

# New Zealand's Third Universal Periodic Review

12 July 2018

Submission of the New Zealand  
Human Rights Commission



**NZ  
Human  
Rights.**

Human Rights Commission  
Te Kāhui Tikanga Tangata

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# 1 Background and Progress

## Introduction

1. In the five years since New Zealand's examination in the second cycle of the Universal Periodic Review (UPR), the New Zealand Government has undertaken a variety of actions corresponding to the UPR recommendations it accepted. Despite progress in some areas, there remain significant human rights challenges in New Zealand. In particular, entrenched socio-economic inequalities are proving difficult to address.
2. This report will focus on the steps that the Government has taken since its last UPR towards improving human rights. The Commission further notes that this UPR cycle falls within the beginning stages of an extensive reform agenda introduced by the new Labour-led Government elected in October 2017. The new Government is undertaking comprehensive reviews and inquiries in several areas, including mental health, education, housing, welfare, tax, and historical abuse in State care.
3. **The Commission's recommendations are set out in Annex A.**
4. A summary of the public consultations that the Commission has undertaken leading up to this UPR is included in **Annex B**.

## UPR Implementation and National Plan of Action

*[See NZHRC Recommendations 1 – 2, Annex A]*

5. The Commission has developed an online National Plan of Action for Human Rights (NPA).<sup>1</sup> The NPA tracks the Government's progress in implementing recommendations from the second cycle of the UPR.
6. At the same time, the Ministry of Justice has been co-ordinating the development of the International Human Rights Governance Group (IHRGG), an integrated government framework that will monitor and report on the Government's progress in meeting its obligations under the UN human rights treaties it has ratified. These developments have been encouraging, although an increased and ongoing commitment by the Government is required to ensure that both the NPA and IHRGG processes are effective.

## 2 International Human Rights Framework

### International obligations

[See NZHRC Recommendations 3-9]

#### Treaties

7. Since its last UPR, the Government has ratified the Optional Protocols for a communications procedure under the UN Convention on the Rights of Persons with Disabilities and the Arms Trade Treaty. However, it rejected most of the other recommendations made during the second UPR cycle to ratify a range of other treaties and optional protocols, and to withdraw its existing treaty reservations.

#### Development Assistance

8. New Zealand accepted three recommendations at its last UPR to increase official development assistance to the internationally agreed level of 0.7 percent of GNI.<sup>2</sup> The Government has not met this target. In 2018, it announced an increase in development funding to 0.28 of GNI, up from 0.23 percent in 2017, as part of the Government's "Pacific Reset" strategy to redefine New Zealand's relationship with Pacific Island countries.

#### Sustainable Development Goals and Data

9. While the Government has expressed its commitment to meeting the Sustainable Development Goals (SDGs), it is yet to announce any specific policy or data strategy for that purpose. New Zealand is also yet to contribute a Voluntary National Review (VNR) to the UN High Level Political Forum (HLPF), although the Ministry of Foreign Affairs and Trade has recently requested that New Zealand be inscribed on the list of countries participating in VNRs at the 2019 HLPF.<sup>3</sup>
10. More generally, recent initiatives indicate a movement by the Government towards a more holistic approach to measuring social, economic and environmental outcomes. The June 2018 *Treasury Living Standards Dashboard: Monitoring Intergenerational Wellbeing* proposes to introduce a monitoring mechanism to measure four "capital stocks" (physical, financial, human and social) that underpin inter-generational well-being.<sup>4</sup>
11. While Statistics NZ's data collection practices are comprehensive and robust, data is not always collected or disaggregated in a manner that enables the accurate monitoring of human rights outcomes. UN treaty bodies have recommended improved practices,<sup>5</sup> including that the Government consider applying the conceptual and methodological framework set out by the OHCHR.<sup>6</sup>

#### Business and Human Rights

12. The Government is yet to endorse or recognise in any formal sense the UN Guiding Principles on Business and Human Rights (UNGPs), despite recent policy positions contemplating greater use of out-sourcing in the social sector.<sup>7</sup>
13. Awareness of the UNGPs among New Zealand businesses, particularly among some large multi-nationals, appears to be growing. The Commission considers that the Government should take the opportunity to work with the business community to further promote and encourage uptake of the UNGPs across the public and private sectors.

## Constitutional and legislative

*[See NZHRC recommendations 10-14, Annexure A]*

### New Zealand Bill of Rights Act 1990

14. New Zealand does not have a written constitution that entrenches into law a set of inviolable rights. Our charter of human rights is set out in the New Zealand Bill of Rights Act 1990 (BORA), an ordinary statute that can be repealed by a simple parliamentary majority. The 2013 Constitutional Advisory Panel,<sup>8</sup> the Commission<sup>9</sup> and the last UPR<sup>10</sup> have recommended amending the BORA so that it includes the right to privacy, property rights, and economic, social and cultural rights.
15. While section 7 of the BORA requires the Attorney-General to report to the House any proposed legislation that is inconsistent with the BORA, it does not provide for any remedial action in respect of inconsistent legislation. However, following a landmark court case,<sup>11</sup> Cabinet has agreed in principle to allow the Courts to make a declaration of inconsistency if they believe that legislation is inconsistent with the BORA, and has indicated that the BORA will be amended to provide for this remedy.<sup>12</sup>
16. The BORA does not provide for individual remedies where rights have been violated. However, the Courts have developed a remedial jurisdiction that enables breaches of protected rights to be vindicated.<sup>13</sup>

### Human Rights Act/Human Rights Review Tribunal

17. The Human Rights Act 1993 (HRA) has an important role, alongside the BORA, in New Zealand's legislative framework. The HRA establishes both the role and functions of the Commission and New Zealand's anti-discrimination legal framework, including the functions and procedure of the Human Rights Review Tribunal (HRRT), the tribunal in which discrimination claims are determined.
18. There is considerable concern regarding the delay of proceedings in the HRRT due to its growing workload, increasing numbers of self-represented litigants and its currently limited resource.<sup>14</sup> The Government has recently introduced legislation to increase the number of HRRT chairpersons that may preside over cases, in order to address the inability of the current sole chairperson model to deal with a sharp increase in new cases. To date, the Bill is yet to be enacted.

