ultimately to make some commitment to it. His [sic] choice should be as free as possible”⁹ (such autonomy is a non-interference right).

With the best of intentions, as adults far too much of our energy and attention to our children’s schooling is focused on intervening to try and ensure their welfare rights (standards, credentials, rules and rituals), and not nearly enough on stepping back to facilitate their non-interference rights (identity, belonging and learning how to choose my best possible life). If we are to respect our children’s rights, we need to be courageous enough to let them try life on for size in the classroom and at school.

ENDNOTES

- 1 *Convention on the Rights of the Child* GA Res 44/25 (1989)
 - 2 At article 3 para 1
 - 3 Para 2
 - 4 *General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1)* CRC/C/GC/14 (2013)
 - 5 At para 12
 - 6 Michel Foucault *Discipline and Punish: The Birth of the Prison* (Routledge, London, 1995)
 - 7 At article 14 para 2
 - 8 Ivan Snook and Colin Lankshear *Education and Rights* (Melbourne University Press, Carlton, 1979) at 43
 - 9 At 46
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It's obviously easier to teach if you just give a set topic in class with one issue but I think when you get to choose it [the social issue] yourself you get more [fired up about it].

17 year old, in Senior Social Studies class

Wood, B., Taylor, R., & Atkins, R. (2018) p 185. *Student voice, citizenship and regulated spaces*. In R. Bourke & J. Loveridge (Eds). *Radical collegiality through student voice* (179-196). Singapore: Springer.

**WHY IS IT SO
DIFFICULT TO UPHOLD
CHILDREN'S RIGHTS
IN THEIR OWN
EDUCATION?**

ROSEANNA BOURKE

Professor, Institute of Education, Massey University

Although we can celebrate thirty years of New Zealand's ratification of the United Nations Convention on the Rights of the Child (UNCRC), our UNCRC Education's report card in Education 'could do better', might be more accurately portrayed as 'school refusal'. It is not that educators are neglecting Children's Rights, but rather that there is a general lack of awareness of what UNCRC and our Education legislation really means for policy makers, principals, teachers and specialists working in education.

The recent Children's Rights Symposium in New Zealand (hosted by the Law Faculty, Victoria University of Wellington, June 2019) challenged our complacency that children have any real say in their own lives, and in their education decisions. The symposium brought together multi-sector agencies who work on behalf of children and those working within them, including Judges, the New Zealand Human Rights Commissioner, Children's Commissioners (New Zealand and Scotland), those working in the Office of the Children's Commission (OCC), Government agencies (e.g. Ministry of Education, Oranga Tāmariki), researchers, and NGOs working with children. Broadly speaking, social and cultural inclusion provide a valuable starting point, but research in education is showing that 'inclusion' and 'student voice' have become mere mantras that enable complacency rather than lead transformative change. A transformative approach to Children's Rights ultimately means shared decision making¹.

The very popularity of student voice at the current time generates a 'bandwagon effect' and, consequently, a tokenistic and possibly short-lived interest on the part of schools. In each case, the transformative potential of student voice is lost. Such a context obviously poses particular challenges to establishing what many commentators on student voice aspire to in the school system — dialogic models of student voice based in a concern for shared decision making and social inclusion.

We know that every child in Aotearoa New Zealand has the right to access education and to be educated², and that pursuant to Article 12 of the UNCRC, every child also has the right to be listened to, and their views acted on. Currently, *not all* children are afforded these rights. We can point to many research examples, and practitioners' own evidence, where Children's Rights are not met: the right for the child to attend school with peers if the child has a disability, the right to grow their talents in areas other than academic achievement, and the right to learn within inclusive contexts and be a contributing member of their community and society. The 2015 Education Review Office (ERO) report³ identified that of the 150 schools they reviewed in Term 4 2014, only 75% of schools were inclusive of children with special education needs (and this figure had been only 50% in 2010).

Educational research in New Zealand has long demonstrated that schools find a way to exclude children and young people either on the promise of better resources and support to be found 'elsewhere', or simply because the young person's behavior or disability creates too many challenges for the school system. The ERO Self-Review Tool for schools to establish how 'inclusive' the school feels, has one conspicuous question missing, '*Are you affording children the right to be listened to?*' In other words, questions such as '*How are the voices of children listened to?*' or '*How are the views of young people considered when making decisions about them?*' are essential in order to lay down challenges for our schools and policy makers. However, the Children's Commissioner Judge Andrew Becroft recently noted 'I sense a sea-change in attitudes to consulting with and listening to children'⁴ and it's this potential for real change that formal education needs to realize in coming years.

The challenge for our education system in listening to children and affording them their rights is not that educators do not believe in

Children's Rights. With an educational system fraught with contradictions and tensions, children become caught up in adult policy priorities: (i) the focus on outcome measures puts distinct pressures on teachers to measure a narrow, pre-defined curriculum rather than the rich lives and learning of children, and (ii) there are pressing demands on specialists in education (e.g. Educational Psychologists, Resource Teachers Learning and Behaviour), who continually face an avalanche of referrals and wait lists with the child's voice remaining largely unheard. At present, UNCRC is not front of mind when Boards of Trustees, principals, teachers and specialists make decisions about children's education. The student voice is often mentioned, but rarely recognised in decisions that affect these young people. This is not to say that the best interests of the child are absent, but it does mean Children's Rights are not actively considered in suspension, expulsion, exclusionary practices in and outside the classroom, and even in the assessment and curriculum challenges that exist within our schooling system.

For many educators and educational researchers, the premise of teaching *is* about the rights of the child to learn, to be educated, to have their voices heard and acted on, and to be enabled to influence educational policies and practices that affect them most directly. Even though in some schools it is evident that children have a say in their own education, curiously on the whole, the understanding of UNCRC (1989) as a mandatory obligation on adults in our everyday lives as educators, researchers and teachers is not.

The rights of the child is both an individual responsibility and a collective obligation across agencies and roles. In other words, each educator has to consciously determine how UNCRC is embodied in their own practice, and in how they approach, respond to, and work with children. If children's rights count in Aotearoa New Zealand, schools and education providers need a more active, visible and child-led approach: It's time to 'turn up' and listen.

ENDNOTES

- 1 Wisby, E. (2011). Student voice and new models of teacher professionalism. *The Student Voice Handbook: Bridging the Academic/Practitioner Divide*, (pp. 31-44). Bradford: Emerald Group Publishing Limited.
 - 2 Education Act 1989, s 8, 1.
 - 3 Education Review Office (2015). Inclusive practices for children with special education needs in schools. www.ero.govt.nz/publications/inclusive-practices-for-students-with-special-education-needs-in-schools/
 - 4 Andrew Becroft. "Foreword". In Roseanna Bourke & Judith Loveridge (Eds), *Radical collegiality through student voice. Educational experience, policy and practice*. (Springer, Singapore, 2018) [at viii]
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[my brain is] an eighth full probably, because I've already just started kind of learning. Through high school it might be just about a quarter or half full, and then you get your job and it's half full and you keep learning and it gets to full almost, and then it starts going down again when you get old. It probably still holds all that information but you just don't use it as much because you don't have a job anymore, you retire.

Year 6 student

THE CONVENTION AT 30

18

BRUCE ADAMSON

Children and Young People's Commissioner Scotland

The United Nations Convention on the Rights of the Child (UNCRC) is special. There is a broad array of international instruments which set out the human rights of children, but the UNCRC is the first legally binding international instrument to incorporate their full range of civil, cultural, economic, political, and social rights, as well as aspects of humanitarian law. As we celebrate the 30th anniversary of UNCRC it is important that we consider how well we are meeting our human rights obligations to children.

The UNCRC builds on the Charter of the United Nations (1945) which recognised that the inherent dignity and the equal and inalienable rights of all members of the human family are the foundation of freedom, justice, peace and social progress. It breathes life into the Universal Declaration of Human Rights (1948) which proclaimed that childhood is entitled to special care and assistance.

The UNCRC is the most rapidly and widely ratified international human rights treaty in history. It changed the way children are viewed and treated in international legal terms. It proclaims children's status as human beings with a distinct set of rights, not just as passive objects of care and charity. It obliges governments to change laws and policies and prioritise resources to protect, respect, and fulfil children's rights so they have the things they need to thrive – like good quality healthcare, education, nutritious food, a clean environment, and protections from violence and exploitation. It has enabled more children to have their voices heard and participate in society, both in terms of being involved in decision making, and acting as human rights defenders, challenging those in power on important issues like climate justice.

Despite this progress, the UNCRC is still not widely known or understood, still less fully implemented. However, it is perhaps more important than ever. Global changes, like the rise of digital technology, climate change,

prolonged conflict and mass migration are completely changing childhood. Adult decision makers are struggling to develop legislative and policy responses to ensure rights are fulfilled in childhoods that are significantly different from their own. Children's unique perspective must be at the heart of our solutions.

New Zealand and Scotland are similar in many ways. We both have high standards of living and healthcare, low levels of corruption, protections of speech and media, the right to protest, and educational opportunities that are denied many around the globe. The world is watching significant developments like New Zealand's wellbeing budget which has a huge potential to improve children's lives and Scotland's commitment to incorporate the UNCRC into domestic Scots law by 2021 which is arguably the most important things we can do to protect children's human rights.

Despite our many advantages we are failing to meet some basic obligations – one in four children in Scotland is growing up in poverty and the situation is getting worse. I'm told that in New Zealand the same is true. The idea that in affluent countries we can't even provide an adequate standard of living for children is unacceptable. The UN Special Rapporteur on Extreme Poverty and Human Rights, Professor Philip Alston was clear when meeting children in Glasgow that "poverty is a result of political decisions". Poverty has a direct impact not just on standards of living, but it affects all aspects of a child's life, on their education, their social life, and their physical and mental health. We need a sustained, systematic human rights approach at national and local levels to tackle and eradicate poverty.

Children don't have the same political power as adults. They don't have the same economic power to influence or lobby and our systems of redress are difficult for them to access. It is incumbent upon all of those in power to make special efforts to ensure that children's rights

are respected, protected and fulfilled. We need to do better. A good start would be to begin redressing that imbalance of political power by lowering the voting age to allow the many young people who are politically engaged and committed to directly express their views through our democratic process.

It is especially concerning when we contrast our unwillingness to allow children to participate in democratic process with our insistence on children being held criminal responsible from a young age. Both New Zealand and Scotland have minimum ages of criminal responsibility well below the international minimum of 14 as established by the UN Committee on the Rights of the Child.

In the last few years we have seen growing recognition of the role that children have as human rights defenders and increasing recognition by courts that the right to protest is particularly important for children whose democratic rights are restricted. A large part of my work is to actively support young human right defenders in Scotland; children who are standing up and challenging power. This takes powerful form in the challenges laid down by the climate strikes, and also the quieter work that takes place in schools and communities across Scotland campaigning on all issues that affect children's lives. Earlier this year I laid a report before the Scottish Parliament calling on better support and protection for young human rights defenders.

Scotland has been slow to address basic human rights protections such as violence in the home. New Zealand provided important leadership on this issue and colleagues from New Zealand were essential in informing our successful efforts to ban physical punishment with law coming into force in 2020, one of the last countries in Europe to do so.

While having a similar population to New Zealand, Scotland's location in Europe creates differences in our human rights landscape. Much of our law and policy is influenced by the complexity of being part of a wider group of 47 Council of Europe countries which includes 150 million children with over 200 indigenous languages and myriad of incredibly complex cultural and legal frameworks set within

different intergovernmental human rights frameworks (Scotland is at time of writing also still part of the European Union).

Despite that difference it is clear we share a common commitment to an international human rights framework. Scotland's commitment to incorporating the UNCRC into our domestic law opens up the conversation about what kind of country we want to be, how do we value our children and what place do they have within our society. I know New Zealand is having those same conversations.

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It affects the future generations so the ones that are actually going to live through it should have a say in who controls their future.

Young person, age 15

Office of the Children's Commissioner (2017)
Children and Young People's views in the lead up to the 2017 general election

CHILDREN'S PARTICIPATION IN MEDICAL DECISIONS: THE UNITED NATIONS CONVENTION OF THE CHILD AND BEYOND

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Every New Zealand child has the right to participate in all matters affecting them, with regard being taken of those views, when decisions are made. In the context of health decisions, participation is not only fundamental to respecting their rights, but is also central to the development of their competence. Children can be competent to make health decisions, but they are inconsistently supported by health professionals, as my doctoral research found.¹ Adults need to honour their commitment to children, by taking action, to ensure children's rights are their reality, as the eminent speakers discussed at the symposium, held at Victoria University in Wellington, celebrating 30 years of the United Nations Convention on the rights of the Child (UNCRC).

The Law

All children, like adults, are entitled to participate in discussions about their health and its treatment, receive information, freely express their views, and if competent, make decisions. Together, the Care of Children Act 2004, the Code of Health and Disability Services Consumers Rights 1996, *Gillick v West Norfolk and Wisbech Area Health Authority and another*,² New Zealand case law,³ and the UNCRC protect these rights. Guardians, usually parents, together with health professionals, have responsibilities and duties to support children in this process, with guardians involvement decreasing, as children's competence evolves.⁴

QUALITATIVE RESEARCH – CHILDREN'S RIGHTS IN HEALTHCARE

The focus of this study was children's competence and right to consent, examining the reality of the informed consent processes for children, parents and health professionals. Four categories of participants were recruited, from four metropolitan areas in New Zealand – 29 health professionals;⁵ 7 children and 6 of their parents;⁶ and 17 Key Stakeholders.⁷ In recruiting participants, diversity was sought from health

specialties (medicine, surgery and dentistry) and within healthcare environments (private practice, hospital, school and community youth service).⁸

FINDINGS ON COMPETENCE

Competence is not age related

Consistent with previous studies, this research found that children's competence is not age-related,⁹ but is more influenced by health professionals' and parents' roles and relationships with children. Most children in my sample, whilst under the age of 16 years, made treatment decisions, with the support of their parents. For example, Alistair chose to take medication for ADHD when he was 10; Poppy decided to proceed with surgery on her achilles at 14; and dental surgery and braces at 15 years; and Amanda decided to undergo a laparoscopy at 13 prior to her cancer treatment and then assisted with, and decide on, minor procedures/treatment such as the insertion of her nasogastric tube and administration of her medication.

Competence is influenced by parents' and health professionals' roles

However, children don't acquire and demonstrate their competence in isolation. Parents played important roles in providing their children with emotional and practical support in engaging with health professionals, such as preparing them for consultations, seating them strategically during them, reminding their children of details to advise the doctor and acting as an interpreter, explaining what each meant. They supported their children's understanding of their health and treatment options, by researching and explaining them simply, and giving their children time, space and permission to make their decisions.

At times, parents' roles complimented health professionals' roles, such as when Poppy's surgeon explained the procedure on her achilles and drawing a picture, but then looked

to Poppy's Mum to explain it in simple terms. Yet, at other times, parents compensated for health professionals' lack of engagement and explanations, by researching and enhancing their own understanding, so they could explain matters to their children. For example, although Alistair was assessed for, and diagnosed with, ADHD, no health professional explained this condition to him, or its treatment. Alistair's Mum, Laura, found the need to educate herself on the condition, and then simplify it, as "all the literature was targeted at adults" (Laura). Similarly, Samantha's mother, Wilma, needed to explain to Samantha (10 years) what cancer and chemotherapy were, as no health professional gave her information in a way she could understand. Wilma reported that when she enquired as to the reasons for no appropriate literature and tools for children aged 10 years, she was told children of that age are not supposed to get cancer!

