

15. Right to Social Security

Tika ki te Hapori Haumaruru



“Everyone has the right to a standard of living adequate for their health and well-being.”

Everyone has the right to a standard of living adequate for their health and well-being.

Universal Declaration of Human Rights, Article 25 (plain text)

Introduction Tīmatatanga

The right to an adequate standard of living is about “the human person’s rights to certain fundamental freedoms, including freedoms to avoid hunger, disease and illiteracy”.¹ It includes specific rights to adequate food, clothing and housing, and to social security and work. This right is essential in order to achieve other economic, social and cultural rights, such as the rights to health and education.

The right to an adequate standard of living provides a benchmark for assessing how well New Zealand provides both a safety net for groups vulnerable to poverty and opportunities for people to participate to their full potential. New Zealand does not have the same levels of abject or absolute poverty as some parts of the world. However, there are households that experience significant material disadvantage and hardship when compared with what the population as a whole would consider a minimum acceptable way of life. This is the concept of relative poverty.

This chapter has two aims. The first is to highlight how international human rights standards require countries such as New Zealand to consider the overall impact that laws, policies and practices have on those vulnerable to poverty. Through this lens, the right to an adequate standard of living brings together a range of rights that “have a direct and immediate bearing upon the eradication of poverty”.²

Secondly, this chapter focusses specifically on one component of the right to an adequate standard of living –

the right to social security. This follows the approach adopted in the Commission’s 2004 report *Human Rights in New Zealand Today*, which highlighted the impact of housing shortages, costs and conditions on the living standards of New Zealanders. That material is updated in the chapter on the right to housing.

In the New Zealand context, a critical component of the right to an adequate standard of living is the right to social security. This chapter outlines how well New Zealand fulfils this right and what should be done better. These issues are increasingly important internationally as countries emerge from a global economic recession. Both the Organisation of Economic and Cultural Development (OECD) and the International Labour Organisation (ILO) have stressed the critical role social-security systems play as a means to stimulate economic growth and support social cohesion.³

International context Kaupapa ā taiao

THE RIGHT TO AN ADEQUATE STANDARD OF LIVING

The International Covenant on Economic, Social and Cultural Rights (ICESCR) was the first to recognise the right to an adequate standard of living, which it defined in Article 11 as:

The right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing and continuous improvement in living conditions.

It has been said that the right to an adequate standard of living is the most central right in ICESCR, in the way that the rights to life, privacy and freedom of expression are central rights in the International Covenant on Civil and Political Rights (ICCPR). “Without some realisation of the right to an adequate standard of living, other economic

1 United Nations Economic and Social Council (2003), *Economic, social and cultural rights: Implementation of existing human rights norms and standards in the context of the fight against extreme poverty* (Geneva: United Nations), p 7

2 Committee on Economic, Social and Cultural Rights (2001), Poverty and the International Covenant on Economic, Social and Cultural Rights (25th session; E/C.12/2001/10). Accessed 25 June 2010 from <http://www.unhcr.ch/tbs/doc.nsf/0/518e88bfb89822c9c1256a4e004df048?Opendocument>

3 International Labour Office (2009), “Social security: responding to the crisis”. *World of Work: the magazine of the ILO*, no. 67, December 2009, pp 13–16

and social, as well as civil and political, rights would have little meaning.”⁴

New Zealand has ratified other international human rights conventions that reinforce the right to an adequate standard of living. These include the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), particularly Articles 10, 11 and 14; Articles 26 and 27 in the Convention on the Rights of the Child (UNCROC); and Articles 27 and 28 in the Convention on the Rights of Persons with Disabilities (CRPD). These conventions highlight specific obligations to ensure that the right to an adequate standard of living is realised for women, children and disabled people.

United Nations member states debated whether ICESCR should spell out detailed components of the right to an adequate standard of living, or phrase it in abstract terms. The final compromise decision was to specify some elements alongside a broader, general objective. Accordingly, the right to an adequate standard of living includes the rights to:

- adequate food, clothing and housing (Article 11)
- social security, including social insurance (Article 9)
- work and equal employment opportunity (Articles 6 and 7).

As the Committee on Economic, Social and Cultural Rights (CESCR) observed in a 1999 general comment:

... malnutrition, under-nutrition and other problems which relate to the right to adequate food and the right to freedom from hunger also exist in some of the most economically developed countries. Fundamentally, the roots of the problem of hunger and malnutrition are not lack of food but lack of access to available food, inter alia because of poverty, by large segments of the world’s population.⁵

Similarly, while there is no overall shortage of food supply in New Zealand, there are households that do not have sufficient income to feed themselves and pay for other basics, such as accommodation, heating and clothing.