### Human Rights Impact Assessments

19. The Government currently applies an inconsistent approach to ensuring that legislation, policy and budgetary decisions conform with international human rights standards. Both the Cabinet Manual and the Legislative Design and Advisory Guidelines require that new legislation must comply with New Zealand's international human rights treaty obligations.<sup>15</sup> However, this is a statement of policy, not law, and mechanisms for ensuring compliance are ad hoc.<sup>16</sup>
20. The Commission has also raised concern that the Government is not required to consider human rights or Treaty of Waitangi impacts as part of its National Impact Assessment process when considering international treaties, including trade agreements,<sup>17</sup> despite prior recommendations to do so by the Commission, the Waitangi Tribunal and the Law Commission.<sup>18</sup>

## Te Tiriti o Waitangi/Treaty of Waitangi

[See NZHRC Recommendations 15-19]

### Constitutional Status

21. The Treaty of Waitangi (the Treaty), signed in 1840 between the British and Māori, forms the foundation of the Crown-Māori relationship and is considered New Zealand's founding document. The Courts and the Waitangi Tribunal<sup>19</sup> have identified and applied broad principles that derive from the Treaty, including:
  - *Partnership*: Both the Crown and Māori have a positive duty to act in good faith, fairly, reasonably and honourably towards the other.<sup>20</sup>
  - *Active protection*: The Crown has a positive duty to protect Māori property interests and taonga.<sup>21</sup>
  - *Remedies/Redress*: Past wrongs give rise to a right of redress.<sup>22</sup>
22. Despite its constitutional importance, the Government is yet to take concrete steps to consider the Treaty's place in New Zealand's unwritten constitution, despite recommendations to do so in the 2013 Constitutional Advisory Panel Report<sup>23</sup> and 2016 Iwi Chairs Forum *Matike Mai Aotearoa* Report.<sup>24</sup> These recommendations also include further work to find effective ways of involving iwi in local authority decision-making.<sup>25</sup>
23. The principles of the Treaty are compatible with fundamental human rights principles, including those set out in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). While the Government has officially endorsed the UNDRIP, a plan of action for its implementation is yet to be developed, despite international commitments to do so.<sup>26</sup>

### Partnership and Free, Prior and Informed Consent

24. The Government is yet to issue a formal response to recommendations for wide-ranging reforms to laws and policies affecting Māori culture and identity in the Waitangi Tribunal's 2011 landmark report *Ko Aotearoa Tēnei / This is New Zealand* (WAI 262).<sup>27</sup>
25. The Commission further notes that the Government's process to settle historical Treaty claims, gives preference to negotiating with "large natural groupings" (LNGs) and can exclude smaller groups, such as hāpu (sub-tribes) and whānau (family) from independently participating when their interests differ. Concerns about the exclusionary nature of the LNG policy have been raised by the IMM<sup>28</sup> and by Māori in urgent claims to the Waitangi Tribunal.<sup>29</sup>

### 3 Promotion and protection of human rights on the ground

#### Rights of Specific Persons or Groups

##### Māori

*[See NZHRC Recommendations 15-20]*

26. Successive governments have acknowledged that Crown breaches of the Treaty cause Māori to suffer social, cultural and economic losses.<sup>30</sup> Over time this has led to wide social and economic disparities between Māori and Pākehā.<sup>31</sup> These disparities will be discussed in more detail later in this report, and include lower life expectancy, high rates of health conditions, chronic diseases and mental health; increased rates of disability; and higher rates of incarceration and children in State care.
27. The Commission welcomes the establishment of the Crown/Māori Relations Ministerial portfolio within Cabinet, which aims to strengthen the Crown/Māori relationship, improve outcomes for Māori and ensure that Treaty obligations are met.<sup>32</sup>

##### Pasifika

*[See NZHRC Recommendations 21-22]*

28. Pasifika people in New Zealand experience similar levels of socio-economic disparity and disadvantage as Māori. Pasifika have the lowest rates of median income,<sup>33</sup> high rates of exclusion from employment, education or training, high levels of discrimination in the workplace,<sup>34</sup> and poor health outcomes in comparison to other New Zealanders.<sup>35</sup>
29. There is also concern that Pasifika language use in New Zealand is vulnerable. The Ministry of Pacific Peoples currently promotes Pasifika language and cultures in partnership with Pasifika communities, including holding Pasifika language weeks throughout the year. However, it has been recommended that a National Language Policy should be established to support and protect Pasifika languages and culture, and in doing so improve civic engagement, access to public services and employment and educational outcomes and opportunities.<sup>36</sup>

##### Women

*[See NZHRC Recommendations 23-27]*

##### *Violence and abuse*

30. At its last UPR, the Government accepted multiple recommendations to combat domestic violence,<sup>37</sup> including the development of a national strategy.<sup>38</sup> Since then, the Government has embarked on considerable work to combat violence and abuse against women, which it has acknowledged is pervasive. This includes legislative reform (currently yet to be enacted) and the establishment of a dedicated body to provide a whole of-government response to family and sexual violence. However, an over-arching national policy strategy is yet to be developed.

##### *Employment*

31. New Zealand accepted five recommendations at its last UPR review relating to eliminating the gender pay gap and increasing women's participation in governance.<sup>39</sup> The gender pay gap in New Zealand currently sits at 9.4 percent.<sup>40</sup>



32. The Commission welcomes the reconvening of the Joint Working Group on Pay Equity Principles to inform legislation supporting pay equity claims. In February 2018, the Group recommended, among other things, amending the Equal Pay Act 1972 to reflect recommended pay equity principles.<sup>41</sup> On 2 July 2018 the Government released its Gender Pay Equity Principles in respect of the public sector.<sup>42</sup> The Commission remains concerned that women are still significantly under-represented in senior leadership positions in the public sector<sup>43</sup> and in private businesses,<sup>44</sup> with most businesses having no women in senior roles at all.<sup>45</sup>

#### *Parental leave/child care*

33. The Commission welcomes the Government's increase of paid parental leave from 18 to 22 weeks from July 2018 and 26 weeks from July 2020. However, parental leave is currently paid at NZD 529 a week before tax, well below the 2017 median weekly income of NZD 959<sup>46</sup>.