Children's competence was inconsistently supported and respected

The findings demonstrated inconsistencies within and across health specialties and environments in the degree to which children are involved in decision-making. For example, in hospital, the paediatric surgeons reported having 10 minutes to take a history from parents, examine children, advise on surgery and take parents' written consent, with the child little more than a by-standard; whereas the same surgeons would involve children more, and respect their views, when it involved elective surgery, such as chest wall abnormalities or circumcision.

Also, in hospital, competent children's written consent would be taken from the anaesthetist and obstetrician/gynaecologist, who fully engaged with them, but surgeons reported only taking children's written consent if no parent was available, parents couldn't speak English, children asked to consent or if the outcome of the surgery was uncertain.

In schools, the school nurses and GP best respected children by discussing the issues, giving clear explanations, supporting them in deciding and taking their consent. On the other hand, that same child could be seen by the public health nurse for a vaccination, be

assessed as competent and give verbal consent, but unless parents had also consented, children would not be immunised. Similarly, in the SDS, unless parents had consented for treatment, children's competence and consent would not be relied on, resulting in children not receiving the treatment they needed.

Some factors external to children's competence, influencing their participation, were health professionals' and parents' paternalistic attitudes, seeing children as vulnerable and incapable; health professionals deferring to parents' decisions/rights, because it is easier and is established practice; and practicing defensively to protect their reputation/career, as they felt exposed by the law from parents' reprisals, if they to rely on children's consent. These acted as barriers to health professionals involving children, and promoting, respecting and assessing their competence.

CONCLUSION

Involving children conveys respect, enhances their wellbeing, promotes their competence, and upholds their rights: these are all collective responsibilities of health professionals, parents, lawyers and judges. The children demonstrated that their competence, participation and rights, are not dependent on age, but are best respected when children work in partnership with adults. As one GP eloquently summarised, when reflecting on youth health, supporting children's evolving competence is:

... talking with the young person and asking opinions and questioning them in a non-judgmental way, and questioning your own judgment [T]hey are going from child dependent to adult independent, and in order to help in that journey it is always asking questions and opinions and listening, so they learn to feel that their opinion is counted and to take responsibility. (Private/School/Youth/GP, GP6)

Endnotes

- 1 Fiona Miller, "Children's Competence to Consent to Medical, Surgical and Dental Treatment: Partners in Healthcare? (2019) PhD Thesis, University of Otago, Dunedin.
- 2 *Gillick v West Norfolk and Wisbech Area Health Authority and another* [1986] 1 AC 112 (HL).
- 3 *Re SPO* FC Wellington FAM-2004-085-1046, 3 November 2005
- 4 UNCRC, Article 5, *Gillick* and COCA, s 16(1)(c).
- 5 Seven hospital doctors, six GPs, 3 hospital dentists, 3 private dentists, 2 dental therapists, 8 nurses.
- 6 The children and young people were aged between 10 and 19 years at the date of their interview, and had all consulted with health professionals, whilst they were under the age of 16 years. The range of treatment and surgery Included: cancer (Samantha, Amanda and Oliver); Attention Deficit Hyperactivity Disorder (ADHD) (Alistair); endometriosis (Brenda); tooth extraction (Donald); and an Achilles condition, routine teenage vaccinations, and dental surgery and braces (Poppy). Their names are fictitious and some of their genders have been changed to help preserve anonymity. However, the ratio of girls to boys, the health conditions and ages are authentic.
- 7 The Key Stakeholders' were from either health or law. They were recruited from two government agencies responsible for healthcare; four non-government agencies advocating for children's wellbeing and interests, and/or, supporting children suffering from chronic illnesses; two health regulatory bodies; four lawyers; a medical ethics educator; and a play therapist.
- 8 The main limitations of this study are the small numbers, particularly having no children under the age of 10 years, no fathers, and no Māori, Pacific or Asian whānau.
- 9 For example, Lois A Weithorn and Susan B Campbell "The Competency of Children and Adolescents to make Informed Decisions (1982) 53(6) Child Development 1589; "In the genes or in the stars? Children's competence to consent" (1992) 18 Journal of medical ethics 119; and Imelda Coyne and others, *Giving Children A Voice: Investigation of children's experiences of participation in consultation and decision making in Irish hospitals* (2006) Office of the Minister for Children, The Stationery Office, Dublin.

**A CHILD IS A CHILD
NO MATTER HOW BIG**

20

The two-day Children's Rights symposium was an excellent opportunity to be reminded of our collective obligations towards children's rights. It was also a good reminder that finding watered-down responses in an attempt to reflect commitment upholding children's rights is not sufficient to meet our obligations.

The discussions emphasised the need to locate children's rights in the context of the wider family and community. This is not unique to New Zealand and was always recognised in the development of the consideration of universal rights for children which is the most widely ratified international convention. Children's rights are about adult obligations towards children that also recognises children's evolving capacity and ability to take on more responsibility and have more autonomy to make informed decisions and contributions as they mature. In recognising this, New Zealand needs to more intentionally flesh out what this means in the context of Aotearoa New Zealand. As was acknowledged at the time, the community, particularly tangata whenua, is ripe for this now, and it is an exciting time to be able to construct an indigenous children's rights response.

The reference to the statement "a person is a person no matter how small" came up a couple of times during the symposium. I thought about coining another version of this which is "a child is a child no matter how big". This is to acknowledge that the Convention on the Rights of the Child includes people up to the age of 18 years. Sometimes it seems as though young people have diminishing rights rather than evolving capacity in New Zealand. This is particularly evident for young people in the care and justice systems. This also applies to physical size, where indigenous young people and young people of Pacific descent are at a particular disadvantage. In the lead in to the changes for 17 year olds to be included in the youth justice system, a statement I heard often was "have you seen the size of some of those

young people!" implying there is no way they would be suitable for a youth justice residence given their stature.

As we move into a time that is slowly understanding the ongoing development and evolving capacities into the mid-twenties, I also wonder whether it is timely to start looking at a version of the Convention that either extends the age further, or whether it is timely to look at developing a rights based framework for young adults that better acknowledges their age and stage of development.

**ALL CHILDREN,
ALL RIGHTS, IN ALL
CIRCUMSTANCES**

URSULA KILKELLY

Professor of Law, University College Cork, Ireland

The United Nations Convention on the Rights of the Child is a treaty like no other. A legal instrument that recognises the rights of children in all areas of their lives, the treaty enjoys wide support internationally as the most highly ratified instrument of human rights law. The Convention recognises in Article 1 that children of all ages – from birth to 18 years – are autonomous rights holders and it is a fundamental principle of the Convention under Article 2 that all children are entitled to enjoy their rights without discrimination. In line with the comprehensive and universal approach of the Convention, all children are entitled to enjoy all of their rights, in all circumstances. *This, unfortunately, is not the reality of children's lived experiences.*

A range of circumstances impact on children's ability to enjoy and exercise their rights. Children are discriminated against and subjected to arbitrary and differential treatment on the basis of factors like age, ability and capacity. For instance, children can lose the protection of the Convention if they are deemed to have reached the age of majority, such as when they marry or are sent for trial before the adult courts. Age limits or thresholds may curtail children's enjoyment of certain rights, like the right to be heard or to participate in legal proceedings that affect them and in healthcare the right to consent to medical treatment is a right to be acquired depending on age and/or assessed maturity. Children with disabilities, or younger children who need additional support to exercise their rights are deprived of those rights when this assistance is not provided. In such cases, a child's lack of capacity to exercise his/her rights independently may be confused with children not possessing these rights. In this way, perceptions of a child's capacity to exercise his/her rights independently can be wrongly conflated with the child's status as an autonomous rights holder. And yet, the Convention is clear that all children, from birth to 18, are rights holders; similarly, all children are entitled to enjoy their rights

without discrimination as to status or other characteristics. How children exercise, enjoy and claim their rights is a matter for the duty bearer who is required under Article 4 of the Convention to take all measures to implement the Convention's provisions. In this way, the duty is on the state to ensure all children enjoy their rights.

Children are also entitled to enjoy all of the rights recognised by the Convention, from civil and political rights like the right to protection of their identity and the right to enjoy family relations and social, economic and cultural rights like the right to education, to healthcare and to play and leisure. The Committee on the Rights of the Child recognises that different rights may be important to children at different stages of their lives from infancy, to early childhood through to adolescence, but the Convention makes no distinction between the rights to which children are entitled, recognising that all children are entitled to enjoy all rights equally. As a rule, there is no hierarchy of rights under the Convention and all human rights are indivisible, inalienable and interconnected. Other than limited caveats and conditions, there are no express limitations placed on children's rights under the Convention and few if any of its provisions permit exceptions. Duty bearers are not entitled to prefer one right over another and although education is the only right also considered a duty, a child's right to practice his/her religion cannot be prioritised over his/her right to healthcare, a child's right to protection from harm cannot be outweighed by his/her right to know and be reared by his/her parents for example. At the same time, competing rights are a reality of children's lives and the Convention offers admittedly little guidance on how to resolve this difficult dilemma. It is apparent, through the application of the Convention's general principles, that any process of balancing rights must itself be rights-based, in particular it must be informed by the best interests of the child and the child's own views. Article 5 is an important provision in this respect, in that

it recognises the important role played by care givers in a child's exercise of his/her rights. It is a frequently ignored but important provision that also offers a mechanism whereby children can be supported to exercise their rights. It is essential to ensuring that children enjoy maximum protection of all the rights they hold, regardless of their capacity to exercise them.

Finally, embedded in this universal approach to children's rights is the principle that children are entitled to enjoy their rights regardless of their situation. No circumstances can justify states' withholding rights from certain groups of children or deeming them unworthy of the full protection of the Convention. Just as children deprived of liberty are entitled to education and healthcare, therefore, so too are migrant and refugee children entitled to know and be cared for their parents. Children are entitled to have their views taken into account in decision-making, however uncomfortable that makes adults, and their right to peaceful assembly and to protest must be respected even when their actions shame the silent adult community. Nowhere in the Convention does it say that children who commit violent crime, who participate in armed conflict or terrorism for example are less entitled to enjoy their Convention rights or less worthy to be treated with dignity and respect. Children's entitlement to enjoy all of their rights without discrimination does not simply outlaw differential treatment that is based on gender or disability, it also forbids denying children the full protection of the Convention for other arbitrary reasons.

When states ratified the Convention and undertook to implement its provisions, they made a commitment to protect, promote and fulfil all the rights under the Convention, to all children, in all circumstances. They undertook to take all appropriate measures to underpin the enjoyment of children's rights and to make realisation of their rights a reality for all children in all situations, no exceptions, no conditions and no caveats. This is what full commitment to children's rights means: All children. All rights. In all circumstances.





**UPHOLDING
THE RIGHTS OF
CHILDREN IN CARE
— WHAT NEEDS TO
CHANGE TO MAKE
CHILDREN'S RIGHTS
REAL?**

General Manager Voices of Children and Young People, Ministry for Children – Oranga Tamariki

UPHOLDING THE RIGHTS OF CHILDREN IN CARE

Children and young people in care hold a number of different rights, and the interplay between those rights can be complex. As children and young people, they have the rights afforded to them by the UN Convention on the Rights of the Child (the UNCRC). Tamariki Māori have the rights afforded to them by the UN Declaration on the Rights of Indigenous Peoples, and children and young people with disabilities hold additional rights under the UN Convention on the Rights of Persons with Disabilities. Children also hold the rights afforded to them by general human rights instruments, found internationally in documents such as the Universal Declaration on Human Rights and domestically in legislation such as the Human Rights Act 1993 and the Bill of Rights Act 1990. In addition, the rights of children and young people sit alongside the rights of their parents, family, whānau and communities.

The multiple sources of children's rights in this context can cause both conflict and confusion. Furthermore, these rights are of limited effect unless there are processes and systems in place to uphold them. This article explores some of the tensions, challenges and barriers to meaningfully upholding the rights of children in care.

CHILDREN'S RIGHTS AND CHILDREN'S VOICES

My role at Oranga Tamariki is to lead the Voices of Children and Young People team, which is based at national office. As a team, our role is to ensure that Oranga Tamariki is placing children and young people's voices at the centre of our work. This involves engaging with children and young people directly and sharing what we hear with decision-makers, as well as supporting others (such as social workers) to listen to children themselves. While we recognise children's rights as a critical underpinning to our work, much of what we do revolves around

the participatory aspect of children's rights – 'having voice'.

The symposium caused me to reflect on whether a focus on children's voices narrows the scope and opportunity of what we do. As Professor Laura Lundy spoke about during the symposium, children's rights and children's participation are not synonymous; children's participation is a crucial aspect of children's rights, but it is not the only aspect. Relevant rights for children in care, for example, include the right to have their best interests taken into account (Article 3 of the UNCRC), the right to be free from violence (Article 19 of the UNCRC), the right to participate in their culture, language and religion (Article 30 of the UNCRC) and the special rights afforded to children in alternative care (Article 20 of UNCRC). We need to think about how we best leverage and advocate for *all of the rights* that are available to children and young people in care in Aotearoa New Zealand.

CHILDREN'S RIGHTS, TAMARIKI MĀORI AND CHILDREN AS MEMBERS OF COMMUNITIES

Something else that I reflected on both during and after the symposium was how we can better understand the interplay between children's rights and the rights of indigenous peoples. The majority of children and young people in the care of Oranga Tamariki are Māori, and I am not sure whether we have done enough to understand their rights as tamariki Māori.

The rights of tamariki Māori as indigenous people are not usurped by their rights as children. Some would suggest that the opposite is true – that their rights as children should be grounded in their rights as indigenous peoples, as Dr Paula King discussed during the symposium. At the very least, both sets of rights are interdependent, and we need to do more to understand how the two sets of rights interact. This is equally true of the rights of children in care with disabilities, and all other children who hold additional

rights. As Professor Ursula Kilkelly discussed during the symposium, children's rights apply to all children, in all circumstances, in respect of all their rights.

Similarly, I think we need to do more to understand the individual rights of children in the context of their collective identities. Children and young people do not exist in isolation, they are all members of families and communities. For many children and young people, those families and communities have a strong sense of collective responsibility. This applies not just to tamariki Māori but also to children from Pacific countries and children who are recent migrants. Communities can and should be a source of strength and support for children, particularly those who have suffered harm. We need to harness the strengths of children's collective identities and avoid pitting their rights as individual children against their rights as members of communities.

GIVING WEIGHT TO CHILDREN'S RIGHTS

There was some discussion at the Symposium about the lack of engagement with the UNCRC in government policy and decision-making. Children's rights frameworks hold great potential for advancing the wellbeing and best interests of children and young people, particularly those in care. How do we best leverage the Convention to realise these benefits for all children and young people in Aotearoa New Zealand?

There is significant opportunity for us to think carefully about how we advocate for children's rights in government decision-making. We need to think broadly about the range of rights held by children and deeply about the interplay between these rights. And we need to consistently, and persistently, reflect this deeper understanding in our advice and advocacy to government.

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**I feel like I just need
someone to be by
my side, not be alone.
Because the worst
feeling ever for me is
to be alone.**

Young person, age 16

CHILDREN'S VIEWS AND THE FAMILY COURT

The Family Court one would think, would be a leader in listening to children and taking account of their views whenever making decisions that affect children. Section 6 of the Care of Children Act sets this out in a clear and appropriate manner. In fact section 6 of the Care of Children Act is world leading, in the sense that it does not require age and maturity as a limitation on when children can express their views. It says all children can express their views and are entitled to have them taken into account. When this was passed in 2004 in the Care of Children Act there was great hope that children's rights would be given far more prominence in the New Zealand Family Court. Alas this has not been the case to date. There are two examples I wish to look at in this particular piece of writing that illustrate that when it comes to the crunch, the Courts are not prepared to give the children the opportunity to express their views.