This chapter focusses primarily on the right to social security as a prerequisite for an adequate standard of living and thus freedom from poverty. The right to housing and the right to work are covered in separate chapters.

Standards of living vary within any community, and people have the right to make choices about how they wish to live. However, everyone should have equal access to education and employment opportunities, and to a safety net of social security provisions that enable them to participate in their community.

The CESCR has not defined an adequate standard of living, but has clarified that universal minimum core obligations (for example around the right to social security) are necessary but not sufficient. In addition, each state party must progressively take steps to fully realise the right to an adequate standard of living, making the maximum use of its available resources.

THE RIGHT TO SOCIAL SECURITY

Everyone, as a member of society, has the right to social security.

Everyone has the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

Articles 22 and 25(1) of the Universal Declaration of Human Rights (UDHR)

The right to social security, including the requirement to address the specific needs of women, children and young people, and disabled people, is detailed in:

- Articles 9 and 10 of ICESCR
- Article 14 of CEDAW
- Articles 26 of UNCROC
- Article 28 of CRPD.

New Zealand has ratified each of these covenants and conventions.

The right to social security is of central importance in

4 Bailey, P (1997), 'The Right to an Adequate Standard of Living: New Issues for Australian Law', *Australian Journal of Human Rights*, vol 22. Accessed 25 June 2010 from <http://www.austlii.edu.au/au/journals/AJHR/1997/14.html#fn4#fn4>

5 Committee on Economic, Social and Cultural Rights (2009), general comment 12: The right to adequate food. UN Doc. E/C. 12/1999/5, para 5. Accessed 25 June 2010 from <http://www.unhchr.ch/tbs/doc.nsf/0/3d02758c707031d58025677f003b73b9>

guaranteeing human dignity for people when circumstances deprive them of the capacity to fully realise their economic, social and cultural rights.⁶ Social security, and its interface with the tax system, redistributes resources and thus plays an essential role in reducing and alleviating poverty and promoting social inclusion. However, social security is regarded as being a social good in and of itself, and not merely an instrument of economic or social policy.⁷

CESCR has identified five essential elements of the right to social security:

- Availability of a sustainable social security system – established under domestic law and administered and supervised by public authorities
- Coverage of social risks and contingencies – specifically to provide health-care and benefits due to sickness, old age, unemployment, employment injury, maternity or disability, and family and child support, including to survivors and orphans
- Adequacy – of amount and duration, respecting the principles of human dignity and non-discrimination
- Accessibility – coverage for all, especially those who are marginalised; eligibility criteria must be reasonable, proportionate and transparent; any contributory social security scheme must be affordable; beneficiaries must have information and be able to participate in the scheme's administration and have physical access to its services
- Relationship to other rights – other measures are necessary to complement the right to social security, including rehabilitation, childcare and welfare, and measures to combat poverty and social exclusion.

CESCR also highlights the importance of non-discrimination, particularly for groups who traditionally face

difficulties in exercising the right to social security. These include women and children; disabled people; older people; the unemployed; sick; injured; domestic or informal workers; refugees; non-nationals; and prisoners.

The CESCR's 2008 general comment spells out the minimum core obligations required by all state parties. The minimum essential level of social security benefits must be sufficient to enable all individuals and families to acquire at least essential healthcare, basic shelter and housing, water and sanitation, foodstuffs, and education. In addition, each state must respect existing social security schemes and protect them from unreasonable interference; adopt and implement a national plan of action; and monitor the realisation of the right to social security.⁸ Each country must also demonstrate that every effort has been made to use all resources at its disposal to satisfy these minimum obligations.⁹

FREEDOM FROM POVERTY

In 2001, CESCR adopted a statement on poverty.¹⁰ It noted that while the term is not explicitly used in the ICESCR, the Preamble emphasises the importance of "freedom from want". Furthermore, the rights to work, an adequate standard of living, housing, food, health and education, which lie at the heart of the covenant, are essential immediate steps required to combat poverty. The statement goes on to emphasise the scale of poverty and the disproportionate burden borne by women and girls. It emphasises the importance of a human rights approach to poverty-eradication policies and action plans.

