

Annex D

New Zealand's Third Universal Periodic Review

Submission of the New Zealand Human Rights Commission – 12 July 2018

Recommendations

Background and Progress

UPR Implementation and National Plan of Action

1. Increase support to the Human Rights Commission for the development and co-ordination of the National Plan of Action for Human Rights (NPA).
2. Incorporate the NPA into the International Human Rights Governance Group monitoring mechanism.

New Zealand's Human Rights Framework

Constitutional and legislative

New Zealand Bill of Rights Act 1990

3. Amend the BORA to incorporate all rights in the ICCPR and ICESCR, and to specifically include the remedy of a declaration of inconsistency.

Human Rights Act/Human Rights Review Tribunal

4. Take immediate steps to enact legislation and provide sufficient resource to reduce delays in the Human Rights Review Tribunal.

Human Rights Impact Assessments

5. Develop and conduct training for all government officials on domestic and international human rights obligations.
6. Develop and implement a high level procedural mechanism for assessing all prospective policies, budgetary decisions and legislation for consistency with domestic and international human rights obligations.
7. Implement concrete procedural measures to ensure that the human rights impacts of international agreements are systematically analysed during policy, negotiation, ratification and ex post phases.

Te Tiriti o Waitangi/Treaty of Waitangi

Constitutional Status

8. Take immediate steps, in partnership with Māori, to implement the recommendations of the Constitutional Advisory Panel regarding the role of the Treaty of Waitangi within New Zealand's constitutional arrangements, together with the proposals put forward in *Matike Mai Aotearoa*.
9. Develop, in partnership with Māori, a national strategy or plan of action to align public policy and legislation with the United Nations Declaration on the Rights of Indigenous Peoples.
10. Increase, and make sustainable, government funding of the UNDRIP Independent Monitoring Mechanism.

Partnership and Free, Prior and Informed Consent

11. Take urgent measures to respond to and implement all recommendations made by the Waitangi Tribunal in respect of claims concerning Crown enactments, policies or practices, particularly those made in *Ko Aotearoa Tēnei* (WAI 262).
12. Review current and prospective policy processes, including the Large Natural Grouping policy, to ensure that they fully comply with the Treaty of Waitangi and UNDRIP principles of partnership and free, prior and informed consent.

Rights of Specific Persons or Groups

Māori

In conjunction with the implementation of recommendations 16-20 above:

13. Develop, in partnership with Māori, a targeted cross-government policy strategy to reduce social and economic disparities and discrimination experienced by Māori.

Pasifika

14. Strengthen current social sector policy strategies aimed at reducing disparities and discrimination experienced by Pasifika people in New Zealand.
15. Establish a National Pasifika Languages Policy.

Women

16. Immediately begin implementation of the long-term, cross-party and multi-agency policy commitment to eliminate all forms of domestic violence and abuse.
17. Implement the recommendations of the Joint Working Group on Gender Pay Equity Principles into legislation.
18. Monitor and report back by December 2019 on the implementation of the Gender Pay Equity Principles and extend the Principles to the private sector.

19. Increase maximum parental leave entitlements to a level comparable with the ILO standard of two thirds of previous earnings.
20. Remove abortion from the Crimes Act 1961 and review the Contraception, Sterilisation and Abortion Act 1977 to ensure that abortion is treated as a health issue.

Children

21. Once enacted, prioritise implementation of the Child Poverty Reduction Bill through immediate development of the necessary policy and fiscal infrastructure.
22. Align the targets and reporting requirements under the Bill against New Zealand's SDG commitment to reduce income poverty and material deprivation by 50% by 2030.
23. Take immediate steps to strengthen the independence, statutory mandate and resources of the Office of the Children's Commissioner.

Disabled People

24. Implement the Outcomes Framework for the NZ Disability Strategy by July 2019.
25. Commit to ensuring that decision-making policies and practices conform with CRPD supported decision-making requirements, including making any legislative changes required.
26. Update all current disability data surveys to incorporate the Washington Group Question Set on disability measurement.
27. Urgently complete the review of the minimum wage exemption system under the Minimum Wage Act 1983.
28. Repeal Part 4A of the NZ Public Health and Disability Act and replace it with new funded family care legislation that fully complies with New Zealand's UNCRPD obligations.
29. Adopt legislation that prohibits the sterilisation of people with disabilities without their consent.

Sexual Orientation, Gender Identity and Sex Characteristics (SOGISC)

30. Update all relevant laws and policies to enable transgender people to realise their right to self-identify their gender identity in accordance with international human rights obligations.
31. Urgently implement measures to address current disparities experienced by the SOGISC community in accessing services throughout the health sector.
32. Take immediate action to significantly reduce current waiting times for gender reassignment/affirming surgery by July 2020.
33. Develop and implement, in consultation with the SOGISC community, a comprehensive plan to collect sex, gender, sexual orientation, and sex characteristics data and develop definitions, classifications, data standards and data collection guidelines.

Migrants, Refugees and Asylum Seekers

34. Prepare and implement an interagency strategy, in line with international human rights obligations, to prevent exploitation of migrant workers and international students.
35. Introduce discretionary criteria for legal aid eligibility for all migrants who are undertaking proceedings in the Immigration Protection Tribunal and the Courts.
36. Repeal section 392 of the Immigration Act to enable the Human Rights Commission to receive complaints about immigration matters.
37. Increase the refugee quota to 1500 per year from July 2020.
38. Increase settlement support to Convention Refugees, including information and system navigation, throughout New Zealand.
39. Cease the detention of asylum seekers in prisons.