#### *Reproductive rights*

34. Women in New Zealand do not have the right to an abortion on request. Abortions before and after 20 weeks are governed by the provisions of the Crimes Act 1961.<sup>47</sup> Every abortion procedure must be authorised by two separate certifying medical consultants to confirm that the Crimes Act requirements have been met.<sup>48</sup> The Government has proposed changing this approach to instead treat abortion as a health issue and has accordingly requested that the Law Commission review the current legislation. The Law Commission's report is due on 27 October 2018.

#### *Children*

*[See NZHRC Recommendations 28-30]*

#### *Poverty*

35. In New Zealand's previous UPR review, several recommendations called for initiatives to reduce child poverty, all of which were accepted by the New Zealand Government.<sup>49</sup> However, the number of children in New Zealand who experience poverty and material deprivation remains stubbornly high with almost 30% of New Zealand's child population living in households whose income falls below the income poverty line.<sup>50</sup>
36. The Commission therefore welcomes the new Government's designation of child poverty as a policy priority, including its introduction of the Child Poverty Reduction Bill,<sup>51</sup> which includes requirements for the Government to set income poverty and material deprivation reduction targets, and report on progress to Parliament. It also requires, as part of the annual budgetary process, an indication of proposed appropriations directed at child poverty. To date, the Bill is yet to be enacted.

#### *Child protection reform*

37. In 2016 and 2017, legislative reforms to the child protection system were introduced. This has led to the establishment of a new ministry, Oranga Tamariki/The Ministry of Children with overall responsibility for the child protection system in New Zealand. The new legislation explicitly references the rights of children under the UNCRC and UNCRPD.<sup>52</sup>
38. Currently, the role and functions of the Children's Commissioner are under review. The Children's Commissioner is an independent Crown entity whose broad range of functions include monitoring Oranga Tamariki's facilities and services. The Children's Commissioner also has a statutory function to monitor

and assess the implementation of the UNCRC.<sup>53</sup> It is vital that the independence of this important institution is maintained, and its capacity strengthened as recommended by the CRC Committee in 2016.<sup>54</sup>

### Disabled People

*[See NZHRC Recommendations 31-36]*

39. The Commission commends the Government's ratification of the Optional Protocol to the UNCRPD establishing a communication procedure. The Office of Disability Issues has also been developing an indicator framework for measuring outcomes against the objectives of the New Zealand Disability Strategy and the Disability Action Plan that sits underneath it.<sup>55</sup> To date, the indicator framework is yet to be implemented.
40. In addition, New Zealand's legislative framework does not consistently reflect UNCRPD obligations. For example, family violence legislation fails to adequately protect disabled people experiencing abuse in all home-care/live in support situations.<sup>56</sup> Furthermore, there has been a lack of progress in adopting supported decision-making frameworks in legislation that directly impacts upon disabled people.

### Employment

41. The Commission remains concerned at outcomes arising from the minimum wage exemption system that can be applied to workers who are significantly and demonstrably limited by a disability.<sup>57</sup> In 2017, 767 exemptions were in place, with 72% of them allowing wages of \$5.00 an hour or below.<sup>58</sup> In 2016 the Government began work on reform, under the Disability Action Plan, to review the minimum wage exemption.<sup>59</sup> It appears that this work has stalled.

### Health sector

42. The Government is currently reviewing its Funded Family Care (FFC) policy that enables family members to be paid to support disabled relatives. A 2018 Court of Appeal decision criticised the complexity of this law and urged the Government to streamline the regime so it was accessible for the people who most needed it.<sup>60</sup> The legislation establishing the policy also prevents people with disabilities and their families from bringing discrimination claims against the policy or decisions under it.<sup>61</sup>
43. Concern also remains that current legislation does not expressly prohibit the sterilisation of people with disabilities without their free, prior and informed consent. Currently, the Court has jurisdiction to authorise a sterilisation if it considers it to be in the persons best interests.<sup>62</sup> UN treaty bodies have recommended that the Government adopt legislation to prohibit non-consensual sterilisation.<sup>63</sup>

### Sexual Orientation, Gender Identity and Sex Characteristics (SOGISC)

*[See NZHRC Recommendations 37-40]*

### Gender identity

44. Trans and gender diverse individuals can change their gender marker on passports and driver licences through a simple administrative procedure. However, a similar process is not available for birth certificates. Instead the Family Court is involved and is required to consider medical evidence. Following a petition to Parliament, a Select Committee issued a report recommending law change to allow for a self-identification process, in line with international human rights standards.<sup>64</sup> The law is yet to be changed.

45. Additionally, the March 2018 national census did not include questions on self-identified sexual orientation, gender identity and expression, or sex characteristics. It is also notable that the Human Rights Act does not explicitly include “gender identity, gender expression, and sex characteristics” under its definition of “sex discrimination.” While Government policy appears to be to interpret the law to include gender identity within this definition, the issue is yet to be tested by the courts.

#### *Access and quality of health care*

46. A national intersex clinical network has been established by the Paediatric Society of New Zealand, funded by the Ministry of Health. This constitutes some progress towards meeting the CRC Committee’s 2016 recommendations to the Government concerning medical care and interventions for intersex children.<sup>65</sup>
47. More generally the SOGISC community reports significant difficulties and delays accessing health services and an absence of targeted funding or initiatives to address outcome disparities in key areas such as mental health and addiction services. For example, media reports indicate that the waiting lists for gender reassignment surgeries are decades long.<sup>66</sup>

#### *Migrants, Refugees and Asylum Seekers*

*[See NZHRC Recommendations 41-46]*

#### *Migrants*

48. A 2016 report by the Human Trafficking Research Coalition *Worker Exploitation in New Zealand: A Troubling Landscape* revealed a concerning pattern of migrant worker exploitation in New Zealand.<sup>67</sup> International students are also vulnerable to exploitation in New Zealand.<sup>68</sup> It is encouraging to see the Government taking action in this area. This includes considering proposals for changes to post-study work that lessen the risk of exploitation, including removal of the requirement for post-study visas to be sponsored by a particular employer.<sup>69</sup>
49. The Commission is concerned that the Immigration Act prevents the Human Rights Commission’s complaints jurisdiction from receiving complaints about decisions made under that Act.<sup>70</sup> In addition, persons unlawfully in New Zealand and subject to deportation are generally ineligible for legal aid support in respect of proceedings to challenge deportation orders.<sup>71</sup>