The first situation is when warrants are being issued to remove children. There are two situations where warrants may be used to remove children from their homes. One is when a parent is insisting on their contact rights and the other parent has not delivered the children at the appropriate time. The Court has power to issue a without notice warrant to have the children uplifted and given to the parent who has contact rights at that time. The other time is when a child is in need of care and protection and there are concerns about the child's safety and the warrant is being used under the Oranga Tamariki Act in order to put the child in a place of safety. Both these procedures are done under urgency. In both these procedures all that is required is an affidavit from one party or from one person to the Court saying that the child either is not being made available for contact or the child is in need of safety. That piece of paper has a great deal of power, because children can be removed very quickly. We have had two media stories this year which have highlighted the risks and dangers of this particular process.

The first one involved the removal of children for contact. There was no evidence the children were unsafe or in risk of harm. The primary reason for the removal was that the parent had not complied with the Court Order to have the child available for contact. The video in this case was very disturbing to show the child was very upset to be removed in the evening by Police Officers. The child was obviously very anxious and very upset in the video recording that was shown in the news story. It is difficult to justify that a removal of a child from a parent can be done where there are no safety issues for the child and where at the end of the day the child is the one who is being removed nonetheless. Surely this is a matter that gravely affects the child and that section 6 which in complying with Article 12 of the UN Convention on the Rights of the Child should come into play. There should be at least some attempt to understand and ascertain the child's views about the removal process. Section 6 says that in all matters affecting the child, as does Article 12, and so by not ascertaining the child's views when there is no actual clear risk to the child at all, the Court is not really complying with what the child may be thinking about the situation and the decision may be very different when the Court hears the child's point of view.

With regard to the place of safety removals, the media story on these showed that it does not require much evidence to be able to remove a child into a place of safety. In the particular media story, the child was in the hospital in a very safe place and the Order had been applied for quite a few days earlier. And it was only activated six days later, so there did not appear to be any issues of safety, yet the Order had been given and was being insisted on by Oranga Tamariki to be enforced and for the child to be removed. Again this is a situation where unless it is extremely urgent and critical. And if it is extremely urgent and critical, then the Police have a statutory right to remove children without consulting with

anyone because in critical situations obviously we need to do that. The situation could not have been that critical if there's a six day time lapse between getting the Order and executing it for removal of the child. There was plenty of time to ascertain the views and in this case the child was a baby, but to ascertain the views in this case would be checking to see what state the baby was in, checking to see how the baby was coping and babies certainly do express their views. In this case the baby was happily settled in the hospital with its mother. To the credit of the new Principal Family Court Judge, there has been a change to this process whereby there will be an opportunity for people to be heard and the matter will not be decided purely on the papers anymore. Hopefully in that opportunity there will be a chance to hear the children's views as we moved forward in these really important cases but cases so far where children's views have been totally absent.

I want to move to one other area that I have experienced recently where children's views have not been taken into account. In this case two young children, and I cannot reveal the details because the case has not been reported yet and has to be anonymous, were in a conflict between a grandparent and their parent with regard to whether or not the children could have contact with the grandparent. The children had been through a very traumatic situation which because of confidentiality I do not want to go into detail here but I can assure you it was all very traumatic situation. The children were not that keen necessarily to spend time with the grandmother in this particular case. The Family Court decided to order that an expert report under section 131 of the Care of Children Act. The Family Court Judge did not ask the children in any way whether or not their views would be relevant to the report being carried out by the psychologist. It was assumed that the Court can order the report and that there was no need to check with the children as to what their views would be as to having a psychologist report done on them. In this particular case this happened twice. It happened the first time and a High Court Judge said that the children should have perhaps been consulted. It happened a second time and again there was no requirement for the children's views to be ascertained. This is a clear example of the narrow way of section 6

of the Care of Children's Act and Article 12 of the UN Convention on the Rights of the Child have been interpreted. Clearly if a psychological report is going to be done on a person, in this case a child, it is really really important that the child has an opportunity to be able to express their views. The children in this case were 8 and 9 years old, so they were clearly able to express views about the situation. And they may well have been very helpful in terms of what the scope of the psychological report may be. No effort was made to even check with them in any way in how they felt about a psychological report being done. The matter is under appeal at the moment and the argument is being made that the decision to go ahead without the children's views is reviewable and that the Court should clearly state that the Family Court have failed to take into account obviously a very relevant consideration, the views of a child, before making the Order to have them psychologically assessed for the purposes of the Court.

The Family Court is in a difficult environment there are lots of stresses and strains going on and lot of tension. And the Family Court is also under the microscope because decisions affect families very deeply. However, as the Review Panel that has reviewed the Family Court made very clear in their report, the rights of children have not been as in the forefront as they should be in Family Court proceedings. The New Zealand Family Court has and has the potential again to lead the world as a forward looking Court that takes into account the relevant views of everyone. It is particularly important that the views of children are understood because many important decisions in Court are made about children and when children are left out they feel disrespected, they feel worthless and often decision are not made as effectively as they can be in those situations that are very difficult.

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**If the parents
are good then the
kids are good.**

Rangatahi from Rotorua

Office of the Children's Commissioner and Oranga Tamariki (2019). *What makes a good life? Children and young people's views on wellbeing*. Wellington: New Zealand

THE TIME TO DELIVER ON THE PROMISE OF THE CHILDREN'S CONVENTION IS NOW

E ngā mana

E ngā reo

E ngā waka

E ngā hau e whā

Tihei mauri ora!

DR. CLAIRE ACHMAD

General Manager Advocacy, Barnardos

As a member of the Steering Group for the Children's Rights Symposium, it is my pleasure to share with you some closing remarks at the end of these incredible two days together. As I do so, I pay tribute to Associate Professor Nessa Lynch who has led us so ably; it has been a true pleasure to work alongside you, Nessa, and all the members of the Steering Group, to help bring your vision for this Symposium to fruition. Congratulations. It has been an absolute treat to have welcomed our international experts to Te Whanganui-a-Tara, making these days all the more special. Ngā mihi nui, ngā mihi mahana ki a koutou katoa, Justice Nelson, Professor Laura, Professor Ursula and Children's Commissioner Bruce. Thank you for sharing your time and wisdom with us.

What a joy it has been to be in the company of others who share my deep commitment to this kaupapa – the subject of children's rights – and at a time when we have cause to pause and take stock, reflect, and recommit to action, on the 30th anniversary of the adoption of what is now the world's most-ratified international human rights treaty, the United Nations Convention on the Rights of the Child.

Without doubt, there has been huge value in the whakawhanaungatanga of this hui – relationships that have been established, forged and renewed, grounded in our common interest in and fierce commitment to te kaupapa o tēnei rā: children's rights – te mana o ngā tamariki.

The kōrero that we have shared has been rich, and I believe it has enriched us, now standing as a collective platform for action. Now that we have built it, I feel strongly that it is a platform that we must use.

Over our two days together we have explored diverse perspectives on children's rights; this exploration has reinforced the need for a multidisciplinary approach to children's rights. As a former lawyer myself, I am not afraid to say it: the law itself can only go so far in protecting children's rights. Alongside legislation that

explicitly reflects and gives life to children's rights, we need policy and practice grounded in and which actively enables and ensures the realisation of children's rights in all children's lives. Beyond this, we must harness and implement these laws, policies and practices to the greatest extent possible for and with children.

This hui has galvanised in my mind – and I think in the minds of many of us here – the power and the value of the children's rights framework, but also that of indigenous conceptions of rights and indigenous rights frameworks. In Aotearoa New Zealand we should respect and value what sets us apart and ensure that in our thinking and practice of children's rights, we open our minds and hearts – and our collective consciousness – to learning from and being embracing of mātauranga and tikanga Māori. In our mahi towards the advancement and protection of the rights of tamariki and rangatahi – who are tangata whenua of Aotearoa – mātauranga and tikanga Māori must lead the way and we must do what we each can within our sphere of influence to support in practice the realisation of the promises made between two peoples under Te Tiriti o Waitangi. The rights set down in the Children's Convention and the emphasis on children and their families provides a reinforcing framework, too.

Just like the drafters of the Children's Convention back in the 1980s, we have had broad and resounding agreement at this Symposium that we must intentionally and genuinely hear the views and voices of children in decisions and matters affecting their lives.

This is not a 'nice to have', but rather a substantive right, as set down in Article 12 of the Children's Convention. Children are, after all, not 'mini human beings with mini rights', as my dear friend and colleague Maud de Boer-Buquicchio, the UN Special Rapporteur on the Sale and Sexual Exploitation of Children, would implore us to remember.

Our panel discussions over these two days have raised the challenge and focused the mind on

what meaningful child participation is and looks like in practice. I have appreciated the challenge raised around child 'voice' as an avenue to participation, and the broader, more holistically conceived right to participation, as envisaged under Article 12. In this space I am particularly heartened by the innovative and robust research ongoing within our universities around the motu, and look forward to the outcomes of the studies underway by the talented doctoral candidates who have attended this Symposium. Kia kaha mō tō mahi whakahirahira.

The landscape we have traversed over the course of the Symposium has also caused me to be reminded, once again, of the importance of not falling into the trap of equating child 'wellbeing' with children's rights. Our engagement with the differences between these two concepts – one more amorphous and overarching (and ultimately an end goal of human rights), while the other is firmly rooted in internationally agreed legal standards and norms – has been timely, especially given our current government policy terrain in New Zealand.

Taking up the challenge over these two days of embarking into discussion concerning the risks involved in using 'proxies' for children's rights and the nuance in distinguishing between wellbeing and children's rights could not have come at a better time, especially with the recent publication of New Zealand's first Child and Youth Wellbeing Strategy. I believe this is an area of debate and discussion that will present an ongoing challenge and opportunity over the months and years ahead for those of us working in this area.

Let's agree to collectively steer away from conflating children's rights and children's wellbeing, remaining alert to the differences. We need to holdfast to the essential nature of children's rights as a pre-conditional holistic underpinning for children's wellbeing, a larger goal which we must aspire to, but which cannot be achieved if we do not first ensure the fulfillment of universal children's human rights, on an equal and non-discriminatory basis.

Finally, in the powerful calls to action we have heard across the two days together, I have drawn hope and sensed a renewed commitment amongst those of us in the children's rights

community both here in Aotearoa and beyond our shores, to the movement for and the cause of children's rights.

Here in our Aotearoa we have to do better for children and tamariki. The time for excuses has long run out. We have to āta whakarongo – listen carefully and with intent. Beyond this, we have to act. Act on what we hear, act on what we see, act on what we know to be consistent with and fulfilling of the promise of the Children's Convention, and of a more equal, inclusive, just, peaceful and sustainable world. Let us draw inspiration from what children and young people in Aotearoa and around the world are doing in this respect!

Looking ahead to New Zealand's next periodic report to the United Nations Committee on the Rights of the Child in 2020/2021, we know that the entrenched, systemic children's rights challenges of our time – and which are being felt by individual children and their families and whānau every day – will be called out. Again, the eyes of the world will be on our small South Pacific nation, with an expectation that we will do things right, make things better. The scale of change needed is large. The need is urgent.

But change for the better is not beyond reach.

We can and must be the country in which every child gets to grow up enjoying a peaceful and safe childhood, characterised by fun and growth, not fear or want, and where all children in all circumstances can flourish to their full potential.

Committing to delivering on the promise of the UN Convention on the Rights of the Child is a natural place to start.

All of us in this room today have a part to play, and moreover a responsibility to help make children's rights real in Aotearoa New Zealand, and in the wider world. I am looking forward to continuing to play my part alongside you.

This whakatauki or proverb encapsulates in simple, beautiful terms what we must now do.
*Poipoia te kākano kia puawai –
Nurture the seed and it will blossom.*

Nō reira, tēnā koutou, tēnā koutou, tēnā tatou katoa.



CONVENTION ON THE RIGHTS OF THE CHILD

Adopted and opened for signature, ratification
and accession by General Assembly resolution
44/25 of 20 November 1989 entry into force 2
September 1990, in accordance with article 49

PREAMBLE

The States Parties to the present Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children,

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth",

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules); and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict, Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child, Recognizing the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries,

Have agreed as follows:

PART I

Article 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

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.

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 4

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

Article 5

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Article 6

1. States Parties recognize that every child has the inherent right to life.

2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.

2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Article 8

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.

2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in

accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.

3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Article 10

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances

personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (*ordre public*), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Article 11

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.

2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.

2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others; or

(b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 14

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.

2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

Article 15

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.

2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 16

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.

2. The child has the right to the protection of the law against such interference or attacks.

Article 17

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and

international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health.

To this end, States Parties shall:

(a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;

(b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;

(c) Encourage the production and dissemination of children's books;

(d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;

(e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.

2. 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.

3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-

care services and facilities for which they are eligible.

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

2. States Parties shall in accordance with their national laws ensure alternative care for such a child.

3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Article 21

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

(a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable

law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;

(b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;

(c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;

(d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;

(e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

Article 22

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating

with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

Article 23

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.

3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development

4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational

services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

(a) To diminish infant and child mortality;

(b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;

(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

(d) To ensure appropriate pre-natal and post-natal health care for mothers;

(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;

(f) To develop preventive health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Article 25

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

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.

2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

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.

2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.

3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

Article 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

(a) Make primary education compulsory and available free to all;

(b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;

(c) Make higher education accessible to all on the basis of capacity by every appropriate means;

(d) Make educational and vocational information and guidance available and accessible to all children;

(e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge

and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 29

1. States Parties agree that the education of the child shall be directed to:

(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;

(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;

(c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;

(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

(e) The development of respect for the natural environment.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 30

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

Article 31

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

Article 32

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:

(a) Provide for a minimum age or minimum ages for admission to employment;

(b) Provide for appropriate regulation of the hours and conditions of employment;

(c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

Article 33

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual

abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

(a) The inducement or coercion of a child to engage in any unlawful sexual activity;

(b) The exploitative use of children in prostitution or other unlawful sexual practices;

(c) The exploitative use of children in pornographic performances and materials.

Article 35

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

Article 36

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

Article 37

States Parties shall ensure that:

(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;

(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;

(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Article 38

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.

2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.

3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.

4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 40

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human

rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:

(a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;

(b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:

(i) To be presumed innocent until proven guilty according to law;

(ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;

(iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;

(iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;

(v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;

(vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;

(vii) To have his or her privacy fully respected at all stages of the proceedings.

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

(a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;

(b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

Article 41

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

(a) The law of a State party; or

(b) International law in force for that State.

PART II

Article 42

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

Article 43

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.

2. The Committee shall consist of eighteen experts of high moral standing and recognized competence in the field covered by this Convention.^{1/} The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems.

3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.

4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them, and shall submit it to the States Parties to the present Convention.

5. The elections shall be held at meetings of States Parties convened by the Secretary-General at United Nations Headquarters. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

6. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting.

7. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member

shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.

8. The Committee shall establish its own rules of procedure.

9. The Committee shall elect its officers for a period of two years.

10. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined, and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.

11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.

Article 44

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights

(a) Within two years of the entry into force of the Convention for the State Party concerned;

(b) Thereafter every five years.

2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.

3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.

4. The Committee may request from States Parties further information relevant to the implementation of the Convention.

5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.

6. States Parties shall make their reports widely available to the public in their own countries.

Article 45

In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:

(a) The specialized agencies, the United Nations Children's Fund, and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund, and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

(b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications;

(c) The Committee may recommend to the General Assembly to request the Secretary-

General to undertake on its behalf studies on specific issues relating to the rights of the child;

(d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

PART III

Article 46

The present Convention shall be open for signature by all States.

