**Save the Children New Zealand Submission**

Committee on the Rights of the Child Draft Revised General Comment No. 24 replacing General Comment No. 10 (2007) on children’s rights in juvenile justice.

Comment from Save the Children New Zealand

**Our Organisation:** Save the Children was founded in 1919 and is the world’s leading independent organisation for children.  We work in 120 countries to save and improve the lives of children around the world.

**Vision:** Save the Children’s vision is a world in which every child attains the right to survival, protection, development and participation.

**Mission:** We work to inspire breakthroughs in the way the world treats children and to achieve immediate and lasting change in their lives.

Save the Children New Zealand was established in 1947 in Christchurch.  We work to uphold the rights of children both in New Zealand and overseas.

**Our Ambition:**  We commit to doing whatever it takes to ensure by 2030 ALL children, especially the most marginalized and deprived, survive, learn, and are protected.

Save the Children New Zealand has a vested interest in the rights and wellbeing of children globally, and in Aotearoa New Zealand.  We work to ensure the rights of all children in New Zealand are upheld, including those children who may be in conflict with the law.

Our work is guided by the guiding principles of the United Nations Convention on the Rights of the Child2 (the Convention – to which New Zealand is a States Party) and the range of rights guaranteed to all children under the United Nations Convention on the Rights of the Child[[1]](#footnote-2) informing our advocacy for children’s rights and wellbeing.  Save the Children is pleased to have this opportunity to provide a submission on the Draft of General Comment No. 24, replacing General Comment No. 10 (2007): Children’s rights in juvenile justice.

We have consulted with the Human Rights Commission[[2]](#footnote-3) in the development of this submission.

**Introduction**

The issue of juvenile justice is highly relevant to New Zealand. In July 2019 the New Zealand justice system will include 17-year olds in the juvenile justice system as the age of criminal majority is raised to 18 years old. This will see New Zealand comply with recommended international standards and adhere to previous recommendations by the Committee on the Rights of the Child[[3]](#footnote-4) to raise the age of criminal majority to 18 years. However, the age of criminal responsibility in New Zealand is currently 10 years of age[[4]](#footnote-5) which falls significantly below the international recommendations of 14 years of age.

Further to this, New Zealand has high and growing rates of incarceration[[5]](#footnote-6) [[6]](#footnote-7) at huge societal and financial costs to society, building bigger prisons will not solve this problem, rather prevention and alternative justice measures have the potential to deliver the positive impacts we need[[7]](#footnote-8).

Save the Children supports the intention of the General Comment No. 24 ‘Children’s rights in juvenile justice’ to improve guidance and updated information to State parties to support their development and implementation of juvenile justice systems.

Further to this we welcome the intention to strengthen juvenile justice systems to align with and uphold the rights of children, including those who may find themselves in conflict with the law.

We recognise the revised comment seeks to reflect the developments that have occurred over the last decade in response to resolutions and guiding documents on violence against children in juvenile justice; and growing and deepening knowledge of child and adolescent development that is directly related to child and youth justice issues.

We share the Committee’s concerns relating to negative trends in regard to minimum age of criminal responsibility, the persistent use of deprivation of liberty, and emerging issues of child recruitment and forced or coerced use of children by non-State armed groups, terrorist or violent extremist groups.

It is our hope General Comment 24[[8]](#footnote-9) will serve to support State parties to advance and strengthen state juvenile justice systems, including the use of customary justice practices as part of juvenile justice, and that juvenile justice systems will align with and uphold of the rights of children who are in conflict with the law.

We welcome the Committee’s clear articulation of terminology[[9]](#footnote-10) central to juvenile justice systems and application. It is our view that clear definitions can serve to support a more universal application of normative frameworks of juvenile justice.

**Issues we wish to raise**

There are two issues we wish to raise that we see as highly relevant to juvenile justice, the importance of reducing family violence as a prevention strategy, and the recognition that children are victims, rather than perpetrators, of violent conflict or acts of terrorism.

1. **Greater recognition of the need to prevent Family Violence as a key preventative measure to reduce child offending**

The following statement taken from paragraph 18[[10]](#footnote-11) references the expectations of parent responsibility to provide for and guide their children, including protection from harm and violence,

*‘In this regard, parents have the responsibility to provide the child, in a manner consistent with his/her evolving capacities, with appropriate direction and guidance in the exercise of his/her rights as recognized in the Convention. In the light of these and other provisions of the CRC, it is obviously not in the best interests of the child if he/she grows up in circumstances that may cause an increased or serious risk of becoming involved in criminal activities. Various measures should be taken for the full and equal implementation of the rights to an adequate standard of living (art.27), to the highest attainable standard of health and access to health care (art. 24), to education (arts. 28 and 29), protection from all forms of physical or mental violence, injury or abuse (art. 19), and from economic or sexual exploitation (arts. 32 and 34), and to other appropriate services for the care or protection of children.’ pp 6-7.*

Whilst we are in support of this statement and the links made between rights, parental responsibility, and the best interests of the child to prevent children becoming involved in criminal activity, it is the view of Save the Children NZ that explicit recognition of the relationship between family violence and child offending or criminalisation should have increased prominence. Furthermore, explicit recognition of family violence in preventative measures would help to give weight to encouraging State parties to focus greater resources on prevention of family violence.

In a recent New Zealand report published by the Office of the Prime Minister’s Chief Science Advisor, ‘Every 4 Minutes’, found a strong correlation between children experiencing family violence and child/youth offending[[11]](#footnote-12).

A strong correlation has been found between family violence and child and youth offenders. The following statistics have been taken from ‘Every 4 Minutes’[[12]](#footnote-13);

Most criminal offenders have themselves been targets of violence:

* 80% of child and youth offenders have experience of family violence
* 87% of young offenders aged 14-16 years in 2016/17 had prior care and protection reports
* 75% of women in prison have reported family violence and sexual violence.