#### *Refugees and asylum seekers*

50. The Government has increased both its refugee quota commitments and funding of refugee services in recent years. In 2016 the Government announced that it will increase New Zealand’s refugee quota from 750 to 1,000 people per year, to take effect from July 2018.<sup>72</sup> The current Minister of Immigration is considering lifting the quota further to 1500. An additional 500 refugees from Syria were resettled in each of the 2016/17 and 2017/18 calendar years, above the quota.<sup>73</sup>
51. The Commission is concerned with the lack of social support services for asylum claimants, also known as Convention refugees.<sup>74</sup> The Commission has found that Convention refugees find it difficult to access social services, interpreters, housing and opportunities to learn English because information about these services is lacking. The Commission notes that the Government is establishing a pilot programme to provide settlement support for Convention refugees, including system navigation support and information about existing support services.

52. The Commission is also concerned about the detention of asylum seekers. As of 13 June 2018, six asylum seekers are being held in correctional facilities. Asylum seekers detained in these prisons are subject to general prison standards such as wearing prisoner uniforms and lockdowns.

## Civil and Political Rights

### Deprivation of Liberty

*[See NZHRC Recommendations 47-49]*

53. Incarceration rates in New Zealand continue to steadily rise and are among the highest in the OECD.<sup>75</sup> As of 31 March 2018, New Zealand's prison population was 10,645, almost 30% of whom are on remand or awaiting trial.<sup>76</sup> Ethnic disparities remain of great concern and have not been successfully addressed despite being evident for many years. Māori make up 15% of New Zealand's general population but constitute around 50% of all male prisoners and 60% of female prisoners.<sup>77</sup> The Waitangi Tribunal recently found that the Government had breached its Treaty obligations by not adequately prioritising the reduction of Māori reoffending.<sup>78</sup>
54. High incarceration rates have led to significant resources directed towards building new prisons and expedient practices such as double-bunking (where two prisoners share a cell) which continues to be prevalent. A May 2018 report by the Chief Ombudsman on Arohata Upper Prison, a prison closed in 2015 and reopened in 2017 due to the rising prison population, strongly criticised the Department of Corrections' February 2018 decision to introduce double-bunking despite the facilities being clearly unsuitable.<sup>79</sup> Suicide rates in prisons have increased markedly between 2013 and 2016.<sup>80</sup>
55. Legislation enabling detention of children and young people in police cells, on remand, remains.<sup>81</sup> The practice is reserved for "last resort" cases where beds are unavailable in secure youth residences. The lack of available beds in these residences has been an ongoing problem for many years and has led to cases where young people have been detained in police cells for several days. Such cases have been viewed by the Courts as a breach of UNCRC.<sup>82</sup>

### Right to Privacy

*[See NZHRC Recommendations 50-51]*

56. The Commission commends the Government's leading role in the Digital 7 international working group on digital rights and its commitment to ensuring the digital environment complies with human rights. The Commission notes the introduction of the Privacy Bill 2018 to update and replace the Privacy Act 1993.
57. The Commission notes that Ministry of Social Development has developed a Privacy, Human Rights and Ethics (PHRAE) Framework, that will be applied by Ministry officials to identify and mitigate privacy, human rights and ethical risks arising from data sharing initiatives, including predictive risk modelling programmes.<sup>83</sup> However, it is understood that the PHRAE framework is not intended to be vested under any specific legislative or regulatory provision.

### Intelligence and security

58. New Zealand's intelligence and security legislation was subject to an extensive, high level independent review in 2015 and was subsequently amended in 2017. The Commission welcomed many aspects of the amendments, which consolidated the existing legislative framework into one statute, the Intelligence and Security Act 2017, and strengthened human rights assessments. The legislation requires that periodic reviews of the intelligence and security legislation are undertaken every 5-7 years.<sup>84</sup> However, there is no requirement that human rights matters are included within the terms of reference of these periodic reviews.

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

*[See NZHRC Recommendations 52-54]*

### *OP-CAT National Monitoring Mechanism*

59. The Commission is one of the five monitoring organisations that make up the National Preventative Mechanism (NPM) under the Optional Protocol to the Convention against Torture (OPCAT). The Commission is concerned that NPMs do not receive sufficient resources to carry out their OPCAT functions, which in turn risks hindering progress on key issues.
60. The Commission published an independent review in 2016 which raised serious concern about the use of seclusion and restraint practices in prisons, health and disability facilities, youth justice and care and protection residences, and police cells.<sup>85</sup> The Commission has submitted a report on further issues as part of the NPM UPR report, which traverses these issues in more depth.

### *Historical Abuse in State Care*

61. Between the 1950s and 1980s more than 100,000 vulnerable children and adults were taken from their families and placed in children's homes and mental health institutions. More than half of these children were Māori, with some state homes reporting that upwards of 80 per cent of their residents were Māori. High rates of disabled people were also institutionalised.
62. In response to the Commission's calls for an independent inquiry, in January 2018 the Government announced a Royal Commission of Inquiry into Historical Abuse in State Care. Presently, Cabinet is agreeing on the final terms of reference for the Royal Commission, following public consultation on the matter. The inquiry is expected to take about three years.<sup>86</sup>

## Economic, Social and Cultural Rights

### Inequality

63. The 2015 OECD Economic Survey on New Zealand<sup>87</sup> reported that while New Zealand has generally done well in enabling economic and social participation, income inequality and poverty have increased, rising housing costs have hit the poor hardest, and the rate of improvement in many health outcomes has been slower for disadvantaged groups. Large disparities in wealth and income continue to exist. An estimated 15-16% of New Zealanders live in poverty.<sup>88</sup> In 2017, 28 percent of income growth went to 1 percent of New Zealanders.<sup>89</sup> Structural discrimination is also evident, with Māori, Pasifika, women, migrants, refugees and disabled people experiencing markedly worse outcomes across a range of key socio-economic indicators.