Article 47

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 48

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 49

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

Article 50

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In

the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.

3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

Article 51

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General

Article 52

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

Article 53

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

Article 54

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations. In witness thereof the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

1/ The General Assembly, in its resolution 50/155 of 21 December 1995, approved the amendment to article 43, paragraph 2, of the Convention on the Rights of the Child, replacing the word "ten" with the word "eighteen". The amendment entered into force on 18 November 2002 when it had been accepted by a two-thirds majority of the States parties (128 out of 191).

HE WHAKAAETANGA WHAKATAU I TE MANA O TE TAMAITI A TE WHAKAKOTAHITANGA O NGĀ WHENUA O TE AO

I whakapūmautia, ka whakapuakina kia hainatia, kia whakamanatia, kia whakaaetia e te whakataunga 44/25 a te Rūnanga Whānui, i te 20 o Noema, 1989 te urunga atu kia mana, i te 2 o Hepetema, 1990, i runga i ūpoko 49. I whakatūturutia te Hui Whakatau i Te Mana o Te Tamaiti a Te Whakakotahitange o Ngā Whenua Ao e te Kāwanatanga o Aotearoa i 1993.

WHAKAMĀRAMA

Ngā Rōpū Kāwanatanga o Te Hui Whakatau Ināiane

I te mea ko ngā tikanga i whakapuakitia i roto i te kaupapa a te Whakakotahitanga o ngā Whenua o te Ao, arā, ko te whakaaetanga ki te tino rangatiratanga, me te ōritetanga o te mana motuhake o te kāhui tāngata, te pūtake o te noho herekore, o te tika, me te rongomau i tēnei ao.

I runga i te whakaaro nā ngā tāngata o te Whakakotahitanga o ngā Whenua o te Ao i Whakatūturu tō rātou whakapono ki te mana tuku iho o te tangata, tōna rangatiratanga me tōna nui, nā, kua ngākaunui rātou ki te whakakaha i te haere whakamua, me te whakapai ake i tōna oranga i runga i te kahanga o te noho herekore.

Me mōhio hoki i roto i te whakapuakitanga whānui a te Whakakotahitanga o ngā Whenua o te Ao mō te rangatiratanga tangata, ā, i roto anō hoki i ngā kawenata-ā-lwi mō ngā mana tangata, i whakapuakina i whakaaetia e rātou, arā, e āhei ana te hunga katoa ki ngā mana me ngā herekore katoa kua tuhia rā e rātou ki roto i tā rātou tuinga kaupapa mō te mana tangata i runga anō i te kī kāore he whakaaro whakahāwea, he pēhea tōna āhua, ko wai tōna iwi, he aha tōna kara, he tāne, he wāhine rānei ia, he aha tāna reo, tōna hahi, ōna whakaaro rānei ki ngā kōrero pōti Kāwanatanga, ētahi atu whakaaro rānei, e pā ana ki te wāhi i whānau mai ai ia, te iwi nō reira mai rā ia, ētahi atu karangatanga rānei ōna.

Kia mahara, i roto i te kaupapa whānui a Te Mana Tangata i whakapuakina e te Whakakotahitanga o ngā Whenua o te Ao, arā, e āhei ana te tamaiti ki ngā manaakitanga motuhake katoa me ngā āwhina.

Nā, kia mahara, ko te whānau, ko rātou nei te rōpū o te huihuinga tangata me te āhuatanga mō te tipu me te ora o ōna mema katoa, ina koa te tamariki, ko rātou tētahi tino hunga, kia tiakina kia hoatu ki te whānau ngā āwhina kia taea ai e rātou ā rātou mahi i waenganui i te iwi.

E mārāma ana hoki e pai ai te āhua o te noho a te tamaiti me tipu ake ia i roto i te āhuatanga

whānau, i roto i te hari, i te aroha, me te māramatanga.

I te mea me āta whakareri te tamaiti ki te noho i runga i tōna ake oranga i roto i te whakaminenga, ā, i whakatipuria ake i roto i te wairua o ngā āhuatanga i whakapuakina i roto i te kaupapa o te Whakakotahitanga o ngā Whenua o te Ao ā, ko te mea nui rawa ia ki roto i te wairua o te rongomau o te wehi, o te whakamomori, te noho herekore o te ōrite me te kaha.

Kia maumahara hoki ko te whakaaro tiaki i te tamaiti i tuhia i te hui 1924 ki roto i te pukapuka whakatakoto kaupapa a Geneva mō te whakapuaki i ngā mana o te tamaiti, ā, i tautokona anō e te Huihuinga-ā-iwi ki roto i tā rātou whakapuakitanga i aua mana o te tamaiti i te hui 20 o Noema 1959, ā e whakaaetia anō hoki aua kōrero i roto i te Kawenata a ngā Whakawhanaungatanga ā lwi o te Ao mō te Mana Tangata, Mana Pōti, kāore ha kei roto i ngā Ūpoko 23, 24, kei roto anō hoki i ngā kawenata a ngā whakatōpū-ā-iwi o te ao te whakakaupapatanga i ngā mana whakawhitiwhiti oranga, take huihui rānei ā-iwi tae atu hoki ki ā rātou tikanga mana tuku iho, kāore ha i ngā mea kei roto i te Ūpoko 10, ā, i ētahi atu rōpū whakahaere motuhake a ngā Rōpū whakakotahitanga ā-iwi rānei e taunga ana e kaingākau ana ki te āwhina i ngā take mō te ora o te tamaiti.

Waihoki, i waitohutia rā i roto i te Whakapuakitanga o ngā Mana o te Tamaiti, i te mea “kei te nohinohi tonu tana tinana me tana hinengaro, me motuhake tonu te tiaki, me te atawhai i a ia, tae atu hoki ki ngā ture e tika ana hei tiaki i a ia i mua, i muri i tōna whānautanga mai”.

Kia maharatia anō hoki, kei roto i te pukapuka Whakapuaki take te whakakaupapatanga i te nohoanga-ā-iwi me ngā ture whakahaere e pā ana ki te tiaki me te ora mō te tamaiti, me te tino whakaaro anō ki te kāinga whakanoho i te tamaiti me te whakatau a ngā whakawhanaunga-ā-iwi o te ao me ngā iwi kāinga mō te whakahaere i te ture whakawā tamariki hara i runga i te iti o te ture i whakaritea e ngā iwi whakawhanaunga o te ao hei utu mō taua hara (e ai ki ngā ture a Beijing) me ngā whakapuakitanga kaupapa mō te tiaki i ngā wāhine me ngā tamariki i roto i ngā putanga ohorere me ngā putanga pakanga.

Me te mōhio anō kei ngā whenua katoa o te ao e noho ana ētahi tamariki i roto i te mutunga mai o te hē, ā, ko ēnei ngā tamariki hei tino whakaarotanga.

Ko te mātau ki te nui o ngā tikanga me te nui hoki o ngā whakataunga tuku iho o ia iwi mō te tiaki me te whakatipu pai hoki i te tamaiti.

Ko te mōhio hoki, ko te mea nui ko te mahi tahi o ngā iwi hei whakapai ake i te noho a ngā tamariki i tēnā whenua, i tēnā whenua, kāore ha i ngā whenua kei te whakatiputipu tonu kua whakaae ki ēnei e whai ake nei.

TE WĀHANGA TUATAHI

Ūpoko 1

Mō ngā take e pā ana ki tēnei hui whakatakoto tikanga ko te kupu “tamaiti” e mea ana ko te hunga katoa kei raro iho ngā tau i te tekau mā waru, mehemea rānei i raro i te ture e pā ana ki te tamaiti kua eke kē ngā tau ki te mātāmuatanga.

Ūpoko 2

Me whakahōnore me tino aro ngā Rōpū Kāwanatanga ki ngā whakakaupapatanga a tēnei whakaaetanga i ngā mana e pā ana ki te tamaiti i runga anō i te kaha o te ture e āhei ana ki a rātou ā, i runga anō hoki i te ōrite o te whiu ahakoa ko wai te tamaiti, ko wai ōna mātua, ōna mātua whāngai rānei, tōna karangatanga ā-iwi, tōna kara, he tāne, he wāhine rānei ia, he aha tōna reo, tōna hāhi, ōna whakaaro pōti Kāwanatanga, ētahi atu whakaaro rānei, mō te iwi me tōna karangatanga i te whenua i ahu mai ai ia, he aha ana taonga, he aha rānei te mate hauā e pā ana ki a ia, he pēhea tōna whanaungatanga, mai ētahi atu āhua rānei e pā ana ki a ia.

Me anga hoki ngā Rōpū Kāwanatanga ki te whakahaere i ngā take katoa e tika ana kia ū tūturu ai te tiaki i te tamaiti i ngā whakaaro whakahāwea, i ngā whiu rānei e pā ana nō te mea he iwi ke noa atu tōna karangatanga, āna nei mahi, āna nei whakaaro e whakaputa ana ngā whakaaro whakaponu rānei a ōna mātua, mātua whāngai rānei, whakaaro rānei a tana whānau.

Ūpoko 3

I roto i ngā mahi katoa e pā ana ki ngā tamariki ahakoa i raro i ngā whakahaere a ngā tari Kāwanatanga me ētahi atu Tari o Te Ora kāore i raro i te Kāwanatanga, tā ngā kōti whakahaere ture rānei, tā ngā Kaiwhakahaere rānei kua whakamanaia e te ture, ētahi atu rōpū whakahaere i te ture rānei, engari ia, ko te tino whakaaro nui kia puta ko ngā painga e puta ana ki te tamaiti.

Me anga ngā Rōpū Kāwanatanga ki te whakatūturu i te tiaki me te atawhai e tika ana mō te oranga o te tamaiti, me te whakaaro anō hoki ki ngā mana me ngā mahi a ōna mātua, mātua whāngai rānei, ētahi atu tāngata rānei kua whakamanatia hei tiaki i a ia, ā, mō tēnei take me mahi e rātou ngā mahi e tika ana i raro i te ture me ngā whakahaere e tika ana.

Me whakatūturu ngā Rōpū Kāwanatanga i ngā whare, i ngā mahi, me ngā tikanga mō te atawhai me te tiaki i te tamaiti kia eke ki ngā āhukatanga i whakaritea e ngā hunga whai mana, e mātau ana, kāore ha, i ngā wāhanga kāore e pāngia e te aitua, ā, e noho ora ai tana tinana, ā, i runga anō i te tika me te nui o ā rātou rōpū kaimahi, tae atu hoki ki te whakahaere a te Kaitirotiro kua tohunga ki ēnei mahi.

Ūpoko 4

Me whakamahi hoki e ngā Rōpū Kāwanatanga ngā ture katoa e tika ana, ngā whakahaere, me ētahi atu āhukatanga, hei whakatutuki i ngā mana i whakaaetia e tēnei whakaaetanga. Mō ngā take e pā ana ki te oranga taha moni, te taha-ā-iwi, me ngā mana taonga tuku iho, me anga ngā Rōpū Kāwanatanga ki te mahi i ngā tikanga ki te mutunga mai o te kaha o ngā mātāpuna kei a rātou, ā, ki ngā wāhi e hiahiaitia ai i roto i ngā mahi i whakawhaititia hei mahitahitanga mā ngā iwi.

Ūpoko 5

Me whakahōnore ngā Rōpū Kāwanatanga ki ngā mahi ki ngā mana me ngā mahi a ngā mātua ki ngā wāhi anō e tika ana ki ngā mema o te whānau, o te whakaminenga rānei kua whakatakotoria e tēna rohe, e tēna rohe, e ngā mātua whāngai me ētahi atu tāngata kua whakamanaia hei tiaki i te tamaiti ki te hoatu ki te tamaiti te huarahi tika e ōrite ana ki te tipu

ake o te tamaiti, ki te ārahi te huarahi e tika ana hei mahinga mā te tamaiti i ngā mana kua whakaaetia e tēnei whakaaetanga.

Ūpoko 6

E whakaae ana ngā Rōpū Kāwanatanga ki te mana tuku iho o ia tamaiti mō tōna oranga.

Me whakatūturu e ngā Rōpū Kāwanatanga ki te mutunga mai o te kaha e taea e rātou te ora me te tipu o te tamaiti.

Ūpoko 7

Whānau mai ana te tamaiti kia tere tonu te rēhita, ā, ka whai mana ia ki tētahi ingoa mōna, ki te mana anō hoki e mōhio ai ia, ko wai tōna iwi, ā, mehemea e taea ana kia mōhio ko wai ōna mātua, ā, ki te mōhio ka āwhina tonu ōna mātua i a ia.

Me anga te Rōpū Kāwanatanga ki te whakatutuki i ēnei mana i runga i ā rātou Ture-ā-lwi me ngā mahi i whakahaua kia mahia e rātou i raro i ā rātou Ture-ā-Whenua, e pā ana ki ēnei mahi kāore ha, mehemea kāore he tūrangawaewae o te tamaiti.

Ūpoko 8

Me whakahōnore ngā Rōpū Kāwanatanga ki te pupuri i ngā mea katoa e mōhiotia ai ko wai te tamaiti, tae atu hoki ki tōna iwi, ki tōna ingoa, me ōna whanaunga e mōhiotia ana e te ture, ā, kāore hoki e taea te whakahē.

Ki te tango hētia ētahi wāhi, te katoa rānei o āna tikanga e mōhiotia ai ko wai ia, me hoatu e ngā Rōpū Kāwanatanga te āwhina me te tiaki e tika ana, arā, kia tere ai te whakatūturu anō ko wai ia.

Ūpoko 9

1. Me anga ngā Rōpū Kāwanatanga ki te whakatūturu kia kaua e wehea te tamaiti i ōna mātua, mehemea kāore ngā mātua e whakaae kia wehea rātou, ēngari mehemea tētahi hunga tika kua whakamanaia i raro i ngā whakahaere a te ture e whakaaro ana e paīngia ana taua wehenga, mō te tamaiti ka whakaaetia, ēngari kei te tirohanga anō i aua ture te tikanga. Tērā pea e tika ana taua whakatau, kāore ha, i ngā take e tūkinotia ana e whakaaro koretia ana te tamaiti e ōna mātua, i ngā take rānei e

noho wehewehe ana ngā mātua; hei konei ka whakatauria te whakaaro ki hea te tamaiti noho ai.

2. I roto katoa i ngā whakahaere e pā ana ki te kōwae 1 o tēnei Ūpoko, ka hoatu he wā mō ngā hunga katoa e whai take ana i roto i ēnei whakahaere, ki te whakaputa i ō ratou whakaaro.

3. Ka whakahōnoretia e ngā Rōpū Kāwanatanga te mana o te tamaiti kua wehe i tētahi o ōna mātua, i ōna mātua tokorua rānei ki te mau tonu i tōna whanaungatanga ki ā rāua me te kite auau ā-tinana i ōna mātua tokorua i ngā wā e whakaritea ana, ēngari, kāhore mehemea kāore e pai ana tēnei mō te tamaiti.

4. Mehemea nā te Rōpū Kāwanatanga te whakaaetanga ki tēnei wehenga, arā, nāna i pupuri i mauherehere, i pana rānei i ō rātou ake whenua, i whakamate rānei (tae atu ki te mate e pā noa mai i te wā e mauherehere ana) tētahi, ngā mātua tokorua rānei o te tamaiti, te tamaiti tonu rānei, me whakaatu e taua Rōpū Kāwanatanga, ina inoia atu ki a rātou, ngā tino whakamārama ki ngā mātua, ki te tamaiti, mehemea rānei e tika ana ki tētahi atu o te whānau, ahakoa kei hea ngā hunga o te whānau e ngaro ana, ēngari mehemea kāore e pai ana tēnei whakamārama mō te paīngia o te tamaiti, kātahi ka whakakorea. Me whakatūturu anō hoki ngā Rōpū Kāwanatanga, arā, ko ā rātou whakamārama i tono atu ai kia kaua e raruraru ki te hunga e pā ana ki ēnei whakamāramatanga.