A history of sexual abuse is the strongest predictor of reoffending by young females.

1. **Children’s coerced or forced involvement in terrorist activities or violent conflict**

The issue of children being coerced or forced into violent conflict or terrorist acts is particularly relevant as 1 in 6 children are living in conflict-impacted areas[[13]](#footnote-14). Children living in conflict zones often lack access to school, health facilities, and are more exposed to violence, and have a greater likelihood of being forced or coerced into participating in the conflict[[14]](#footnote-15).

The gravity of this issue - children being recruited and or used in armed violence, is recognised by the Paris Principles and Guidelines on Children Associated with Armed Forces or Armed groups[[15]](#footnote-16), published in 2007, to prevent recruitment, protect children support their releases from armed forces or armed groups and reintegrate them in to civilian life. However, despite this issue being recognised globally for many years, rates of child recruitment and use in armed conflict is increasing[[16]](#footnote-17), and vulnerable children – orphans, street children and children with disabilities are particularly vulnerable to being used in this way[[17]](#footnote-18).

Save the Children supports the Committee’s recognition of the victimisation of children by non-State armed groups, terrorist and violent extremist organisations.

We agree that children forced or coerced into violent acts should be recognised and treated as victims in these situations[[18]](#footnote-19). We recognise the challenges that State parties have in responding to these challenges, however we support the Committee’s recommendation in taking a child rights approach that focusses on treatment and rehabilitation of children that will support their future reintegration in to peaceful society[[19]](#footnote-20). Furthermore, we strongly support recommendations that State parties should adopt preventive interventions to tackle social factors and root causes as well as rehabilitation and reintegration measures[[20]](#footnote-21) as means to prevent, or stem and reduce, the rise of use children in violent conflict by State and non-state armed groups.

**Conclusion**

Save the Children New Zealand supports the draft revised General Comment No 24. We recommend the Committee progresses the draft general comment 24 to replace general comment No 10. We request the Committee takes the issues we have raised into account when finalising the content of draft General Comment No 24.

Save the Children New Zealand is happy to provide further information on the issues we have raised in this submission if requested.

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1. <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx> [↑](#footnote-ref-2)
2. <https://www.hrc.co.nz/> [↑](#footnote-ref-3)
3. <https://www.ohchr.org/en/hrbodies/crc/pages/crcindex.aspx> [↑](#footnote-ref-4)
4. Young person is defined by s2 of the Oranga Tamariki Act 1989 as a person over the age of 14 years but under the age of 17 years. As at 1 July 2019, a Young person will be defined by s2 of the Oranga Tamariki Act 1989 as a person over the age of 14 years but under 18 years old. [↑](#footnote-ref-5)
5. Lambie, I. & Gerrard, J. (2018). Every 4 Minutes: a discussion paper on preventing family violence in New Zealand. Office of the Prime Minister’s Chief Science Advisor: Auckland, p 2. Retrieved from <https://library.nzfvc.org.nz/cgi-bin/koha/opac-detail.pl?biblionumber=6097> [↑](#footnote-ref-6)
6. Gluckman, P. (2018). Using evidence to build a better justice system: The challenge of rising prison costs. Office of the Prime Minister’s Chief Science Advisor: Auckland. P 12. Retrieved from <https://www.pmcsa.org.nz/wp-content/uploads/Using-evidence-to-build-a-better-justice-system.pdf> [↑](#footnote-ref-7)
7. Ibid, pp 5-7 [↑](#footnote-ref-8)
8. Currently in draft form. [↑](#footnote-ref-9)
9. Draft General Comment No. 24, replacing General Comment No. 10 (2007), pp 3-4 [↑](#footnote-ref-10)
10. Draft General Comment No. 24, replacing General Comment No. 10 (2007), pp 6-7 [↑](#footnote-ref-11)
11. Lambie, I. & Gerrard, J. (2018). Every 4 Minutes: a discussion paper on preventing family violence in New Zealand. Office of the Prime Minister’s Chief Science Advisor: Auckland, p 4. Retrieved from <https://library.nzfvc.org.nz/cgi-bin/koha/opac-detail.pl?biblionumber=6097> [↑](#footnote-ref-12)
12. Ibid [↑](#footnote-ref-13)
13. Save the Children. (2018). The War on Children. London: Save the Children International, p 3. Retrieved from <https://www.savethechildren.org/content/dam/global/reports/education-and-child-protection/war_on_children-web.pdf> [↑](#footnote-ref-14)
14. Ibid, p 22 [↑](#footnote-ref-15)
15. United Nations. (2007). Paris Principles and Guidelines on Children Associated with Armed Forces or Armed groups. Retrieved from <https://childrenandarmedconflict.un.org/publications/ParisPrinciples_EN.pdf> [↑](#footnote-ref-16)
16. Save the Children. (2018). The War on Children. London: Save the Children International, p22. Retrieved from https://www.savethechildren.org/content/dam/global/reports/education-and-child-protection/war\_on\_children-web.pdf [↑](#footnote-ref-17)
17. Ibid, p 23 [↑](#footnote-ref-18)
18. Ibid, p 40 [↑](#footnote-ref-19)
19. States should also be implementing existing mechanisms to protect children in conflict, including the Geneva Conventions, the Convention on the Rights of the Child and its Optional Protocol on the Involvement of Children in Armed Conflict, and championing political commitments such as the Safe School Declaration (SSD), Paris Commitments and Principles, and Vancouver Principles. [↑](#footnote-ref-20)
20. Draft General Comment No. 24, replacing General Comment No. 10 (2007), p 21 [↑](#footnote-ref-21)