### Right to Work

*[See NZHRC Recommendation 55]*

64. The Commission welcomes the Government's announcement that it is considering the establishment of a sector-level bargaining system to enable unions and employers to develop Fair Pay Agreements (FPAs) that set minimum terms and conditions for all workers in an entire industry or occupation. A FPA Working Group has been established to issue recommendations on the design of the system, including new legislation, to the Minister of Workplace Relations and Safety by the end of 2018.<sup>90</sup>

### Right to Housing

*[See NZHRC Recommendations 56-61]*

65. New Zealand is currently facing a housing crisis, described by the Minister of Housing as "one of the biggest challenges our Government faces." As of April 2018, the number of people on the state housing waiting list reached 8,108, the highest it has ever been.<sup>91</sup> This has affected both cities and smaller rural towns.
66. The 2018 Housing Stocktake report also reported that a significant amount of "hidden" homelessness is likely, and the exact scale of the problem is unknown.<sup>92</sup> Data is not systematically collected on people who don't or can't access government housing assistance, or are turned away from community agencies already at capacity.
67. More generally, there is considerable concern about housing availability, security and affordability in New Zealand. Overcrowding has increased in poorer areas<sup>93</sup> and disproportionately affects Pasifika, Maori and Asian people.<sup>94</sup> Families with children, particularly one-parent and Māori and Pacific families, experience discrimination in the private rental market, including disparately high rental rates.<sup>95</sup> Disabled people are also more likely to live in rental accommodation and experience poor housing conditions that non-disabled people.<sup>97</sup>

### Canterbury Earthquake Recovery

68. In 2016 the Commission released a major report about the people living in or owning vacant land in residential areas that were designated as "red-zone" (and subject to compulsory Government purchase) following the 2010 and 2011 Canterbury earthquakes.<sup>98</sup> The report documented the ongoing stress and lack of certainty experienced by the red-zone residents and recommended the development of laws, policies and practices consistent with international best practice principles.<sup>99</sup>

## Right to Social Security

[See NZHRC Recommendations 62-65]

### *Welfare reform*

69. While core benefit levels increased slightly in 2015, they remain well below pre-1991 levels adjusted for inflation. There is little publicly available information on the use and impact of sanctions on women and children. Figures obtained by media in 2017 indicate that one in five of those receiving the single parent benefit have been sanctioned.<sup>100</sup> Further media enquiries identified a lack of evidence of effectiveness of such sanctions.<sup>101</sup>
70. The Government has recently announced an Expert Advisory Group to review and consider reform of New Zealand's social security legislation and benefit system, including the current sanctions regime.

## Right to Health

[See NZHRC Recommendations 66-67]

### *Health sector reform*

71. The Commission notes the announcement in May 2018 of a major review of New Zealand's health and disability system. An interim report is due at the end of July 2019. The terms of reference include an objective to make the health sector fairer, more equitable and accessible, but do not make any reference to human rights obligations or standards.<sup>102</sup>

### *Mental health*

72. Approximately 20% of New Zealanders meet the criteria for a diagnosable mental disorder each year.<sup>103</sup> Recent Corrections research indicates that 91% of prisoners have had a mental illness or addiction diagnosis during their lifetime.<sup>104</sup>
73. The Commission is also extremely concerned by the youth suicide rate of 15.6 per 100,000, the highest among OECD countries.<sup>105</sup> 606 New Zealanders died by suicide in 2016/17 (12.64 per 100,000). The suicide rate for Māori over that same period was 21.73 per 100,000. The rate for men was 19.36 per 100,000 and 6.12 per 100,000 for women.<sup>106</sup>
74. Accordingly, the Commission welcomes the establishment of a wide ranging independent inquiry into Mental Health and Addiction Services, due to report by 31 October 2018.

## Right to Water

[See NZHRC Recommendations 68]

75. Challenges exist in ensuring the right to safe drinking water in some areas of New Zealand. In the town of Havelock North, more than 5,000 people became ill as a result of contaminated water and three people died. This incident led to a Government Inquiry into the outbreak and a wider review of drinking water safety in New Zealand.<sup>107</sup> Among the findings were that nearly 800,000 people (20 percent of the serviced population) are supplied water that is not demonstrably safe to drink<sup>108</sup> and that between 18,000 and 100,000 cases of sporadic waterborne illness occur each year.<sup>109</sup>
76. The Health Minister has recently introduced the Health (Drinking Water) Amendment Bill which incorporates a range of measures agreed by Cabinet to address the Inquiry's recommendations.<sup>110</sup>



## Right to Education

[See NZHRC Recommendations 69-75]

### *Inclusive education*

77. A significant proportion of New Zealand's school students have disabilities, with at least 10% of students have dyslexia, dyspraxia or autism spectrum disorder.<sup>111</sup> Educational outcomes for disabled students are significantly worse than for non-disabled students. In June 2017, 42.3% of disabled youth aged between 15 and 24 were reported as being not in employment, education or training.<sup>112</sup>
78. In 2014, the UN CRPD Committee recommended that the New Zealand Government include in legislation an enforceable right to inclusive education, to improve outcomes for disabled students. New Zealand's Independent Monitoring Mechanism on the CRPD has also recommended that the Government include the right to inclusive education in legislation, improve its data collection practices, and include inclusive education targets and goals in the New Zealand Disability Strategy.<sup>113</sup>
79. While the Ministry of Education has recognised the Government's obligations to provide an inclusive education environment,<sup>114</sup> inclusive education principles are not set out in education legislation nor are there any currently active inclusive education policy strategies in place. The Government is currently undertaking a broad review of the education sector. The Commission considers that inclusive education should be a key priority.

### *Disparities*

80. In a 2017 report, the Government acknowledged that the New Zealand education system is characterised by relatively high levels of disparity and that at every stage the system is less successful for Māori and Pasifika students and students from low income families.<sup>115</sup> In addition, a recent report surveying 1700 children reported that many Māori students have experienced racism and discrimination at school.<sup>116</sup>
81. The Government has announced its objective to integrate *te reo Māori* (Māori language) education into everyday learning in all primary schools and early childhood education centres by 2025 and has increased funding for this purpose. The Government has not, however, declared a position on whether to make *te reo Māori* a compulsory curriculum subject.