Ūpoko 10

1. I runga i ngā mea hei whakaarotanga, mā ngā Rōpū Kāwanatanga i raro i Ūpoko 9, kōwae 1, ko ngā tono a tētahi tamaiti, a ōna mātua rānei, ki te whakauru, ki te whakarere rānei i tētahi Rōpū Kāwanatanga mō te huihui-ā-whānau te take, me āta whiriwhiri e te Rōpū Kāwanatanga i runga i te tika i te aroha, me te pai o te whakatau. Me whakatūturu hoki ngā Rōpū Kāwanatanga kia kaua e pā tētahi kino ki ngā kaitono me ngā mema o tō rātou whānau, nā runga i taua tukunga tono.

2. Ko te tamaiti kei ētahi whenua kē noa atu ngā mātua e noho ana, e whai mana ana ki te kite auau i ōna mātua i runga i te kite-ā-tinana i ōna mātua tokorua, otirā, i ētahi āhuatanga

motuhake, kāore e whakaaetia i runga i tērā āhuetanga. I raro i aua whakaritenga, me ngā ture i whakahaua kia mahia e ngā Rōpū Kāwanatanga i raro i te Ūpoko 9, kōwae 1, me whakahōnore e ngā Rōpū Kāwanatanga te mana o te tamaiti me ōna mātua ki te whakarere, ā, ahakoa ko hea te whenua, tō rātou ake whenua rānei, ko te whakauru mai rānei ki tō rātou ake whenua. Ko te mana ki te whakarere ahakoa ko hea te whenua kei ngā here anake i whakatakotoria e te ture te tikanga e tika ana hei tiaki i te ora-ā-iwi, i te pai o tāna noho i waenganui i te iwi, i te pai o te hauora o te iwi i te mōhio ki te tika, ki te hē, ki ngā mana rānei o te noho herekore o ētahi atu, kia rite ki ētahi atu mana e whakaarohia ana e tēnei whakaaetanga.

Ūpoko 11

Me whakatakoto e ngā Rōpū Kāwanatanga ētahi tikanga e ārai atu i te mau hē, me te kore o te tamaiti e whakahokia mai i tāwāhi.

I runga i tēnei āhuetanga, me kaha ngā Rōpū Kāwanatanga ki te whakatutuki i ngā whakaaetanga a te hunga takirua, a te hunga maha rānei, te whakaaetanga rānei ki ngā kirimini i whakatakotoria.

Ūpoko 12

Me whakatūturu ngā Rōpū Kāwanatanga i te mana o te tamaiti e mōhio ana ki te whakatakoto i ōna ake whakaaro, ā, ki te whakaputa noa hoki i ana whakaaro ki ngā āhuetanga katoa e pā ana ki te tamaiti, ki ngā whakaaro o te tamaiti, me whakaaro i runga i ōna tau me tōna pakeke.

I runga i tēnei āhuetanga, ka āta whakawāteatia he wā mō te tamaiti ki te kōrero i ōna whakaaro, i mua i ngā kōti whakawā, me ngā whakahaere e pā ana ki te tamaiti, arā, māna tonu rānei e kōrero, mā tētahi kai kōrero kē noa atu rānei, mā tētahi rōpū rānei e tika ana, ēngari, me tika i runga i ngā kaupapa whakahaere a te ture-ā-whenua.

Ūpoko 13

1. Me whai mana te tamaiti ki te whakaputa noa i ōna whakaaro; ko tēnei mana e whakawātea ana i a ia ki te kimi, kia whiwhi, ki te hoatu māramatanga, me ngā momo whakaaro katoa ahakoa pēhea ngā āhuetanga, i kōrerotia,

i tuhituhitia rānei, mahi-ā-ringa, ētahi atu kaupānui rānei e pā ana ki te tamaiti.

2. Tērā anō ētahi here kei runga i ēnei mana, ēngari ko ngā here anake e pā ana ki tā te ture i whakatakoto ai, ā, e tika ana hoki.

(a) Mō te whakahōnore i ngā mana me ngā ingoa pai o ētahi atu;

(b) Mō te tiaki rānei i te ora o te iwi, te pai rānei o te noho a te whakaminenga, tōna hauora tōna noho rānei ki te tika ki te hē rānei.

Ūpoko 14

Me whakahōnore e ngā Rōpū Kāwanatanga te mana o te tamaiti ki ōna ake whakaaro, ki tōna hinengaro, ki tōna hāhi whakapono hoki.

Me whakahōnore e ngā Rōpū Kāwanatanga te mana me ngā mahi a ngā mātua, ā, i ngā wā e tika ana, me pērā anō rātou ki ngā mātua whāngai (Kaitiaki i whakamana) hei tohutohu i te tamaiti ki te whakamahi i tāna mana i te wā e pakeke haere ana ōna whakaaro.

Ko te mana ki te whakaatu i tōna hāhi, i tōna whakapono rānei, kei te here ā te ture te tikanga hei tiaki i te ora o te iwi te noho pai, ki te hauora, me te mōhio ki te tika ki te hē, ki ngā mana tuku iho katoa rānei me te noho herekore o ētahi.

Ūpoko 15

1. E mātau ana ngā Rōpū Kāwanatanga ki ngā mana o te tamaiti ki ngā herekore i a ia, i āna takatū i roto i te iwi, i āna haere rānei ki ngā huihuinga whakahoahoa.

2. Kāore he here mō te whakahaere i ēnei mana i tua atu i tā te ture i whakatau ai, ā, e tika ana mō te huihuinga tāngata e noho ana i runga i te ture herekore hei painga mō te noho-ā-iwi mō te ora rānei o ngā tāngata, te noho pai ā ngā tāngata, te tiaki i te hauora o ngā tāngata, i ō rātou mōhio ki te hē, ki te tika, ki te tiaki rānei i ngā mana me te noho herekore o ētahi.

Ūpoko 16

Kaua te noho a te tamaiti e whakararuraru noatia; e ngā whakararuraru poka noa, i tōna noho ko ia anake, i tōna noho i tōna whānau, i tōna kāinga, ki āna reta rānei, ki ngā whakakino hē noa rānei ki tōna hōnore me tōna ingoa pai.

E whai mana ana te tamaiti kia tiakina e te ture ki te pā he raruraru ki a ia, ki te tūkinotia rānei ia.

Ūpoko 17

E mātau ana ngā Rōpū Kāwanatanga ki te nui o te mahi e mahia ana e te katoa o ngā kaikawe kōrero, ā, me whakatūturu e rātou kia whai huarahi te tamaiti ki ngā whakaaturanga me ngā mea i puta mai i ngā mātāpuna huhua-ā-iwi, me ngā mātāpuna a ngā iwi rānei, kāore ha, ko ngā mea e hāngai ana ki te whakapiki i tāna noho whakawhanaunga ki te katoa, tōna wairua, me tāna noho i runga i te tika me te ora o te tinana me te hinengaro. Nā reira, ko ngā Rōpū Kāwanatanga, me:

(a) whakangākaunui i ngā mātāpuna whakaatu kōrero kia pānui whānuitia ngā whakaaturanga me ngā mea e pā ana ki te noho ā-iwi me ngā tikanga hei painga mō te tamaiti, i runga i te wairua o Ūpoko 29.

(b) whakangākaunui i ngā iwi kia mahi tahi ki te whakaputa, ki te whakawhiti, ki te pānui i ōna whakaaturanga ki ngā mea i puta huhua mai e puta mai ana rānei i ngā mātāpuna-ā-iwi, a ngā huihuinga rānei a ngā iwi.

(c) whakangākaunui ki te whakaputa, ki te whakarato i ngā pukapuka mā ngā tamariki.

(d) whakangākaunui i te mātāpuna kawē kōrero kia āta whakaaro rātou ki ngā hiahia e pā ana ki te reo o te tamaiti o ngā iwi iti, tamaiti tūturu rānei nō tōna whenua.

(e) whakangākaunui i te whakatipu i te ārai tika i te tamaiti i ngā whakaaturanga me ngā mea kāore e pai ana mōna, ki te whakaaro anō hoki ki ngā tikanga i whakatakotoria i roto i te Ūpoko 13 me te 18.

Ūpoko 18

Me kaha ngā Rōpū Kāwanatanga ki te whakawaia i a rātou kia āta kite ai rātou arā, ko te atawhai, me te whakatipu i te tamaiti e pā tahi ana ki ngā mātua tokorua. Kei ngā mātua, mātua whāngai rānei i whakamanā hei tiaki hei whāngai, whakatipu i te tamaiti. Kia whakaaro anō hoki ko ngā mea e paingia ana mō te tamaiti te mea nui.

Hei whakapūmau, ā, hei whakanui hoki i ngā mana i whakatakotoria i roto i tēnei whakaaetanga, me hoatu e ngā Rōpū Kāwanatanga ngā āwhina e tika ana ki ngā mātua, ki ngā mātua whāngai rānei, i roto i ā rātou mahi whāngai tamariki; ā, ka whakatūturu hoki ki te hanga i ngā whare, me ngā mahi katoa mō te atawhai tamariki.

3. Me mahi e ngā Rōpū Kāwanatanga ngā tikanga katoa e tika ana kia tūturu ai ngā tamariki a ngā mātua kei te mahi ki ngā hua e puta mai ana i ngā wāhi tiaki tamariki, me ngā painga e āhei ki ngā tamariki.

Ūpoko 19

1. Me whakahaere e ngā Rōpū Kāwanatanga ngā ture e tika ana, ngā whakahaere, ngā tikanga mō te huihuinga tāngata me ngā tikanga o te mātauranga hei tiaki i te tamaiti i ngā āhuatanga tūkinotia katoa, e pā ana ki te tinana ki te hinengaro rānei, ngā mate, ngā tūkinotia rānei, ngā whakarere noatanga, te mau hē, te mau kino, me te whakamahi i te mau tamaiti hei painga ki te kaitiaki anake, tae atu hoki ki ngā mahi taitōkai i te tamaiti, i te wā e noho ana te tamaiti i raro i te maru o tētahi o ngā mātua, o ngā mātua tokorua rānei, mātua whāngai rānei, i tētahi atu tangata rānei kei a ia te tamaiti e noho ana.

2. Ko ēnei tikanga tiaki e tika ana kia whakaurua atu ngā tikanga pai, hei whakatau i ngā kaupapa huinga tāngata ki te hoatu āwhina anō hoki e tika ana hei tautoko i te tamaiti me te hunga kei a rātou te tamaiti e noho ana, me ētahi atu āhuatanga hei ārai atu i ngā hē, ā, hei whakaaturanga hei ripoatatanga, hei whakamōhiotanga, hei kimihanga, i te mau me te whai atu hoki i nga maukinotanga i te tamaiti, i kōrerotia i mua ake nei, ā, e tika ana kia whakawātia.

Ūpoko 20

1. Ko te tamaiti i wehea mai i tōna whānau mō te wā poto, wā pūmau rānei, ki te kore rānei e whakaaetia kia noho pērā tonu ia i runga i tērā āhuatanga hei painga tonu mōna, e āhei ana ia kia āta tiakina, ā, kia āwhinatia e te Kāwanatanga.

2. Me whakatūturu ngā Rōpū Kāwanatanga i runga anō i ā rātou ture-ā-iwi, i ētahi atu āhuatanga atawhai i taua tamaiti.

3. Kei roto i tēnei tū atawhai, ētahi atu āhuatanga, tuku i te tamaiti ki ngā wāhi atawhai tamariki e ai ki te ture a kafalah (Islamic Law) te tuku atu kia whāngaitia kia waihotia rānei mehemea e pai ana ki ngā whare atawhai tamariki. Ina whakaarotia he rongoa mō ēnei āhuatanga me āta whakaaro te whakapūmau i te whakatipu haeretanga i te tamaiti, ā, ki te iwi i takea mai ai te tamaiti, tōna whakapono, āna tikanga, me tōna reo i whakatipuhia mai ai ia.

Ūpoko 21

Ko ngā Rōpū Kāwanatanga e whakaae ana, e whakaae ana hoki mā ōna kaupapa whāngai tamariki e whakatūturu ko te mea tino nui hei whakaarotanga mā rātou ko te painga o te tamaiti, ā, me anga rātou ki te:

(a) Āta titiro, arā, ko te tuku i te tamaiti mē ētahi e whakatipu ko te hunga anake kua whakaaetia e ngā kaupupuri i te mana mō te tuku i te tamaiti i runga i ngā ture me ngā whakahaere e pā ana, i runga anō hoki i te tika me te pono o ngā whakamārama katoa ka whakaaetia tēnei tuku i te tamaiti i runga anō hoki i te āhua o te tamariki ki ngā mātua, ki ngā whanaunga, ki ngā mātua whāngai, ā, mehemea e hiahia ana, kua whakaae kē te hunga e pā ana ki tēnei tuku i te tamaiti mā ētahi e whakatipu ēngari i runga i ngā tohutohu tērā pea e hiahia ana.

(b) Me mātau ko ngā take tuku tamariki mā ētahi e whāngai i roto i ngā whakawhitiwhiti o tēnā whenua, o tēnā whenua, ka whakaarohia he wāhanga tikanga anō mō te atawhai i te tamaiti mehemea kāore e taea te whakanoho te tamaiti mē tētahi matua whāngai, whānau rānei e whakatipu ki te kore rānei e kitea he wāhi nohonga e pai ana mō te atawhai te tamaiti i tōna ake whenua i tipu ake ai ia.

(c) Kia pūmau hoki te mana mō te tamaiti tērā ka awhitia i roto i tētahi atu whenua, kia mau tonu ai ngā ture tiaki pērā me ērā o tōna ake whenua.

(d) Me mahi ngā tikanga katoa e taea ana i roto i ngā tikanga whāngai tamariki o tōna whenua tipu kia kore ai e noho hei mea mahi moni noa iho mā te hunga whāngai tamariki.

(e) Kia kaha ki te āki atu i ngā kaupapa o tēnei upoko, i ngā wāhi e taea ana arā, me

whakatutuki ngā whakaritenga, ngā kirimini rānei i waenganui i te hunga tokorua, tokomaha rānei, kei roto i tēnei kaupapa mahi, kia tūturu ai te whakanoho i te tamaiti a te hunga whaimana tika, rōpū rānei.

Ūpoko 22

1. Me anga ngā Rōpū Kāwanatanga ki te whakahaere i ngā tikanga e tika ana mō te tamaiti e kimi ana he kāinga hei nohonga mōna, e kīia ana rānei he tamaiti e kimi ana he wāhi nohonga mōna i raro i te ture e pā ana ki ngā iwi katoa, ki ngā ture rānei o tōna whenua tipu, me ngā whakahaere, ahakoa haere koia anake, i haere tahi rānei me ōna mātua, i te taha rānei o tētahi atu tangata, ka āhei tonu ia ki ngā atawhai e tika ana me ngā āwhina aroha ki ngā mana e āhei ai te tamaiti i raro i ngā tikanga o tēnei huihuinga me ngā mana tangata o ētahi atu whenua, ngā tuhituhinga aroha ki te tangata rānei e kīia nei he wāhanga nō aua Rōpū Kāwanatanga e kōrerotia nei.