International obligations (see Annex A)

Treaties

40. Present by July 2020 the following treaties along with a National Interest Analysis to the House to be considered for ratification:
 - International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
 - International Convention for the Protection of All Persons from Enforced Disappearance
 - ILO Convention 169 on Indigenous and Tribal Peoples
 - Arms Trade Treaty
 - Optional Protocols for communications under the International Covenant on Economic, Social and Cultural Rights and Convention on the Rights of the Child
41. Confirm by July 2020 a timetable for withdrawal of reservations to the Convention on Rights of, Convention Against Torture and International Covenant for Civil and Political Rights.

Development Assistance

42. Continue annual increases to development funding to meet the international standard of 0.7 percent of GNI.

Sustainable Development Goals and Data

43. Appoint a lead Minister on the SDGs and take immediate steps towards implementing a cross-government policy and data strategy to meet New Zealand's commitments under the SDGs.
44. Align the proposed Living Standards monitoring framework with the SDG targets and indicators.

45. Update current data collection practices across the Government sector, including data disaggregation, definition, collection and dissemination practices, to conform with international human rights reporting requirements.

Business and Human Rights

46. Develop, in collaboration with businesses, a National Action Plan on Business and Human Rights that applies to public and private sector business activities, following the Guidance paper of the UN Working Group on Business and Human Rights.

Civil and Political Rights (see Annex B)

Deprivation of Liberty

47. Take urgent and adequately resourced measures to reduce the prison population, in particular the proportion of Māori among the prison population.
48. Immediately introduce a moratorium on the further introduction of double-bunking in prisons and commit to phasing out the practice in all prisons.
49. Phase out the practice of remanding children and young people into police custody before July 2025 and repeal the enabling legislation.

Right to Privacy

50. Enact legislation that explicitly protects the privacy and human rights of individuals in respect of all automated/algorithmic decision-making processes, including predictive risk modelling.
51. Include in the terms of reference for future periodic reviews of the intelligence and security sector, a review of the human rights compliance and impact of agency activities and practices.

Right to be Free from Torture, and Other Cruel, Inhuman or Degrading Treatment

52. Increase funding of the National Preventative Mechanisms' work under the Optional Protocol to the Convention Against Torture.
53. Work with the OPCAT National Preventative Mechanisms to implement the recommendations in the *Thinking Outside the Box: A Review of Seclusion and Restraint Practices in New Zealand* Report.
54. Ensure the Royal Commission of Inquiry into Historical Abuse in State Care is accessible and well-resourced and its findings actioned as a matter of priority.

Economic, Social and Cultural rights (see Annex C)

Right to Work

55. Implement, as a matter of priority, a Fair Pay Agreement system including any legislative changes that are required.

Right to Housing

56. Take urgent action to reduce the waiting list for social housing, including increasing the supply of new social housing, in collaboration with local government, iwi, non-profit providers.
57. Develop and implement a national housing strategy linked to UNSDG 2030 target 11.1 and address the shortcomings identified in the Government's 2018 Housing Stocktake report.
58. Implement the New Zealand Strategy to End Homelessness no later than July 2019.
59. Urgently review/amend the Residential Tenancies Act to provide greater security of tenure rights to tenants.
60. Ensure that income supplements targeted at accommodation costs are sufficient to meet cost-of-living increases for rent and are weighted according to region.
61. Adopt the recommendations of the Human Rights Commission's *Staying in the Red Zone* report to ensure that New Zealand disaster recovery laws, policies and practices conform with international human rights and best practice standards.

Right to Social Security

62. Ensure that the welfare system review and any subsequent amendments to legislation explicitly refer to and comply with New Zealand's relevant international human rights obligations.
63. Ensure that all decisions made under the social security system, including sanctions, consider human rights principles and obligations.
64. Amend legislation to ensure that the best interest of the child is taken into account in all benefit decision-making processes that impact upon a child.
65. Review core benefit levels for adequacy in meeting cost of living.

Right to Health

66. Ensure that the review of the health and disability sector and any subsequent reforms incorporate a human rights framework that includes all domestic and international obligations, including the SDGs.
67. Ensure that reforms to mental health system fully conform with and explicitly acknowledge the Government's Treaty of Waitangi and international human rights obligations.

Right to Water

68. Prioritise the enactment and implementation of the Health (Drinking Water) Amendment Bill.

Right to Education

69. Amend the Education Act 1989 to establish a legally enforceable right to an inclusive education for students with disabilities and corresponding duties upon school boards of trustees and principals.
70. Include inclusive education targets and goals within the Government's New Zealand Disability Strategy and Disability Action Plan. This should include the implementation of a data strategy.
71. Strengthen current efforts to reduce the gap in educational outcomes between Māori and Pacific students, and other ethnicities, including increased investment in language retention and culturally responsive learning environments.
72. Provide adequate resources to enable training for teachers to teach te reo Māori in all state schools with a view to making it a compulsory curriculum subject in primary education.
73. Take urgent measures, including legislative reform, to reduce the rates of Māori students, and students from poor communities, who are subject to stand-down, suspensions and exclusion from school.
74. Introduce legislation that requires the implementation of evidence-based, targeted bullying prevention programs in schools.
75. Require schools to systematically collect and report annually to the Education Review Office on the number of incidents of school bullying and violence, including disaggregated data on bullying directed at girls, SOGISC and disabled students, and complaint outcomes.

Climate Change

76. Strengthen commitment towards mitigating the impact of climate change on its Pacific Island neighbour states and dependent territories through provision of aid and development support.
77. Take urgent steps to develop an overarching all-of-government climate change adaptation strategy that is informed by human rights principles and obligations.
78. Introduce routine climate change related health impact assessments in health sector planning.