### *Bullying*

82. Despite initiatives such as the cross-sector Bullying Prevention Advisory Group (BPAG), the Government is yet to develop a specific anti-bullying strategy or to regulate to require that schools implement comprehensive bullying prevention programmes.
83. The Human Rights Commission and the Ombudsman have called for amendments to education legislation and guidelines to require school boards of trustees to implement effective anti-bullying programmes.<sup>117</sup> However, to date the Ministry of Education has resisted this approach, while stating that it expects schools to have anti-bullying systems and processes in place.<sup>118</sup>

## Climate Change

*[See NZHRC Recommendations 76-78]*

84. The Government is a signatory to the Paris Agreement on Climate Change and has developed policies and legislative initiatives aimed at lowering carbon emissions in accordance with the Agreement.<sup>119</sup>
85. A recent stocktake report of government policy by the Climate Change Adaptation Technical Working Group, administered by the Ministry for the Environment, noted that New Zealand lacks an overarching strategy or plan for adapting to climate change and has not undertaken a nationwide assessment of climate related risks.<sup>120</sup> The Working Group has also identified climate change as posing significant risks for public health.<sup>121</sup>
86. Climate change is also likely to have a fundamental impact on a number of low-lying island nations in the Pacific, many of which receive New Zealand aid. Aid policies are informed by Ministry of Foreign Affairs and Trade's (MFAT) Human Rights Analysis Guidelines. The policies and guidelines include sustainability principles but are yet to include the SDG targets.

## Annex A

### New Zealand's Third Universal Periodic Review

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

#### Recommendations

##### 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 and develop an indicator framework to track, measure and assess Government actions.

##### International Human Rights Framework

##### International obligations

##### Treaties

3. 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
4. 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

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

##### Sustainable Development Goals and Data

6. 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.
7. Align the proposed Living Standards monitoring framework with the SDG targets and indicators.

8. 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

9. 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.

### Constitutional and legislative

#### New Zealand Bill of Rights Act 1990

10. 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

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

#### Human Rights Impact Assessments

12. Develop and conduct training for all government officials on domestic and international human rights obligations.
13. 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.
14. 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

15. 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*.
16. 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.
17. Increase, and make sustainable, government funding of the UNDRIP Independent Monitoring Mechanism.

#### Partnership and Free, Prior and Informed Consent

18. 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).
19. 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.

## Promotion and protection of human rights on the ground

### Rights of Specific Persons or Groups

#### Māori

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

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

#### Pasifika

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

#### Women

23. Immediately begin implementation of the long-term, cross-party and multi-agency policy commitment to eliminate all forms of domestic violence and abuse.
24. Implement the recommendations of the Joint Working Group on Gender Pay Equity Principles into legislation.
25. Monitor and report back by December 2019 on the implementation of the Gender Pay Equity Principles and extend the Principles to the private sector.
26. Increase maximum parental leave entitlements to a level comparable with the ILO standard of two thirds of previous earnings.
27. 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

28. Once enacted, prioritise implementation of the Child Poverty Reduction Bill through immediate development of the necessary policy and fiscal infrastructure.
29. 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.

30. Take immediate steps to strengthen the independence, statutory mandate and resources of the Office of the Children's Commissioner.

#### Disabled People

31. Implement the Outcomes Framework for the NZ Disability Strategy by July 2019.
32. Commit to ensuring that decision-making policies and practices conform with CRPD supported decision-making requirements, including making any legislative changes required.
33. Update all current disability data surveys to incorporate the Washington Group Question Set on disability measurement.
34. Urgently complete the review of the minimum wage exemption system under the Minimum Wage Act 1983.
35. 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.
36. Adopt legislation that prohibits the sterilisation of people with disabilities without their consent.

#### Sexual Orientation, Gender Identity and Sex Characteristics (SOGISC)

37. 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.
38. Urgently implement measures to address current disparities experienced by the SOGISC community in accessing services throughout the health sector.
39. Take immediate action to significantly reduce current waiting times for gender reassignment/affirming surgery by July 2020.
40. 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

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

46. Cease the detention of asylum seekers in prisons.

## Civil and Political Rights

### 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

### 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 adaption strategy that is informed by human rights principles and obligations.
78. Introduce routine climate change related health impact assessments in health sector planning.

## Annex B

### Human Rights Commission Consultations 2018

Between February and June 2018, the Commission held public community consultations throughout the country to hear about the human rights concerns of New Zealanders. As well as general consultations, the Commission ran targeted consultations with the following population groups:

- Women
- Māori
- Pasifika
- Sex, gender and sexual minorities
- People with disabilities

A list of the most frequently raised human issue by each population group is set out below.

#### Māori

The Commission and the Independent Monitoring Mechanism for the UN Declaration on the Rights of Indigenous Peoples, with the support of the Ministry of Māori Development – Te Pino Kōkiri, jointly held five workshops in April – May 2018. A diverse range of participants attended the workshops, including: Iwi Chairs and senior managers; kuia and kaumātua; Iwi policy and operational staff; educators; marae and community workers; whānau members; and rangatahi. Between 10 – 35 participants attended each workshop, with up to 100 participants attending one of the that was streamed online. Common themes that emerged were honouring Te Tiriti O Waitangi, ensuring meaningful participation and addressing institutional racism.

In April-May the Commission partnered with the Independent Monitoring Mechanism for the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) to hold five workshops on indigenous rights issues. The workshops were each focussed on thematic issues: self-determination and constitutional transformation; participation in decision-making; lands and resources; equality and non-discrimination; and rights to culture and language. Workshops included an introduction to the UNDRIP, facilitated discussion on the key theme, and concluded with identifying priorities for action. While each of the workshops had a different thematic focus, strong common themes emerged. Key issues raised related to:

- Protecting and upholding the Treaty of Waitangi and UNDRIP, and increasing understanding of the rights and obligations they contain
- Implementing real Treaty partnership and ensuring meaningful Māori participation in decision-making
- Enabling the exercise of Māori self-determination, and supporting Māori-led solutions
- Addressing racism and discrimination (structural and interpersonal), including in relation to education, health, housing, justice and employment
- Implementing the Waitangi Tribunal's Wai-262 report and providing equitable resourcing and support for Māori language education
- Ensuring the free, prior and informed consent of Māori in relation to their lands, territories and resources
- Expanding partnership models (like those developed through Treaty settlements regarding Te Urewera and Te Awa Tupua) for decision-making that affects natural resources and environmental protection

## Pasifika People

The Commission held five Pasifika community 'uipa'anga/fonotaga/hui in Auckland, Christchurch, Wellington and Porirua, attended by seventy Pasifika, three Māori and two Pālagi (NZ European) people. The main human rights issues raised by Pasifika people were racism and discrimination, unemployment and workers' rights, Pasifika languages, and human rights education.