In 2003, during New Zealand's second periodic report on ICESCR, the concluding observations from the committee specifically recommended that New Zealand adopt a national plan to combat poverty.¹¹ In its 2008 Universal

6 Committee on Economic, Social and Cultural Rights (2008), general comment 19. The right to social security, para 1. 39th session: E/C.12/GC/19. Accessed 25 June 2010 from <http://www.unhcr.org/refworld/docid/47b17b5b39c.html>

7 *ibid*, para 10

8 *ibid*, paras 59 and 60

9 *ibid*, para 42

10 Committee on Economic, Social and Cultural Rights (2001)

11 Committee on Economic, Social and Cultural Rights (2003), Concluding Observations / Comments: New Zealand. 30th session: E/C.12/1/Add. 88. Accessed 25 June 2010 from [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/E.C.12.1.Add.88.En?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/E.C.12.1.Add.88.En?Opendocument)

Periodic Review (UPR) submission, the Human Rights Commission emphasised this as a top priority, stressing that such a national plan required targets. These were reinforced in recommendations from other countries, such as Canada, during the review process and by the Human Rights Council's UPR Working Group.

In richer nations there is growing use of the term 'poverty', and a range of poverty indicators have been developed and are in widespread use. Income poverty measures adjust household income to take into account the number of adults and children living in a household, in order to calculate how much disposable income each household would need to be in an equivalent financial position. Poverty rates measure the percentage of people whose equivalised disposable household income falls below a given level or poverty line. Commonly, that poverty line is either 50 or 60 per cent of the median income of all households.¹² These measures are based on the notion that poverty is 'relative' and must be defined in comparison with the incomes of others.

Poverty and material hardship can also be measured using non-income measures. The fewer household goods, food, housing, education and health costs that people can afford, and the more they have to economise because of limited financial resources, the higher will be their measured level of hardship. These are relative measures, assessing actual living conditions relative to what most people experience or what most consider to be necessities in their society.

Across Europe, there are comprehensive poverty and inequality indicators that sit within national action plans aimed at eradicating poverty and social exclusion. In the United Kingdom, the Equality Act received Royal Assent on 8 April 2010.¹³ Part 1 introduces a requirement that key public bodies have due regard to the desirability

of reducing socio-economic inequalities when making strategic decisions.¹⁴ It complements a Child Poverty Act and Child Poverty Duty, which set out clear targets and measures, require accountability from specified ministers, and ensure that local authorities create local strategies to reduce child poverty.¹⁵

In December 2008, the Ontario Government released 'Breaking the Cycle: Ontario's Poverty Reduction Strategy'.¹⁶ The strategy's target is to reduce the number of children living in poverty by 25 per cent over five years. In May 2009, the Poverty Reduction Act 2009 was passed with unanimous consent from all parties. It will require successive governments to:

- report annually on their initiatives to reduce poverty and on key indicators of opportunity, such as income levels, education, health and housing
- develop a new strategy at least every five years
- consult before developing these strategies, including consultation with those living in poverty
- set a specific poverty-reduction target at least every five years.

NEW ZEALAND'S OBLIGATIONS

In the case of economic, social and cultural rights, once a State party ratifies the relevant convention, there is a requirement that minimum subsistence rights are provided immediately. In addition, it is expected that full realisation of these rights will be progressively implemented, to the maximum of a country's available resources. In general, the United Nations recommends action plans, targets, monitoring and other strategies to ensure that the most vulnerable and disadvantaged receive assistance as a priority.

CESCR has provided guidance about the nature of state parties' obligations, as set out in Article 2, paragraph 1 of

12 Fletcher M and Dwyer M (2008), *A Fair Go for all Children: Actions to address child poverty in New Zealand. A report for the Children's Commissioner and Barnardo's* (Wellington: Children's Commissioner), p 21

13 Equality Act 2010. Accessed 25 June 2010 from http://www.opsi.gov.uk/acts/acts2010/pdf/ukpga_20100015_en.pdf

14 Some provisions in the Equality Act come into force on 1 October 2010. The socio-economic duty is one of a range of provisions that 'Ministers are considering how to implement'. Accessed 28 September 2010 from http://www.equalities.gov.uk/equality_bill.aspx

15 Child Poverty Act 2010. Accessed 25 June 2010 from http://www.opsi.gov.uk/acts/acts2010/pdf/ukpga_20100009_en.pdf

16 Cabinet Committee on Poverty Reduction (2008), *Breaking the Cycle: Ontario's Poverty Reduction Strategy*. Ontario: Ontario Government. Accessed 19 October 2010 from http://www.children.gov.on.ca/htdocs/English/documents/growingstronger/Poverty_Report_EN.pdf

ICESCR. These are outlined in its general comment 3¹⁷ and in a 2007 statement.¹⁸ In particular, the committee has reinforced that these objectives apply even in times of severe resource constraints. In addition, if a state party fails to take steps or adopts regressive measures, the burden of proof rests on its shoulders to show that careful consideration has been given to all relevant rights and that full use is being made of available resources.