2. Mō tēnei take me anga ngā Rōpū Kāwanatanga ki ngā wāhi e whakaarohia ana e rātou he tika, ki te āwhina i ngā mahi ahakoa he aha a te kotahitanga a ngā Iwi o te Ao, me ētahi atu a te Tari o te Kāwanatanga, ētahi atu rōpu noa rānei, e mahi tahi ana i te taha o te Kotahitanga a ngā Iwi o te Ao ki te tiaki, ki te āwhina i tēnei momo tamaiti, ā, ki te kimi hoki i ngā mātua, i ētahi atu rānei o te whānau, o te tamaiti rānei e kimi kāinga nohonga mōna, kia whiwhi ai ia ki ngā whakaaturanga e tika ana mōna, ki te hoki anō ki tōna whānau. Ki te heipū, kāore ngā mātua, ētahi atu rānei o te whānau e kitea, ka āhei tonu te tamaiti ki taua atawhai e hoatu ana ki tētahi atu tamaiti mō ngā wā katoa o tōna oranga, mō te wā poto noa rānei i wehea mai ai ia i tōna whānau, me tētahi atu take kua tuhia nei ki roto i ngā kaupapa o ēnei Whakaaetanga.

Ūpoko 23

whakaae ana ngā Rōpū Kāwanatanga, arā, ko te tamaiti e mate ana i te mate hinengaro, e hauā ana rānei te tinana, me whiwhi tonu ia ki te oranga pai mō ngā rā o tōna oranga, i runga i ngā āhua e tūturu tonu ai tōna wehi e tipu ake ai tōna whakamanawa ki a ia anō, a, kia ngawari ai tāna takatū i waenganui i te iwi.

E whakaae ana ngā Rōpū Kāwanatanga ki te mana o te tamaiti hauā, kia tino atawhaingia, ā, kia whakangākaunuitia ki te roanga atu o ēnei āwhina, ēngari kei ngā mātāpuna e āhei ana ki te tamaiti te tikanga, me ngā mea o rātou e tiaki e āwhina ana i te tamaiti, i te mea kua tukua atu nei he āwhina e tika ana ki te āhuetanga e pā ana ki te tamaiti, ki ngā mātua, ki ētahi atu rānei e atawhai ana i te tamaiti.

3. I te mea e mōhiotia ana ngā hiahia motuhake o te tamaiti hauā, ka āwhinatia kāore he utu i runga i ngā kaupapa o te kōwae tuarua o tēnei Ūpoko, arā, ngā wāhi e taea ana, me te mōhio anō ki te mātāpuna ā-moni a ngā mātua, a ētahi atu rānei kei te mau i te tamaiti, ka meinga ēnei hei whakatūturu kia whiwhi ai te tamaiti hauā ki te huarahi o te mātauranga, ki te ako i ngā mahi a te hauora, ki ngā mahi e tika ai tāna noho i waenganui i te iwi, ki te whakareri i a ia ki ngā huarahi e whiwhi mahi ai ia, ā, e uru atu ai ia ki ngā huarahi o ngā whakangahau, i runga i ngā āhua e tika ana ki te kaha o te tamaiti kia eke ia ki te taumata o te noho pai i roto i te iwi me tōna whakatiputipu i ia anō tae atu hoki ki ngā tikanga i tipu mai ia i roto, me ngā tikanga tuku iho, me te taha wairua.

4. Me kaha ngā Rōpū Kāwanatanga ki te whakanui, i roto i te wairua āwhina o ngā iwi katoa, ki te whakawhitiwhiti i ngā māramatanga e tika ana i roto i ngā āhuetanga o te mahi tiaki i te ora tinana i ngā mahi rongoā mate, ngā mahi e pā ana ki te hinengaro me ngā mea e tika ana hei whakaora i te tamaiti hauā, tae atu hoki ki ngā whakaaturanga e pā ana ki ngā mahi whakahou i te noho i te mahi me te whai i te mātauranga, ngā mahi pūmau, i runga i te wawata kia taea e ngā Rōpū Kāwanatanga te whakapai ake o rātou kaha me o rātou mōhio ā, ki te whakanui atu hoki i o rātou mōhiotanga ki ēnei mahi. Nā reira, me āta tirotiro ngā mea e hiahia ana e ngā whenua kei te whakatiputipu tonu.

Ūpoko 24

Me whakaae ngā Rōpū Kāwanatanga ki te mana o te tamaiti kia whiwhi ia ki te mutunga mai o te ora o te tinana, ā, ki ngā āhuetanga mō te rongoā mate, ā, me te whakahoki mai anō i te ora pūmau. Me whakamātau ngā Rōpū Kāwanatanga ki te whakatūturu kia kaua e āraia te mana o tētahi tamaiti ki aua mahi hauora.

Me anga ngā Rōpū Kāwanatanga ki te tino whakatinana i tēnei mana, kāore ha, ki te mahi i ngā mahi e tika ana:

(a) Ki te whakaiti i te matemate o te tamaiti e pēpi tonu ana, e nohinohi tonu ana rānei:

(b) Ki te āta titiro ki te whiwhi o ngā tamariki ki ngā āwhina katoa o ngā rongoā whakaora mate ēngari ia, ko te mea nui rawa ia ko te whakatipu o te ora o te tamaiti;

(c) Ki te ārai i ngā mate huhua, me ngā mate nā te korekai, tae atu hoki ki ngā mahi tiaki i te ora o te tamaiti kua oti nei te whakatakoto ki roto i te tono mō ngā mea hou mō te hoatu i ngā āwhina kai, me ngā wai unu e tika ana mō te ora o te tinana, me te whakaaro anō hoki ki ngā wetiweti o ngā wāhi kua paruhia;

(d) Ko te hanga he āhua e tika ana mō te tiaki i te whaea i mua ā, i muri iho hoki i tōna whakawhānautanga;

(e) Ki te āta whakamōhio atu ki ngā wāhanga katoa e noho ana te iwi, kore ha, ki te whakamōhio atu ki ngā mātua me ngā tamariki, arā, kei te wātea te huarahi ki te mātauranga, ā, ka āwhinatia rātou ki ngā mahi tiaki i te tamaiti, ki ngā kai e pai ana mō tōna oranga me te pai o te whāngai i te pēpi ki ngā ū o te whaea me te pai o te mā o ngā wāhi nohanga, ā, me te tūpato kei pāngia e ngā mate aitua;

(f) Ko te hanga tikanga hei tiaki i te hauora o te tamaiti, hei āwhina i ngā mātua i ngā whānau hoki e whakaora ana i ngā tikanga e mātau ai rātou ki ēnei āhuetanga me ngā mahi.

Me anga ngā Rōpū Kāwanatanga ki te mahi i ngā mea katoa e pai ana, e tika ana, hei horoi atu i ngā tikanga o neherā, kāore e pai ana mō te hauora o ngā tamariki.

Me anga ngā Rōpū Kāwanatanga ki te whakakaha, ki te whakangākaunui hoki i te mahi tahi o ngā iwi o te ao, ki te āta mahi haere iti nei i tēnā wā, ā, tae noa ki te tino whakatūturutanga o tēnei mana kua tuhia nei i roto i tēnei Ūpoko. I runga i tēnei āhuetanga me āta whakaaro ngā hiahia o ngā whenua whakatipu.

Ūpoko 25

E whakaae ana ngā Rōpū Kāwanatanga ki te mana o te tamaiti i whakanohoia e ngā hunga whai mana, kia atawhaitia ai, kia tiakina ai, kia rongoātia ai tōna mate tinana, hinengaro rānei, kia tirotirohia ai ngā mahi mō te whakaora i te tamaiti i tēnā wā, i tēnā wā me ētahi atu āhuatanga e pā ana ki tōna whakanohanga.

Ūpoko 26

Me whakaae ngā Rōpū Kāwanatanga ki te mana o ia tamaiti ki ngā moni hua e puta ana i ngā tari toko i te ora tae atu hoki ki ngā inihua ā iwi, ā, me anga hoki rātou ki te mahi kia tutuki katoa ēnei mana, i runga i ngā ture-ā-iwi.

Me hoatu ngā moni hua, mehemea e tika ana i runga i te mōhio ake anō ki ngā mātāpuna me ngā āhuatanga o te tamaiti, me te hunga kei a rātou ngā whakahaere mō te atawhai i te tamaiti, me ētahi atu whakaarotanga e pā ana ki te tono moni mā te tamaiti.

Ūpoko 27

E whakaae ana ngā Rōpū Kāwanatanga ki te mana o ia tamaiti ki te āhua o te noho e tika ana mō te ora o te tinana, hinengaro, wairua, me te mōhio ki te tika ki te hē ki te whakaaro pai, me te tipu ake i roto i te iwi.

Ko ngā mātua, ko ētahi atu rānei, ko rātou nei te kaitiaki i te tamaiti, mā rātou te mahi hei whakaū i ngā mahi e taea ana e rātou, i runga anō hoki i te oranga moni e taea ana e rātou, te āhua o te noho, me te whakatipu i te tamaiti.

I runga i ngā āhuatanga-ā-iwi e ahei ana ki a rātou, me mahi e ngā Rōpū Kāwanatanga ngā tikanga hei āwhina i ngā mātua me ētahi atu kaitiaki o te tamaiti, ki te whakatutuki i tēnei mana, ā, ki ngā wāhi e hapa ana, ka hoatu i ngā āwhina e tika ana, ā, ka tautoko i ngā kaupapa kāore ha, ki ngā kai, ki ngā kākahu me ngā kāinga noho.

Me tahuri ngā Rōpū Kāwanatanga ki te tango mai i te oranga moni o te tamaiti, i ngā mātua i ētahi atu rānei kei a rātou ngā moni me te oranga o te tamaiti, ahakoa rātou kei roto i tēnei Rōpū Kāwanatanga, kei tāwāhi rānei; kāore koa, mehemea kei tētahi whenua kē noa atu te kaitiaki moni o te tamaiti e noho ana, me anga ngā Rōpū Kāwanatanga ki te

whakangāwari i te huarahi ki ngā kirimini-ā-iwi, ki ngā whakatutukitanga rānei o ēnei kirimini tae atu hoki ki ētahi whakaritenga e tika ana.

Ūpoko 28

1. Me whakaae ngā Rōpū Kāwanatanga ki te mana o te tamaiti ki te ako i te mātauranga i tēnā wā, i tēnā wā kia riro mai ai tēnei mana i runga anō hoki i te kaupapa ōrite, kāore ha, me anga rātou ki te:

(a) Whakature i te ako i te mātauranga ki te katoa, mai i ngā kura tuatahi, ā, i runga i te kore utu:

(b) Ki te whakangākaunui i te ako i ngā huhua o ngā mea hei akonga i ngā kura tuarua, tae atu hoki ki ngā tū momo ako e whiwhi mahi ai te tamaiti, ā, me wātea tēnei huarahi ki ia tamaiti i runga i ngā tikanga e tika ana, mō te ako i te mātauranga, kāore he utu, me te hoatu āwhina taha moni ki ngā mea e kore moni ana;

(c) Me whakawātea ki te katoa, te huarahi ki te taumata o te mātauranga i runga i te kaha o ngā mea katoa e taea ana;

(d) Me hanga ngā whakaakoranga o te mātauranga, me ngā akonga mō te whiwhi mahi kia wātea ki ngā tamariki katoa;

(e) Me hanga ētahi tikanga hei whakakaingākau i ngā tamariki kia ū ki te kura, kia iti ake ai te heke o ngā tamariki e puta ana ki waho o ngā kura.

Me anga ngā Rōpū Kāwanatanga ki te mahi i ngā āhua e tika ana kia tūturu ai te whakahaere a te kura i ngā whiu mō ngā tamariki kāore e whakarongo ki ngā ture o te kura, i runga i ngā āhua e rite ana ki te rangatiratanga tangata, me ngā kaupapa o tēnei whakaaetanga.

Me whakawhānui atu, me whakangākaunui hoki te mahi tahi o ngā iwi katoa i ngā take e pā ana ki te mātauranga, kāore ha, ki te āpiti āwhina atu e kore ai e kūare ngā tamariki puta noa i te ao, ā, ki te whakangāwari hoki i ngā huarahi ki ngā māramatanga i hua mai i ngā tikanga whakaako o ēnei rā. I runga i ēnei whakaaro, me āta titiro ngā hapa o ngā whenua kei te whakatiputipu tonu.

Ūpoko 29

1. E whakaae ana ngā Rōpū Kāwanatanga, arā, ko te ako i te tamaiti ki te mātauranga, me whakatutuki ngā whakahau e whai ake nei arā:

(a) Ko te whakatipu i te pai o te āhua o te tamaiti ki ngā mea e tau ana ia, tōna hinengaro, tōna tinana, ki te mutunga mai o te kaha e taea ana;

(b) Ko te whakakaha i te tipu o tōna whakahōnore mō ngā mana tangata me ngā noho herekore me ngā kaupapa kua tuhia ki roto i te pukapuka whakatakoto kaupapa a te Whakakotahitanga o ngā Whenua o te Ao;

(c) Ko te whakawhānui atu i te whakahōnore mō ngā mātua o te tamaiti, āna tikanga e mōhiotia ai ia, tōna reo, ōna uara, ngā uara-ā-iwi o te whenua kei reira te tamaiti e noho ana, tōna whenua i tipu mai ai ia, me ngā tū āhua nohoanga tāngata i rerekē atu i tōna;

(d) Ko te whakareri i te tamaiti mō tōna noho pai i roto i te iwi herekore, i roto i te wairua o te māramatanga, o te rongomau, o te whakamomori, o te ōrite o te wahine me te tāne, me te noho hoahoa i waenganui i ngā tāngata katoa, i ngā iwi nō ētahi whenua kē noa atu, i te iwi whānui tonu, me ngā rōpū whakapono, tae atu ki ngā iwi ake o tēnei whenua;

(e) Ko te whakanui atu; te whakahōnore mō tōna takiwā me te aotūroa.

2. Kaua tēnei ūpoko, te Ūpoko 28 rānei e pohēhētia e whakararuraru ana i te noho herekore a ngā hunga takitahi, me ngā rōpū e whakatū ana, ā, e whakahaere ana hoki i ngā whare o te mātauranga, ko te mau ki ngā kaupapa, i ngā wā katoa, i whakatakotoria ake i roto i te kōwae tuatahi o tēnei ūpoko, me ngā mea hoki e hiahiatia ana, arā, ko te mātauranga e whakaakona ana i ēnei whare me tika ki te iti o te whakaakoranga tērā e whakatakotoria e te Kāwanatanga.

Ūpoko 30

Ko ngā Rohe Kāwanatanga e noho ana te hunga nō ētahi whenua kē noa atu, ā, ko tō rātou whakapono, tō rātou reo he iti, he rerekē noa atu i tō te whakaminenga tāngata; ko ngā tamariki e pā ana ēnei āhua, kāore e āraia te

huarahi tika e āhei ana ki a rātou e āraia rānei ā rātou huihuinga ki ētahi atu rānei o rātou ki te ārai rānei i tō rātou ngākaunui ki ā rātou nei tikanga mai i tō rātou whakatipuranga, ki te whakaputa rānei i ō rātou whakaaro ki te whakapono, ki te kauhau rānei i roto i tō rātou ake reo.

Ūpoko 31

E tūturu ana te whakaaro o ngā Rōpū Kāwanatanga ki te mana o te tamaiti ki te whakatā ki te whakauru atu rānei i a rātou ki roto i ngā mahi tākaro, e tika ana ki te pakeke o te tamaiti ā, ki te whakauru i a rātou ki roto i ngā tikanga waiata, poi, haka, mahinga katoa rānei o te whakairo, mahi tukutuku, ētahi atu mahinga katoa rānei e taka ana ki raro i tēnei kupu.