## Women

The Commission held six consultations with women in Wellington and Auckland, including two consultations with women with disabilities, and one consultation with women from migrant communities. In all the consultations, protection from violence and abuse was the human rights issue of most concern. Other issues that were frequently raised were data collection, access to justice, education, access to healthcare and other services.

## Sex, gender and sexual minorities (SOGISC)

The Commission held three public consultations with sex, gender and sexual minorities in Auckland, Wellington and Christchurch, one consultation in a prison with transgender prisoners, and one consultation with SOGISC people with disabilities in Auckland. Across the five hui the Commission spoke to 91 people about their human rights issues. The main human rights issues for these communities were access to health care, education, immigration, data collection, and violence and abuse.

## People with Disabilities

The Commission held two consultations with disabled women in Auckland and Wellington. The key issues raised were low levels of employment, access to education, violence and abuse and data collection. Furthermore, the International Monitoring Mechanism to the Convention on the Rights of Persons with Disabilities, which is made up of the Human Rights Commission, the Ombudsman and the New Zealand Convention Coalition, engaged with Disabled Person's Organisations on their submission to inform the CRPD List of Issues.

### Ministry of Foreign Affairs and Trade Consultations

The Commission also attended and presented information on the UPR process at public consultations run by the Ministry of Foreign Affairs and Trade that were held in eight cities and towns around New Zealand in March and April 2018. The Commission also held an additional UPR round table meeting in Invercargill.

The most frequently raised issues are outlined in the table below.

	Invercargill	Dunedin	Christchurch	Nelson	Wellington	Rotorua	Gisbourne	Auckland	Kaitia
Right to Housing	✓		✓	✓	✓	✓	✓	✓	
Right to Health	✓	✓	✓	✓	✓	✓	✓		
Disability Rights	✓			✓		✓		✓	✓
Indigenous Rights					✓	✓	✓		
Women's Rights				✓	✓			✓	
Constitutional		✓	✓		✓	✓	✓	✓	✓
Children's rights			✓	✓	✓	✓	✓	✓	✓
Mental Health					✓	✓		✓	✓
Discrimination			✓			✓	✓	✓	
Justice system				✓	✓	✓	✓	✓	✓
Family violence		✓		✓			✓		
Men's rights			✓		✓			✓	
Right to education			✓				✓		✓
Immigration				✓		✓			

