

unicef  
new zealand



# UNICEF SUBMISSION ON ORANGA TAMARIKI LEGISLATION BILL

*This submission specifically reflects on aspects of the Children, Young Persons, and their Families (Oranga Tamariki) Legislation Act 2017 that is seeking to ensure that the benefits of the policy to include 17-year-olds in the youth justice jurisdiction are fully realised and addressing drafting errors in the 2017 Act.*

UNICEF NZ

Belinda Tuari-Toma – Kaiwhakahau o ngā Tamariki  
Child Rights Advocate

## He Mihi

*Ka tangi te Titi, ka tangi te Kaka, ka tangi hoki ahau, tihei mauri ora !*

UNICEF New Zealand welcomes the opportunity to comment on the **Oranga Tamariki Legislation Bill (the bill)** and we support the intention of the policy to ensure the benefits of the policy to include 17-year-olds in the youth justice are being addressed and realised.

We would like to acknowledge that the content included in this submission is reflective of UNICEF NZ discussions, however it does have our partners in mind and we reserve the right to eliminate any risks of government interpreting this submission as representation of all civil society. Therefore, while UNICEF NZ supports the technical amendments to be made to specific aspects of the bill, we would like to acknowledge that along with many groups we are still not entirely comfortable with the passing of the bill.

The following key points and recommendations inform this submission:

- further consultation across the civil and NGO sector, including bringing to the forefront the voices of mokopuna/tamariki/rangatahi and their whānau, hapū and iwi.
- ensuring equitable outcomes are absolute for those Māori rangatahi 17 years and younger represented in the judiciary system.
- extending the same benefits and rights of children to 18 year olds. This is consistent with the UN Convention on the Rights of the Child (UNCROC) definition of a child.

We welcome the opportunity to be further consulted in response to the recommendations raised.

## Background – UNICEF NZ

UNICEF NZ is mandated by the United Nations General Assembly to advocate for the protection of children's human rights, to help meet their basic needs and to expand their opportunities to reach their full potential. UNCROC, (ratified by New Zealand in 1993) is to be utilised as a platform for advocacy, and to uphold children's rights in policy, practice and in law.

Domestically UNICEF NZ continues to raise funds to support our international humanitarian aid and projects. While continuing to provide global support and relief, UNICEF NZ has taken advantage of UNICEF's strength-based humanitarian global approach and expanded our remit by focusing on the domestic capability and capacity to better understand the issues that impact tamariki (children), rangatahi (young people) and whānau (families and wider relations). It is about effecting long-term, sustainable change to the systems that create poor outcomes for those most affected.

To adapt domestically to Aotearoa's political landscape, UNICEF NZ acknowledges Te Tiriti o Waitangi and recognises the relationship between the Crown and Māori. Along with Te Tiriti and UNCROC, UNICEF also looks to apply The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the Sustainable

Development Goals (SDG's) as mechanisms to further guide the best interests of tamariki and thus whānau, hapū and iwi.

We would like to acknowledge the comments made by Marama Davidson in the first reading of the bill where she supported explicit reference of UNCROC . UNICEF is about ensuring the rights of children are being fully realised so that there is a better, more sustainable future determined for our mokopuna.

### Specific comments

We would like to commend the government for raising the age of the youth court jurisdiction from 16 to 18. In the first reading, it was mentioned by the Minister, Hon. Tracey Martin that this raise aligns with New Zealand's compliance with UNCROC.

Although this is a positive move towards ensuring 17-year old's rights and benefits are available to them, UNICEF holds the position that the youth jurisdiction should include 18-year olds which is consistent with UNCROC's definition of the child. For New Zealand to be compliant with UNCROC, children 18 years old would receive the same rights and benefits that the youth court provides to those under 18 years old.

### Te Tiriti o Waitangi

One of UNICEF's priority areas is to support New Zealand to become an equitable society for all and in the context of youth justice, Māori are over represented in the justice system as a whole. Māori represent 15 percent of the general population yet 50 percent of the adult male prison population, 60 percent of the adult female prison population and 70 percent of the youth justice population.

The Waitangi tribunal found the Crown to have breached its treaty obligations by failing to prioritise the reduction of Māori reoffending relative to Maori (WAI 2540). It is the responsibility of government, civil society and communities to come together to acknowledge that although we have come a long way, we need to be doing more to ensure Māori youth in particular, do not enter the justice system.

### UNDRIP

The trend of over representation of indigenous people in the criminal justice system is seen across the world in places like Australia, USA and Canada. We therefore recommend UNDRIP as a mechanism for New Zealand to adopt and comply with. Following our previous point, the special raportour at last year's 17<sup>th</sup> session of the United Nations Permanent Forum of Indigenous issues reported that the over representation of indigenous peoples is a violation to human rights and countries such as New Zealand need intervention to solve this problem.

### SDGs

Sustainable development goal ten – calls for a reduction in inequalities within and among countries. Given Aotearoa will report to the United Nations on how we are intending to reach these goals, it would be fair to say, this change is a step in the right direction, however, we still do have a long way to go in reducing the inequalities.

We challenge the government to be more courageous and lead the world in preventing the trauma for whānau and improving the lives and outcomes of our tamariki.