Me whakahōnore, ā, me whakanui atu hoki te mana o te tamaiti kia tino whai wāhanga ai ia ki ngā tikanga me ngā mahi tohunga o te ora, me te whakakaha i te whiwhi ki ngā tikanga tika, ōrite hoki o te whiwhi ki ngā tikanga, mahinga-ā-ringa, ngā whakangahau, me ngā mahi tākaro i a ia e whakatā ana.

Ūpoko 32

E whakaae ana ngā Rōpū Kāwanatanga ki te mana o te tamaiti kia tiakina, kei whakamahia hei huarahi noa iho mō te mahi moni, kia tiakina hoki i ngā mahi tērā pea e wetiweti, e whakararuraru rānei i te kura a te tamaiti, kāore rānei e pai ana mō te hauora o te tamaiti, mō te tinana mō te hinengaro mō te wairua, mō ngā whakaaro pai ki te pai rānei o tāna tipu ake i roto i te iwi.

Me anga ngā Rōpū Kāwanatanga ki te whakahaere i ngā tikanga e pai ana ki te taha ture, ki ngā whakahaere, ki te taha noho-ā-iwi me ngā tikanga mō te mātauranga kia tūturu ai te mahi whakareri i ngā tikanga o tēnei upoko. Mō ēnei āhuatanga, ā, i runga anō hoki i te whakaaro ki ngā tikanga whakahaere a ētahi atu iwi, me anga ngā Rōpū Kāwanatanga ki te:

(a) Whakarite i te pakeke o te tamaiti, tamariki rānei e āhei ai ia ki te whiwhi mahi;

(b) Whakarite i ngā haora e tika ana me ngā āhuatanga o te mahi,

(c) Whakarite mō ngā whiu e tika ana, ētahi atu tikanga rānei e whakamanaia ana e rātou kia tūturu ai te mahi o ngā tuhituhinga o tēnei ūpoko.

Ūpoko 33

Me whakamahi e ngā Rōpū Kāwanatanga ngā mahi e tika ana, tae atu ki ngā ture whakahaere i te noho a te iwi me ngā tikanga o te mātauranga, hei tiaki i te tamaiti i te kai taru kino, ētahi atu taru whakapohewa rānei, i whakamāramatia rā i roto i ngā tuhituhinga a ngā iwi, me te whakatūpato kei whakamahia ngā tamariki ki te whakatipu ki te hoko i ēnei momo taru.

Ūpoko 34

Me tiaki ngā Rōpū Kāwanatanga i te tamaiti kei whakaurua ki ngā mahi raweke, kei taitōkaitia ia rānei. Mō ēnei āhuatanga, me mahi e ngā Rōpū Kāwanatanga ngā whakarite ā-iwi, a te hunga tokorua, tokomaha rānei hei ārai atu:

(a) I te whakamahi, ki te ārahi rānei i te tamaiti ki ngā mahi taitōkai;

(b) Kei tukua te tamaiti kia taitōkaitia mō te moni te take, mō ētahi atu āhua rānei, e pā ana ki ngā mahi taitōkai;

(c) Te whakaāhuatanga o te tamaiti e tū tahanga ana, ā, e mahi ana i ngā mahi o te kikokiko hei taonga mā ētahi atu.

Ūpoko 35

Me anga ngā Rōpū Kāwanatanga ki te mahi i ngā tikanga katoa, arā, ki ngā mea ā-iwi a te hunga tokorua, a te hunga tokomaha rānei, e kore ai e kahakina, e hokohokona rānei ngā tamariki mō te moni, ahakoa he aha te take, te āhua rānei.

Ūpoko 36

Me tiaki ngā Rōpū Kāwanatanga i te tamaiti kei meinga kia mahi i ngā mea e hē ana mō te ora o te tamaiti.

Ūpoko 37

Me whakatūturu ngā Rōpū Kāwanatanga, arā:

(a) Kaua tētahi tamaiti e tukua kia whakamamae kinotia ki ētahi atu mahinga kino, aroha kore

rānei, te kino rānei o te mau, o te whiu rānei. Kaua hoki te hunga kei raro iho i te tekau mā waru tau te pakeke e whakawhiua kia whakamatea rawatia, kia mauheretia rānei, kāore he huarahi e tuku kia haere noa, mō ō rātou hara.

(b) Kaua e whakararururutia te noho māhorahora a te tamaiti mehemea kāore he ture i whakaritea i whakaarohia rānei mō te pupuri i a ia. Ina hopukina te tamaiti, pupuritia rānei, ā, mauhereheretia rānei, me whakahaere i raro i te ture e rite ana, ā, ko te whakatinanatanga o ēnei ture e āhei ana mehemea kāore tētahi atu rongoā e kitea, ā, mehemea e whai wāhi ana ēnei ture, me whakapoto te wā e pā ana ki te tamaiti.

(c) Ko ia tamaiti kua unuhia atu tōna herekore me āta mau i runga i te aroha me te whakahōnore me te tū rangatiratanga tuku iho o te tangata ā, i runga hoki i te āhuatanga e whakaritea ai ngā hiahia o te hunga o tōna whakatipuranga. Ko te mea nui rawa ia, ko ngā tamariki katoa i tangohia atu i a rātou tō rātou mana noho i runga i te herekore, me wehe mai i ngā pūtake; ōtirā, kaua e wehea mehemea e kitea ana he painga mō te tamaiti ki te torotoro rānei i tana whānau i runga i te kite auau, i te tuhituhi rānei, ēngari, e kore ai ia e āhei, mā ētahi āhuatanga anake kāore nei e tika ana;

(d) Ko ia tamaiti i whakakorea tana noho herekore, e whakamana ana ki te huarahi tere tonu ki te āwhina a te ture ki ētahi atu āwhina rānei e tika ana, tae atu hoki ki te mana ki te ui i te tika o te whakakorenga i tōna noho herekore i mua i te aroaro o tētahi kōti, i te aroaro rānei o tētahi tangata whai mana, mōhio, ā, kāore e whakamanawa ana ki tētahi atu, ā, ewhakarongo ana hoki ki ngā kōrero a ngā taha e rua, ā, e tika ana hoki te tamaiti kia tere te mōhio ki te whakatau o ēnei momo āhuatanga.

Ūpoko 38

1. Me tautoko ngā Rōpū Kāwanatanga, ā, kia mana hoki, taua tautoko i ngā ture e hōrapa ana ki ngā āhua manaaki i te tangata puta noa i te ao, kare kau ki ngā ture e whai wāhi ana i roto i ngā pakanga tērā e pā ana ki te tamaiti.

2. Me anga ngā Rōpū Kāwanatanga ki te mahi i te katoa o ngā mahi e taea ana ki te whakatūturu, arā, ko te hunga katoa kāore anō

kia eke ngā tau ki te tekau mā rima kia kua rātou e uru ki roto i ngā āhuatanga o te riri.

3. Me kua ngā Rōpū Kāwanatanga e anga ki te whakauru i tētahi tamaiti kāore anō kia eke ngā tau ki te tekau mā rima ki roto i ngā ope pakanga. Ina whakaurua te hunga kua eke ngā tau ki te tekau mā rima ēngari kāore ano tekau mā waru, me tīmata te whakauru a ngā Rōpū Kāwanatanga i ngā mea pakeke i te tuatahi.

4. I runga i te āhuatanga o nga mahi hei mahinga mā rātou i raro i te ture aroha a ngā iwi tiaki i te hunga i roto i ngā pakanga, me mahi e ngā Rōpū Kāwanatanga ngā āhua katoa e tūturu ai te tika, te atawhai i te tamaiti i te wā o te whawhai.

Ūpoko 39

Me tino kaha ngā Rōpū Kāwanatanga ki te whai i ngā āhuataunga e kaha ake ai te ora o te tinana, me te hinengaro o te tamaiti, ā, me ngā āhuataunga whakahoki mai i te tamaiti kua tūkinotia nei, ahakoa pēhea, arā, i ngā tūkinos e pā ana ki te whakarere i te tamaiti, i te whakamahi i te tamaiti hei painga kē mā te kaitiaki anake, ki te whakamamae i te tamaiti, ētahi atu tūkinotanga, patu rānei i te tamaiti kāore nei e rite ana ki te patu mō te hunga tāngata, ngā mahi pakanga rānei. Ko ēnei whakaoranga mai i te tamaiti me te whakahounga o tāna noho i waenganui i te iwi me whakahaere i roto i te āhua e piki atu ai te kaha o tōna ōranga me tōna whakahōnore i a ia anō e hoki mai anō ai tōna rangatiratanga tuku iho.

Ūpoko 40

Kia whai māhara anō ngā Rōpū Kāwanatanga ki te mana o te tamaiti kua whakapaetia nei, ā, e mōhiotia ana hoki nāna i takatakahi ngā ture kia manaakia tonutia rātou i raro i ngā kaupapa manaaki i te tamaiti me te mana o te tamaiti kia taea ai e taua tamaiti te whakamana i ngā āhuatanga katoa e pā ana ki te tangata, ā, e pā ana hoki ki te tū māhorahora a ētahi atu, ā, e whai whakaaro ana hoki ēnei kaupapa ki ngā tau o te tamaiti ā, ki ngā kaupapa hoki e taea ai te whakahoki mai taua tamaiti ki roto i te whānau, ā, ki te whakauru atu rānei i a ia ki roto i ngā mahi a te iwi kia pai ake ai tōna noho.

E tutuki ai ēnei take, ā, i runga anō i te whakaaro ki ngā tuhituhinga e pā ana, me anga ngā Rōpū Kāwanatanga ki te whakatutuki i ngā take e whai ake nei kāore ha:

(a) Kāore e taea tētahi tamaiti kia kōrero hētia, kia whakaponotia rānei i hara i raro i te ture, mehemea he maha he hapanga rānei kāore kē e aukatitia ana e ngā ture-ā-motu, e ngā ture rānei o ngā whakawhanaungatanga o ngā iwi i te wā i hara ai te tamaiti;

(b) Ko ia tamaiti i kōrero hētia i whakapaetia rānei i takahia e ia te ture hara, kua whai i ngā tika tūturu e whai ake nei;

(i) E kore e kīa kua hē kia kitea rā ano te tika o tōna hara e te ture;

(ii) Kia tere tonu te whakaatu i ngā whakapae hara o te tamaiti, ā, mehemea e tika ana, kia whiwhi ngā mātua, ngā mātua whāngai rānei i ngā āwhina ki te ture, ētahi atu āwhina rānei e tika ana ki te hanga i ngā take kōrero hei whakaputa hei ārai hoki i tōna hara;

(iii) Kia kua e whakatōroa atu te whakawā te hara o te tamaiti, ā, kia noho mā tētahi rōpū motuhake kua tino mātau, kua whakamana hei whakahaere i ēnei take, ā, ahakoa pēhea, ka piri pono tonu ki te tika i raro i te ture e hāngai ana, ā, mā tētahi atu rōpū rānei kua whakamanaia hei whakawā i te tika o te hara i runga i te whakaaro ōrite e pā ana ki te ture, ā, ki te whakaputa i aua whakaaro i te wā e noho mai ana te hunga e mātau ana ki ngā ture, ki ngā āwhina rānei e tika ana, ēngari kāhore mehemea e whakaarohia ana kāore e pai tēnei ki te tamaiti kāore ha; mehemea e whakaarohia ana te pakeke o te tamaiti, te āhua e pā ana ki a ia, ki āna mātua, mātua whāngai rānei;

(iv) Kia kua e ākina ki te tamaiti kia tuku kōrero, kia whakaae rānei kei te hara a ia; ki te whakamātau, ki te uiui rānei i te hunga tuku kōrero kāore nei e pai ana ngā whakaaro ki te tamaiti, ā, ki te whakauru mai hoki ina whakamātautautia ngā hunga tuku kōrero mō te tamaiti, i raro i ngā kaupapa pono, ā, ōrite hoki.

(v) Mehemea i whakaarohia kua hara te tamaiti i raro i ngā ture hara, ko te take whiriwhiri anō i taua whakatau me ngā whiu, mā tētahi atu

rōpū tiketike atu te mōhiotanga ki ngā ture, rōpū mōtuhake hoki, ā, rōpū kāre nei i whai wāhi ki tēnei take, ā, rōpū rānei e whai wāhi ana ki ngā whakahaere o ngā ture e whakatau i raro anō o ngā ture i whakaritea.

(vi) Kia whiwhi i te āwhina kore utu a te kaiwhakamārama i ngā kōrero ki te reo e kōrerohia ana mehemea kāhore te tamaiti e mōhio ki taua reo;

(vii) Kia whakahōnoretia te matatapu o āna mahi, tōna noho i te wā katoa e whakahaeretia ana te hara o te tamaiti.

3. Me kaha ngā Rōpū Kāwanatanga ki te whakatakoto i ngā ture me ngā mana whakahaere i nga whare mō ngā tamariki kāore koa ki ngā mea e tāpaea ana i hara, ā, e tautokona ana tō rātou hara i te ture, kāore ha:

(a) Te whakataunga i te iti o te pakeke o te tamaiti e whakaarohia ana kāore e taea te kī kua hara rātou i te ture;

(b) Mehemea e tika ana, ā, e pai ana ngā whakahaere mō ēnei momo tamariki, kāore noa iho he mahi e mauria rawatia ki te aroaro o te ture, mehemea te mana tangata me ngā whakatūpato ki te ture e whakahōnore nuitia ana.

4. He huhua ngā huarahi e wātea ana pēnei i te mahi tiaki i te tamaiti, ārahi, titiro i ngā ōta tohutohu, poropeihana, mātua whāngai, ngā mahi e pā ana ki te mātauranga, ngā kaupapa akonga rānei e whiwhi mahi ai te tamaiti, ētahi atu whakahaere rānei, ā, ētahi atu whare tiaki tamariki e tika ana kia tūturu ai te whakahaere i ngā tikanga e tika ana ki ngā tamariki i runga i te ōrite o tō rātou ora, me te ōrite o ngā āhua me te hara e pā ana ki a rātou.

Ūpoko 41

Kāore he mea i tuhia ki roto i tēnei Whakaaetanga hei whakararuraru i ngā mea e pā ana ki ngā mana o te tamaiti tērā pea kei roto i :

(a) Te ture a ētahi atu Rōpū Kāwanatanga;

(b) Te ture rānei a ngā Iwi o taua Rohe Kāwanatanga ināianei.

TE WĀHANGA TUARUA

Ūpoko 42

Me anga ngā Rōpū Kāwanatanga ki te whakamohio i ngā kaupapa whānui me ngā whakahaere a te whakaaetanga i runga i te huarahi e tika ana kia mohio ai ngā pakeke me ngā tamariki he aha ngā kaupapa a tēnei whakaaetanga.

Ūpoko 43

Mō te āhua tiro tiro i te haere o ngā mahi kua mahia e ngā Rōpū Kāwanatanga i tō rātou kaha kia ea i a rātou ngā mahi i whakahaua mā rātou e tēnei Whakaaetanga ka whakatūria he komiti mō te whakamana o te tamaiti hei whakahaere i ngā mahi e whakahautia nei i kōnei.

Kia tekau ngā tohunga mō tenei komiti, ā, me eke ki runga noa atu tō rātou mōhio ki te tika ki te hē, me te pai o tā rātou noho, ā, e mōhiotia ana te kaha o tō rātou mōhio ki ngā mahi kua whakahaeretia e tēnei Whakaaetanga. Ko ngā mema o tēnei komiti mā ngā Rōpū Kāwanatanga e pōti mai i roto, i te rārangi ingoa o ō rātou Rohe-ā-Iwi, ā, me mahi rātou i runga i te kaha o ia tangata o rātou, ā, i runga anō i te ōrite o ngā wehewehenga rohe me ngā whakahaere a te ture e tino mōhiotia ana.