- <sup>1</sup> The National Plan of Action can be accessed at <https://npa.hrc.co.nz/#/>. The Commission's 2018 Annual Report on the NPA is available at [https://www.hrc.co.nz/files/1415/3082/8692/NPA\\_Report\\_FINAL\\_FINAL.pdf](https://www.hrc.co.nz/files/1415/3082/8692/NPA_Report_FINAL_FINAL.pdf)
- <sup>2</sup> New Zealand National Plan of Action, UPR Recommendation 48 (Tunisia), 49 (Bangladesh), 50 (Egypt)
- <sup>3</sup> [https://sustainabledevelopment.un.org/content/documents/18585Letter\\_New\\_Zealand\\_to\\_ECOSOC\\_president\\_VNR\\_2019.pdf](https://sustainabledevelopment.un.org/content/documents/18585Letter_New_Zealand_to_ECOSOC_president_VNR_2019.pdf)
- <sup>4</sup> *Treasury Living Standards Dashboard: Monitoring Intergenerational Wellbeing*, Conal Smith, June 2018 <https://treasury.govt.nz/sites/default/files/2018-06/smith-living-standards-dashboard-jun18.pdf>. In parallel, the Commission understands that Statistics NZ will develop a sustainable development measurement framework for New Zealand aligned with Treasury's Living Standards framework and framed around the Conference of European Statisticians capital stocks model
- <sup>5</sup> UN CPRD Committee, CRPD/C/NZL/CO/1, 3 October 2014 at 69, CRC Committee CRC/C/NZL/CO/5, 21 October 2016 at 10(a)-(c),
- <sup>6</sup> OHCHR, *Human Rights Indicators: A Guide to Measurement and Implementation* [www.ohchr.org/Documents/Publications/Human\\_rights\\_indicators\\_en.pdf](http://www.ohchr.org/Documents/Publications/Human_rights_indicators_en.pdf)
- <sup>7</sup> The Commission has encouraged the Government to explicitly recognise and apply UNGP principles and processes – such as human rights due diligence assessments – in procurement and delegation/out-sourcing agreements with the private sector – see Submission on the Child, Young Persons and their Families (Age-Settings, Workforce and Advocacy) Bill [https://www.hrc.co.nz/files/4914/7251/5496/HRC\\_Submission\\_on\\_CYPF\\_AWAS\\_Amendment\\_Bill\\_2016.pdf](https://www.hrc.co.nz/files/4914/7251/5496/HRC_Submission_on_CYPF_AWAS_Amendment_Bill_2016.pdf)
- <sup>8</sup> Constitutional Advisory Panel, *New Zealand's Constitution: A Report on a Conversation / He Kōtuinga Kōrero mō Te Kaupapa Ture o Aotearoa* November 2013 <https://www.justice.govt.nz/assets/Documents/Publications/Constitutional-Advisory-Panel-Full-Report-2013.pdf>
- <sup>9</sup> Submission of the Human Rights Commission, *Review of New Zealand's Constitutional Arrangements to the Constitutional Advisory Panel*, 31 July 2013 <https://www.hrc.co.nz/your-rights/indigenous-rights/our-work/review-new-zealands-constitutional-arrangements/>
- <sup>10</sup> UPR Recommendations 33 (Ukraine), 34 (Uruguay), 35 (Spain)
- <sup>11</sup> *Attorney-General v Taylor* [2017] 3 NZLR 24
- <sup>12</sup> <https://www.labour.org.nz/government-to-provide-greater-protection-of-rights-under-the-nz-bill-of-rights-act-1990>
- <sup>13</sup> *Simpson v Attorney-General (Baigent's case)* [1994] 3 NZLR 667; *Attorney-General v Taylor* [2017] 3 NZLR 24
- <sup>14</sup> Roger Haines QC, *Submission on the Tribunals Powers and Procedures Legislation Bill*, 12 February 2018, at paras [15]-[18] [https://www.parliament.nz/resource/en-NZ/52SCJU\\_EVI\\_74733\\_6945/05ea089936406ccd1421faa08f2903f1f8e16631](https://www.parliament.nz/resource/en-NZ/52SCJU_EVI_74733_6945/05ea089936406ccd1421faa08f2903f1f8e16631)
- <sup>15</sup> Legislative Design and Advisory Committee, *LAC Guidelines: 2014 Edition*, Chapter 9, <http://www.ldac.org.nz/guidelines/>
- <sup>16</sup> We note however that the Ministry of Social Development is currently developing a Child Rights Impact Assessment mechanism which is intended to assess policies against New Zealand's obligations under the UN Convention on the Rights of the Child, Ministry of Social Development, Child Impact Assessment Tool <https://www.msd.govt.nz/about-msd-and-our-work/publications-resources/resources/child-impact-assessment.html>
- <sup>17</sup> Submission of the Human Rights Commission, *Review of New Zealand's Constitutional Arrangements to the Constitutional Advisory Panel*, 31 July 2013 <https://www.hrc.co.nz/your-rights/indigenous-rights/our-work/review-new-zealands-constitutional-arrangements/>
- <sup>18</sup> Ibid.
- <sup>19</sup> Waitangi Tribunal, *Principles of the Treaty* <https://www.waitangitribunal.govt.nz/treaty-of-waitangi/principles-of-the-treaty/>
- <sup>20</sup> See the *Lands* case; *New Zealand Māori Council v Attorney-General* (the *Broadcasting Assets* case) 1 NZLR 513 (PC); *Te Runganga o Te Wharekauri Rekohn v Attorney-General* [1993] 2 NZLR 301 (CA)
- <sup>21</sup> *Lands* case at 664. Taonga refers to a Māori treasure.
- <sup>22</sup> *Lands* case at 664-665, 693.
- <sup>23</sup> Constitutional Advisory Panel, *New Zealand's Constitution: A Report on a Conversation / He Kōtuinga Kōrero mō Te Kaupapa Ture o Aotearoa*, p. 28 <https://www.justice.govt.nz/assets/Documents/Publications/Constitutional-Advisory-Panel-Full-Report-2013.pdf>
- <sup>24</sup> *He Whakaaro Here Whakaamu mō Aotearoa, The Report of Matike Mai Aotearoa – The Independent Working Group on Constitutional Transformation*, p. 113 <http://www.converge.org.nz/pma/MatikeMaiAotearoaReport.pdf>
- <sup>25</sup> Ibid.
- <sup>26</sup> Outcome Document of the World Conference on Indigenous Peoples A/RES/69/2 2014
- <sup>27</sup> Waitangi Tribunal, *A report into Claims Concerning New Zealand Law and Policy Affecting Māori Culture and Identity, Ko Aotearoa Tēnei*, Wai 262 (2011) [https://forms.justice.govt.nz/search/Documents/WT/wt\\_DOC\\_68356054/KoAotearoaTeneiTT1W.pdf](https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_68356054/KoAotearoaTeneiTT1W.pdf)
- <sup>28</sup> Monitoring Mechanism of the Iwi Chairs Forum (MM), *2016 submission to the Expert Mechanism on the Rights of Indigenous People (EMRIP)*
- <sup>30</sup> See Constitutional Advisory Panel *Te Ranga Kaupapa Ture, New Zealand's Constitution: A Report on a Conversation / He Kōtuinga Kōrero mō Te Kaupapa Ture o Aotearoa*, p. 30 <https://www.justice.govt.nz/assets/Documents/Publications/Constitutional-Advisory-Panel-Full-Report-2013.pdf>
- <sup>31</sup> OECD, *Economic Surveys: New Zealand 2015* (June 2015) accessed [http://www.keepeek.com/Digital-Asset-Management/oecd/economics/oecd-economic-surveys-new-zealand-2015\\_eco\\_surveys-nzl-2015-en#.WXVXliGOUk#page1](http://www.keepeek.com/Digital-Asset-Management/oecd/economics/oecd-economic-surveys-new-zealand-2015_eco_surveys-nzl-2015-en#.WXVXliGOUk#page1)
- <sup>32</sup> <https://www.justice.govt.nz/maori-land-treaty/crown-maori-relations/>
- <sup>33</sup> Pasefika Proud (2016) *Pacific Peoples in New Zealand: Understanding Family Violence*. Wellington: <http://www.pasefikaproud.co.nz/assets/Resources-for-download/PasefikaProudResource-Understanding-family-violence-infographic.pdf>

- <sup>34</sup> Chen, M. (2015). *Superdiversity Stocktake: Implications for Business, Government and New Zealand*. Auckland Superdiversity Centre. [http://www.chenpalmer.com/wp-content/uploads/Superdiversity\\_Stocktake.pdf](http://www.chenpalmer.com/wp-content/uploads/Superdiversity_Stocktake.pdf)
- <sup>35</sup> Pasefika Proud (2016).
- <sup>36</sup> Chen (2015) p 179
- <sup>37</sup> UPR Recommendation 106 (Romania), 108 (Switzerland), 109 (United Kingdom), 110 (Chile), 111 (Republic of Congo), 112 (Germany), 114 (Italy) 115 (Namibia), 116 (Greece), 117 (Cyprus), 118 (Slovakia), 119 (Spain), 120 (Czech Republic), 121 (Australia), 122 (Botswana), 123 (Palestine), 127 (Hungary), 130 (Paraguay)
- <sup>38</sup> UPR Recommendation 107 (France)
- <sup>39</sup> UPR Recommendations 92 (Australia), 96 (France), 97 (Malaysia), 98 (Iraq)
- <sup>40</sup> Ministry of Women, *Gender Pay Gap* <http://women.govt.nz/work-skills/income/gender-pay-gap>
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