

July 2018

Report to the Universal Periodic Review of New Zealand, 3rd round

This report is prepared by the Aotearoa Indigenous Rights Trust, a Māori organisation committed to promoting informed debate and action to protect the rights of Indigenous peoples within Aotearoa/New Zealand and around the world.

A Constitutional transformation

New Zealand's ability to protect the human rights of Maori, is seriously hampered by its constitutional, legislative and legal framework. There is little protection from violations of the Treaty of Waitangi and human rights arising from Acts of Parliament, and government policy and practice.

Recommendation: that New Zealand, in partnership with Māori representative institutions, implement the recommendations of the New Zealand government Constitutional Advisory Panel regarding the role of the Treaty of Waitangi and the proposals put forward in the 2016 Matiki Mai Aotearoa report.

B Settlement of historical breaches of the Treaty of Waitangi

Of particular concern is the way in which the settlements process, intended to resolve historical Treaty breaches, is creating contemporary Treaty breaches. Treaty settlements policy and processes are determined wholly by the government, meaning that one party to the Treaty is also the arbiter of the fairness of the measures to provide redress for historical breaches; the government sets the terms of all settlements and decides what is on offer; and has treated Maori inequitably. The government also decides who it will negotiate with, which has resulted in claims for redress by some Maori being denied, and unnecessary conflict.

Recommendation: that New Zealand undertakes a review to ensure that Treaty settlements comply, and can be legally compelled to comply, with the Treaty of Waitangi and its other international human rights obligations; and that such settlements are justiciable.

C Māori women and the criminal justice system

Maori women make up 61% of women in prison,¹ they are more likely to be imprisoned than their non-Māori counterparts for the same offences and the numbers of women that are being incarcerated is increasing.² Adult Māori women comprised 55% of adult women convicted in 2017, but made up 67% of women sentenced to imprisonment.³

Not only are the incarceration rates disproportionate but Māori also experience discrimination at all levels of the criminal justice process, from apprehension and sentencing through to parole and probation resulting in increased incarceration rates.⁴

Recommendation: that New Zealand offers alternatives to incarceration and acknowledges and addresses the systemic discrimination against Māori women, and Māori more generally, within the criminal justice system and, that the recommendations of the newly appointed Safe and Effective Justice Programme Advisory Group – Te Uepū Hāpai i te Ora on criminal justice reform be implemented.

¹ <https://www.stats.govt.nz/information-releases/prison-and-community-sentence-population-statistics-june-2017-fiscal-year-nz-stat-tables> and <https://www.stuff.co.nz/national/101732572/editorial-why-are-more-new-zealand-women-going-to-jail>

² <https://www.stuff.co.nz/national/politics/101882714/huge-rise-in-female-prison-population-a-problem-->

³ <https://www.lawsociety.org.nz/practice-resources/research-and-insight/practice-trends-and-statistics/mori-adults-58-of-those-sentenced-to-imprisonment>

⁴ http://www.corrections.govt.nz/__data/assets/pdf_file/0004/672574/Over-representation-of-Māori-in-the-criminal-justice-system.pdf