As a state party to ICESCR, New Zealand has a duty to respect, protect and fulfil the right to an adequate standard of living, including the right to social security.

New Zealand context

Kaupapa o Aotearoa

THE NEW ZEALAND LEGISLATIVE AND REGULATORY FRAMEWORK

The Ministry of Social Development (MSD) is the lead government agency charged with setting priorities across the social sector, co-ordinating the actions of other agencies and tracking changes in the social well-being of New Zealanders. It has a responsibility to provide policy advice and deliver social services and assistance to children and young people; working age people; older people; and families, whānau and communities.¹⁹

MSD administers a number of significant statutes governing administration of income-support programmes that are relevant to the right to social security, particularly the:

- Social Security Act 1964
- New Zealand Superannuation and Retirement Income Act 2001
- Employment Services and Income Support (Integrated Administration) Act 1998.

The New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993 provide protection from discrimination

when accessing social services, including those provided by government agencies.

New Zealand today

Aotearoa i tēnei rā

There can be no difference of opinion as to the tyranny of privation and want. There is no dictator more terrible than hunger. And we have found in New Zealand that only with social security in its widest sense can the individual reach his full stature.

New Zealand delegate to the UN's Paris Assembly's debate on the UDHR, 1948

The following assessment of the right to social security focusses on social security benefits and superannuation. Other forms of social security not discussed (relevant to the chapters on the rights to work, health and education and the rights of disabled people) include:

- employment subsidies
- family assistance, including paid parental leave and subsidies for early childhood education, and care or out-of-school care
- subsidised residential and long-term assistance for the elderly, disability support services, and reduced prescription and doctors' fees to those with a Community Services Card and some with a SuperGold Card
- student allowances and student loans
- Accident Compensation.

After summarising relevant complaints and enquiries received by the Commission, this section looks at four of the five essential elements of the right to social security: availability of a sustainable social-security system;

17 Committee on Economic, Social and Cultural Rights (1990), general comment 3: The nature of states parties' obligations (art 2, para 1 of the covenant), 5th session, E/1991/23. Accessed 25 June 2010 from [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/94bdbaf59b43a424c12563ed0052b664?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/94bdbaf59b43a424c12563ed0052b664?Opendocument)

18 Committee on Economic, Social and Cultural Rights (2007), An evaluation of the obligation to take steps to the 'Maximum of available resources' under an optional protocol to the covenant, 38th session, E/C.12/2007/1. Accessed 25 June 2010 from <http://www2.ohchr.org/english/bodies/cescr/docs/statements/Obligationtotakesteps-2007.pdf>

19 Ministry of Social Development (2008), briefing to incoming minister (Wellington: MSD)

coverage of social risks and contingencies; accessibility; and adequacy of assistance. The fifth component – other necessary complementary measures – is implicit in later discussions about policy changes that have influenced the level of relative poverty in New Zealand.

COMPLAINTS AND ENQUIRIES TO THE COMMISSION

In the eight years from January 2002 to December 2009, the Commission received 1038 complaints or enquiries about social security issues, with between 99 and 169 approaches each year.

The majority of these approaches (59 per cent) involved policy issues. Over a third of all policy issues (229, 37 per cent) were about entitlement to assistance. In addition 68 (11 per cent) were related concerns when someone's actual or perceived relationship status impacted on their benefit eligibility. The other policy issue consistently raised has been about the low level of benefit payments (54 approaches).²⁰

In 2001, the Child Poverty Action Group (CPAG) complained to the Human Rights Commission that the Child Tax Credit (subsequently renamed the In Work Tax Credit) amounted to discrimination based on employment status. The credit was in the form of means-tested payments to families with children. One of its purposes was said to be to alleviate child poverty. However, it excluded children in the poorest families – those receiving a benefit.

When this complaint was not settled by mediation, the Office of Human Rights Proceedings provided CPAG with legal representation before the Human Rights Review Tribunal. In 2008, the Tribunal found that the tax credit was discriminatory, but that such discrimination could be “justified in a free and democratic society”, and therefore did not breach the Human Rights Act. In September 2010, as this chapter was being finalised, this decision was being appealed to the High Court.

