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Dear Ms Churchill,

1.0 Amnesty International welcomes the opportunity to make comments on the draft 3<sup>rd</sup> and 4<sup>th</sup> periodic report to the United Nations Committee on the Rights of the Child (UNCROC). We note and welcome the intention for the document to be widely distributed in order to generate debate and awareness of the Optional Protocol (see p.170 of the report). However, we regret that due to a tight submission time frame and the multitude of documents the Government is currently seeking feedback on, it has limited Amnesty International's ability to undertake the in-depth submission that this report deserves. Where relevant we will incorporate more in-depth comments within our planned submission to New Zealand's Universal Periodic Review of the UN Human Rights Council due in November.

2.0 We recognise and welcome the Government's wide-ranging efforts to develop and strengthen New Zealand's compliance with the Convention. We particularly acknowledge:

- Repeal of Section 59 of the Crimes Act by way of the Crimes (Substituted Section 59) Amendment Act 2007 (paras. 1.45 and 5.100)<sup>1</sup>
- Mechanisms ensuring under 18 year olds are not exposed to conflict (para. 2.16)
- Increased protection for children guaranteed by way of the Optional Protocol to the Convention against Torture that designates the Office of the Children's Commission as a National Preventive Mechanism (para. 4.52).

3.0 Amnesty acknowledges the increased rights and protections provided to refugee children (para 1.3 and para 1.25). In welcoming the information given to government departments and officials working with minors (para.1.100) Amnesty International queries if the same information is automatically provided to all relevant staff working with minors who are refugees and asylum-seekers. This is unclear from reading Para 1.100 and Para 5.42 which details the new border and investigations operations manual. If such information is being provided it should be made transparent. If it is not occurring it should be in acknowledgement of the special vulnerabilities of refugee and asylum seeker minors, particularly unaccompanied minors.

4.0 Amnesty International is concerned that in some cases the children of asylum-seekers in the process of obtaining refugee status or failed asylum-seekers prior to removal are reliant on the vagaries of community or Non-Governmental Organisations (NGO) support for such basics as

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<sup>1</sup> Refer to Amnesty International's Children's Rights Network of Amnesty International's submission to the Justice and Electoral Committee on this Bill available at <http://www.amnesty.org.nz/files/Section%2059%20Submission.pdf>.

medical care, food and accommodation (para. 1.3). While acknowledging that such people may not enjoy refugee status and corresponding rights under the Refugee Conventions, these children are a particularly vulnerable group and irrespective of their immigration status are entitled to basic human rights including an adequate standard of living.<sup>2</sup> We note the Preamble to the CROC which provides the child 'needs special safeguards and care, including appropriate legal protection'.

5.0 While welcoming New Zealand's compliance with the United Nations 1961 Convention on the Reduction of Statelessness in terms of providing any child born in New Zealand with citizenship if he or she would otherwise be stateless, (para. 4.3) Amnesty International notes New Zealand is still to sign and ratify this Convention. Therefore children arriving in New Zealand as stateless appear to fall through the gaps and have no protection under current New Zealand legislation. Amnesty International strongly urges the Government to sign and ratify the 1961 Convention as soon as possible.

6.0 Amnesty International notes the Minister of Labour's intention to explore options for New Zealand's compliance with the ILO Convention 138 (stipulating the minimum age for admission to employment as 15) (para.1.19) and encourages the New Zealand government to do so as soon as possible.

7.0 Amnesty International considers the training and dissemination of the Convention (para.1.89 and following) to children as minimal and human rights education within the curriculum poor. Within a separate submission Amnesty advised that "schools are hardly promoted as being crucial human rights communities, and democratic rights and responsibilities are poorly addressed in the curriculum".<sup>3</sup> As a contributing organisation to Building Human Rights Communities in Education's (BHRCE) (noted in para. 3.9 of the report) we support the more detailed comments on this issue made in its submission.

8.0 Amnesty International is concerned at the current minimum age of prosecution for children in New Zealand (paras. 2.1, 2.4). Amnesty International recommends amendments are made to current laws to raise the minimum age of criminal responsibility to an internationally acceptable level as per the Committee's 2000 recommendation.

9.0 In a separate submission on the Young Offenders (Serious Crimes) Bill<sup>4</sup> Amnesty International raised concerns over New Zealand's youth justice laws applying only to young people under the age of 17, which is in violation of the Convention (it requires that every person under 18 should have the benefit of the rights provided to young offenders). Amnesty International strongly urges the New Zealand government to amend the relevant laws in order to fully comply with the Convention.

10.0 Amnesty International welcomes the development of a plan of action to prevent people trafficking (para. 8.79 and following).

11.0 Whilst acknowledging that New Zealand authorities have yet to uncover any evidence of people trafficking Amnesty International has noted in its submission on the New Zealand, Australia and ASEAN Free Trade Agreement (FTA) the possibilities of increased risk of trafficking as New Zealand enters FTAs with Asia-Pacific countries.<sup>5</sup> As a minimum, people trafficking issues exist within ASEAN countries including Cambodia, Indonesia, Laos, Malaysia, and Myanmar. Therefore,

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<sup>2</sup> Universal Declaration of Human Rights, Article 25(1) provides "1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

<sup>3</sup> See Amnesty International's submission on the draft documentation regarding the implementation of the ICESCR (15 October 2008) available at

<http://www.amnesty.org.nz/files/ICESCR%20letter%20on%20optional%20Protocol%20151008.pdf>

<sup>4</sup> Amnesty International's Children's Rights Network Submission to the Law and Order Select Committee on the Young Offenders (Serious Crimes) Bill available at

<http://www.amnesty.org.nz/files/B%20Submission.pdf>

<sup>5</sup> Available at <http://www.amnesty.org.nz/files/ASEAN%20FTA%20submission.pdf>

whether or not New Zealand is already a destination country for people trafficking, increasing migration necessitates a proactive approach to eradicate people trafficking. For more detail on Amnesty International's recommendations on the Plan of Action please see our Submission in response to the Consultation on a Plan of Action to Prevent People Trafficking.<sup>6</sup>

12.0 Amnesty International concludes that although much progress has been made in many areas since New Zealand's previous periodic review in 2000, key concerns remain insufficiently dealt with or unaddressed. Amnesty International encourages the New Zealand government to address concerns outlined above in order to ensure full compliance with obligations under the Convention.

Yours sincerely,

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<sup>6</sup> Amnesty International's Submission in response to the Consultation on a Plan of Action To Prevent People Trafficking available at [http://www.amnesty.org.nz/files/AINZ%20Submission%20on%20People%20Trafficking%20\(Final\).pdf](http://www.amnesty.org.nz/files/AINZ%20Submission%20on%20People%20Trafficking%20(Final).pdf)