Me pōti puku ngā mema o te komiti i tohia mai i roto i te rārangi ingoa nā ngā Rōpū Kāwanatanga. Ko ngā ingoa o aua hunga me tango mai i te rārangi ingoa o ō rātou rohe

Ko te pōtitanga tuatahi o ngā mema mō te komiti, kaua e tūreiti ake i te ono marama i muri iho i te whakamāramatanga o te tū o tēnei Whakaaetanga, i muri atu i tēnā, i ia rua tau. Kaua i raro iho i te whā marama i mua i te rā i whakaritea mō ia pōtitanga, me tuhituhi te Hēkeretari-Tianara o te Whakakotahitanga o ngā Whenua o te Ao he reta ki ngā Rōpū Kāwanatanga e tono atu ana ki a rātou kia tukua mai ngā ingoa i whakaarotia e rātou, kia tae ki a rātou i roto i ngā marama e rua. Ko te toenga mai o aua rārangi ingoa, ka anga te Hēkeretari-Tianara ki te whakarārangi i aua ingoa i whakaingoatia i runga i te whakarārangitanga pūrārangi me te whakaatu anō i ngā Rōpū Kāwanatanga nā rātou nei rātou i whakaingoa, kātahi ka tuku atu ai ki ngā Rōpū Kāwanatanga o tēnei Whakaaetanga.

5. Ko ngā pōti a ngā huihuinga o ngā Rōpū Kāwanatanga i karangatia e te Hēkeretari-Tianara me tū ki te Tari Ūpoko o te Whakakotahitanga o ngā Whenua o te Ao. I ēnei huihuinga me rua/toru (ara 2/3) ngā Rōpū Kāwanatanga e tae ki ngā huihuinga, ā, ko ngā tāngata i pōtitia mō te komiti, ko ngā mea i maha ake ngā pōti mō rātou, ā, me te tino pono hoki o te mārama o aua pōtitanga, a ngā Rōpū Kāwanatanga i reira e pōti ana.

6. Ko ngā mema o te komiti me pōti mō te whā tau. Ka āhei kia pōtitia anō rātou mehemea ki te whakaingoatia anō rātou. Ka pau te kaha o ngā mema e rima i pōtitia i te pōti tuatahitanga i te mutunga o te rua tau, i muri tonu iho o te pōtitanga tuatahi mā te Tiamana o te hui e tuku mā te rotarota e whiriwhiri ngā ingoa o ēnei mema tokorima.

7. Mehemea ki te mate tētahi mema o te komiti, rihaina rānei, e whakapuaki rānei te take e kore ai e taea e ia ngā mahi a te komiti, ka riro mā te Rōpū Kāwanatanga nā rātou nei i whakaingoa taua mema e whakatū tētahi atu tohunga anō i roto i a Tātou Kārangatanga-ā-lwi, hei whakatutuki i te roanga atu o te wā e tū ai taua mema, ēngari i runga anō i tā te komiti i whakaae ai.

8. Mā te Komiti tonu e whakatakoto ana ture whakahaere.

9. Mā te Komiti tonu āna āpiha e pōti mō te rua tau.

10. Ko ngā huihuinga a te komiti me tū i te ūpoko o te tari o te Whakakotahitanga o ngā Whenua o te Ao, i tētahi atu wāhi rānei e paingia ana e te komiti. Ko ngā huihuinga a te komiti me whakatū i ia tau. Mā te komiti e whakatau te roanga o aua huihuinga, māna anō hoki e whakaaro mēnā e pai ana kia whiriwhiria houtia e ngā Rōpū Kāwanatanga o tēnei huihuinga ngā take i huia ēngari mā te huihuinga whānui e whakaae e whakakore rānei.

Mā te Hēkeretari-Tianara o te Whakakotahitanga o ngā Whenua o te Ao e hoatu ngā kaimahi e hiahiatia ana, me ngā wāhi mahi e pai ai te mahi i ngā mahi a te komiti i raro i tēnei Whakaaetanga.

I runga i te whakaae a Te Huihuinga Whānui o Te Whakakotahitanga ko ngā mema o te whakaminenga whānui i whakatūria i raro i tēnei Whakaaetanga ka utua mā ngā mātāpuna a te Whakakotahitanga o ngā Whenua o te Ao i runga i ngā whakarite me ngā tikanga e whakatauria ana e te whakaminenga.

Ūpoko 44

Me anga ngā Rōpū Kāwanatanga ki te mea mā te Hēkeretari-Tianara o te Whakakotahitanga o ngā Whenua o te Ao e pānui ki te komiti ngā ripoata mō ngā take kua tautokona e rātou, ā, e whakawhiwhia ana ki te mana kua whakaaetia i kōnei, i runga anō hoki i te ngākaunui ki aua mana:

(a) I roto o te rua tau o te whakamanatanga o te Whakaaetanga mō Te Rōpū Kāwanatanga e pā ana.

(b) I muri atu i tēnā i ia rima tau.

Ko ngā ripoata i tuhia i raro i tēnei ūpoko, me whakaatu i ngā āhuetanga, me ngā uauatanga, mehemea e tika ana, e pā ana ki te rahi o te whakatutukitanga i ngā mahi i raro i tēnei Whakaaetanga. Kia maha hoki ngā whakamārama o ngā ripoata kia kaha ai te mārama o te komiti ki ēnei mahi a te Whakaaetanga mō te whenua e pā ana ki a ia ēnei āhuetanga.

Ko te Rōpū Kāwanatanga kua tukuna tā rātou ripoata tuatahi ki te komiti, kāore noa iho he tikanga i roto i ōna ripoata e tuku atu ai i muri iho i runga i te kōwae 1(b) o tēnei ūpoko, e tuaruatia ai ngā ripoata kua oti kē te tuku atu.

E āhei ana te komiti ki te tonono atu ki ngā Rōpū Kāwanatanga me ētahi atu whakamāramatanga i tua atu, e taea ai e tēnei Whakaaetanga (mō te tamaiti tēnei) te whakahaere ēnei take.

Me tuku e te Huihuinga o te Whakaminenga, arā, mā roto atu i te Rōpū o Te Rūnanga, me te Huihuinga Tāngata, i ia rua tau, ngā ripoata mō ā rātou mahi.

6. Me tuku ngā Rōpū Kāwanatanga ā rātou ripoata kia āhei ai ngā tāngata o ō rātou ake whenua kia kite.

Ūpoko 45

Kia tino tika ai te whakahaere o ngā take a te Whakaaetanga, ā, kia whakamanawa hoki i te mahi ngātahi a ngā iwi i ngā mahi kua kōrerotia e te Whakaaetanga:

(a) Ko ngā Tari i whakamotuhaketia, arā, te mātāpuna moni o ngā tamariki a ngā Whakakotahitanga o ngā Whenua o te Ao me ētahi atu Rōpū a te Whakakotahitanga o ngā Whenua o te Ao, e whai mana ana kia whai wāhi rātou ki te whakataunga mō te whakahaere o aua tikanga a tēnei Whakaaetanga e taka ana ki raro i te whānuitanga o tō rātou mana. E āhei ana te komiti ki te tono atu ki ngā tari i whakamotuhaketia ki te mātāpuna moni o ngā tamariki a te Whakakotahitanga o ngā Whenua o te Ao me ērā atu Rōpū tika e whakaaro ana rātou he pai mō te āta tohutohu i ngā whakamahi a te Whakaaetanga i ngā whakahaere i roto i te whānuitanga o ngā mana o tēnā, o tēnā mahi. E āhei ana te komiti ki te tono atu ki ngā tari i whakamotuhaketia ki te mātāpuna moni a te Whakakotahitanga o ngā Whenua o te Ao, me ētahi atu rōpū o te Whakakotahitanga o ngā Whenua o te Ao, kia tukua mai ngā ripoata o te whakahaere a te Whakaaetanga i ngā mahi e taka ana ki raro i te whānuitanga o rātou whakahaere;

(b) Me tuku atu e te komiti mehemea e whakaarohia ana kei te tika ki ngā tari i whakamotuhaketia ki ngā mātāpuna moni a ngā tamariki o te Whakakotahitanga o ngā Whenua o te Ao i ngā ripoata mai a ngā Rōpū Kāwanatanga kei roto i te tono mai, te whakaatu mai rānei i ngā mea e hiahiatia ana mō ngā tohutohu tohunga ngā āwhina rānei, hui atu ki ngā tirotirohanga a te komiti me ngā mea i whakaarotia e rātou tērā e pā ana, mehemea rā e whakaaro pērā ana rātou, mō ēnei tono whakaaturanga rānei;

(c) E āhei ana te komiti ki te mea atu ki te Rūnanga Whānui tonu mā rātou e kōrero atu ki te Hēkeretari-Tianara, kia riro māna e tirotiro ngā āhuatanga motuhake e pā ana ki ngā mana o te tamaiti, mō te taha ki te komiti;

(d) Ka āhei te komiti ki te whakaputa i ētahi āhuatanga pai mō ngā whakamārama i puta mai i roto i ngā Ūpoko 44 me 45 o

tēnei Whakaaetanga. Ko ēnei whakaputanga whakaaro me ngā whakaaro e tika ana me tuku atu ki tētahi Rōpū Kāwanatanga e hāngai ana ki a rātou ēnei kōrero, ā, ka ripoata ki te Rūnanga Whānui, āpiti atu hoki ki ngā kōrero mai a ngā Rōpū Kāwanatanga mehemea he kōrero anō a rātou.

TE WĀHANGA TUATORU

Ūpoko 46

KeitewāteatewhakaūngaotēneiWhakaaetanga kia hainatia e ngā iwi o te Whakakotahitanga o ngā Whenua o te Ao.

Ūpoko 47

Kei te noho wātea tēnei Whakaaetanga ki ētahi atu whakaaro whakatikatika rānei e whakaarohia ana. Ko ngā whakaaro whakatikatika, me hoatu ki te Hēkeretari-Tianara o te Whakakotahitanga o ngā Whenua o te Ao.

Ūpoko 48

Ka noho puare tonu tēnei Whakaaetanga ki ētahi atu Rōpū Kāwanatanga o ētahi atu whenua ahakoa ko wai. Ko ngā tono whakauru mai me waiho ki te Hēkeretari-Tianara o te Whakakotahitanga o ngā Whenua o te Ao.

Ūpoko 49

Ka mana tēnei Whakaaetanga ā te toru tekau o ngā rā i muri iho i te hoatutanga ki te Hēkeretari-Tianara o te Whakakotahitanga o ngā Whenua o te Ao te rua tekau o ngā whakatinanatanga i ngā whakaaetanga rānei a ngā Rōpū Kāwanatanga.

Mā ia Rōpū e whakaae ana e tuku mana ana rānei ki te Rōpu Huihui i muri mai i tā rātou whakatakotoranga o te rua tekau o ngā kawenata tautoko, hei taua wā, arā, te toru tekau o ngā rā i muri mai i te whakatakotoranga a ia Rōpū Kāwanatanga i ā rātou kawenata whakaae, tuku mana rānei, ka mana Te Whakaaetanga.

Ūpoko 50

1. Mehemea e hiahiatia ana tētahi Rōpū Kāwanatanga ahakoa ko tēhea, ki te tuku whakaaro kia whakarerekētia ngā ture me tuku atu ō rātou whakaaro ki te Hēkeretari-Tianara o te Whakakotahitanga o ngā Whenua o te Ao.

Hei reira, ka whakamōhio atu te Hēkeretari-Tianara i ngā whakaaro kua puta, ki ia Rōpū Kāwanatanga ki ia Rōpū Kāwanatanga, me te tono ki a rātou mehemea e whakaae ana rātou kare rānei kia whakahuihuitia rātou he whiriwhiri he pōti rānei i te tono whakarerekē i ngā ture. Mehemea i roto i te whakamārama i muri mai o te whakamōhiotanga i ngā whakarerekētanga tahi/toru (1/3) o ngā Rōpū Kāwanatanga i whakaae me tū te hui me karangahia e te Hēkeretari-Tianara i raro i te mana o te Whakakotahitanga o ngā Whenua o te Ao he hui. Ko ngā whakarerekētanga i whakaaetia e te tokomaha o ngā Rōpū Kāwanatanga i tae ki te hui, ā, i pōti i taua hui me tuku atu tēnei whakaaetanga ki te Whakakotahitanga o ngā Whenua o te Ao, ā, mā rātou hoki e whakamana.

Ko ngā whakarerekētanga Kaupapa i tuhia i raro i kōwae 1 o tēnei ūpoko ka whai mana ina whakaaetia e te Rūnanga Whanui o te Whakakotahitanga o ngā Whenua e Ao, ā, e tautokona ana e nga Rōpū Kāwanatanga i runga i te pōti rua/toru (2/3).

Ki te whakamanaia tētahi whakarerekētanga, whakaaro hou rānei, ka herea ngā Rōpū Kāwanatanga i whakaae ki aua whakarerekētanga, ētahi atu Rōpū Kāwanatanga hoki kei te noho here tonutia e ngā tikanga o tēnei Whakaaetanga e ngā whakarerekētanga hoki i whakaaetia e rātou i mua atu.

Ūpoko 51

1. Kia tae ki te Hēkeretari-Tianara o te Whakakotahitanga o ngā Whenua o te Ao ngā āwangawanga a ia Rōpū Kāwanatanga i puta i a rātou, ā, mana, mā te Hēkeretari-Tianara e tuku ki ia Rōpū Kāwanatanga te kaupapa o aua āwangawanga i te wā e whakaaetia ana e whakatinanatia ana rānei.

2. Ko ngā kaupapa kāore e tino hāngai ana ki ngā tikanga me ngā whakahaere a tēnei huihuinga, kāore e whakaaetia.

3. E taea ana te whakakāhore ēnei kaupapa, i tēna wā, i tēna wā, mehemea ka tukuna atu te pānui ki te Hēkeretari-Tianara o te Whakakotahitanga o ngā Whenua o te Ao, ā, māna e whakamōhio atu tēnei take ki ngā Rōpū Kāwanatanga katoa.

Ūpoko 52

Ka āhei tētahi Rōpū Kāwanatanga ki te whakahē i tēnei Whakaaetanga (mō te mana o te tamaiti) ina tuhituhi atu rātou ki te Hēkeretari-Tianara o te Whakakotahitanga o ngā Whenua o te Ao tā rātou whakahē. Ka mana taua whakahē i roto i te kotahi tau i muri iho o te taenga atu o taua whakamōhiotanga ki te Hēkeretari-Tianara.

Ūpoko 53

Ko te Hēkeretari-Tianara o te Whakakotahitanga o ngā Whenua o te Ao te kaupupuri i ngā mea katoa o tēnei Whakaaetanga.

Ūpoko 54

Ko te tuhinga taketake mai o tēnei Whakaaetanga kei ngā tuhituhinga o ngā reo Arapi, Hainamana, Ingarihi, Wiwi, Rūhia, me te reo Paniora, ā, he ōrite tonu te mana o aua kaupapa i aua reo, ā, ko ēnei kōrero me waiho ki te Hēkeretari-Tianara o te Whakakotahitanga o ngā Whenua o te Ao, ā, māna e tiaki. Ko te tohu whakamana o tēnei huihuinga kei ngā ingoa kua whakatōria ki kōnei i raro anō o te mana i tukua iho ki a rātou e ō rātou Kāwanatanga.

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