Between 2005 and 2009, approximately 40 approaches have been made to the Human Rights Commission relating to tax issues. Almost a third of these (13) were in response

to tax cuts announced in 2008 that excluded beneficiaries, whose benefits are set at net (after-tax) rates. While benefits are adjusted annually in line with changes to the Consumer Price Index, given historical cuts, concerns remain as to the adequacy of benefit levels.

AVAILABILITY AND COVERAGE

Social security is available in New Zealand, based on legislation and regulations administered by relevant government agencies, predominantly the Ministry of Social Development. Its comprehensive coverage includes all social risks and contingencies identified in international human rights standards.

Those standards require a social security system to be sustainable. Concerns about the financial sustainability of provisions have centred in particular on the costs of universal superannuation, introduced in 1976.²¹ In addition, debates have highlighted the social costs and exclusion arising from intergenerational dependency on benefits. The relationship between the tax and benefit systems is crucial in enabling social mobility, including movement into paid work and off benefits. This is discussed in the concluding section of this chapter.

ACCESSIBILITY

Social security benefits are available for people who are: unemployed and actively seeking work; unavailable for paid work due to sickness or chronic health conditions; sole parents; young people who have no financial support from their family; and widows. All these benefits have eligibility criteria, including a minimum period of residence, and are not available to those who have a partner in paid employment.

In contrast, New Zealand Superannuation is paid as a universal benefit, to any citizen or permanent resident aged 65 or over who has lived in New Zealand long enough to meet the eligibility criteria. It is paid as of right, whether or not the person is retired or has a partner who is in paid employment, and is not means-tested or dependent on marital status. The level of payment is set at a fixed portion of the average wage, but is reduced

20 The remaining 41 per cent of approaches to the Commission related to treatment by government agencies providing these services.

In most cases, service-related matters do not involve discrimination under a ground covered in the Human Rights Act, and the Commission refers people to government agencies' review processes or to the Office of the Ombudsmen

21 Preston D (1999), *Retirement Income in New Zealand: the historical context* (Wellington: Office of the Retirement Commissioner) (updated 2001 and 2004)

for those with a partner and for single people living with others. It is also affected by any overseas pensions or benefits.²² Concerns have been raised about inequities and anomalies resulting from section 70 of the Social Security Act, which deducts any overseas state pension from any individual's (or their partner's) New Zealand Superannuation entitlement.²³

The benefit system in New Zealand has two tiers, with core benefits supplemented by discretionary hardship, special or temporary allowances, some of which must be repaid. A 'disability allowance' is available to cover regular expenses due to a disability. Additional hardship assistance is available either as a one-off payment (the 'special needs grant' to meet the costs of food, bedding and emergency dental or medical treatment), a weekly payment for a short period of time ('temporary additional support'), or a loan which must be repaid. Past concerns by beneficiary advocacy groups about lack of transparency around granting of second-tier benefits resulted in MSD establishing a formal process for consulting with beneficiary groups around operational policy issues.

ADEQUACY

The 1972 Royal Commission on Social Security recommended that the welfare system ensure beneficiaries had a standard of living at least similar to that of other New Zealanders, so that they were able to participate in and feel they belonged to the community at large.²⁴ The 1988 Royal Commission on Social Policy concluded that people required "access to a sufficient share of income and other resources to allow them to participate in society with genuine opportunity to achieve their potential and to live lives they find fulfilling".²⁵

This implies that core benefits need to be regularly adjusted to reflect changes in actual living costs, and to maintain relativity with standards of living across the wider community. The Child Poverty Action Group has recommended, for example, setting net income for those on benefits at the 60 per cent poverty line.²⁶

The Social Security Amendment Act 2007 introduced sections 1(a) and 1(b) to the Social Security Act 1964, specifying its purpose and general principles. These do not contain any reference to social inclusion. The rationale for providing financial support is more narrowly defined as "to help alleviate hardship". This raises a question around whether benefit adequacy is solely to address absolute deprivation, or whether the financial position of those on benefits relative to others is also deemed relevant.

In terms of adequacy, the real value of core benefits, including family tax credits, remains well below levels prior to cuts in the 1991 Budget.²⁷ Even when accommodation and special benefit/temporary assistance supplements are taken into account, the level of financial support to beneficiaries has fallen in real terms since 1991.²⁸

Working for Families

Since 2000, the two most significant policy interventions in addressing relative poverty rates have been reinstatement of income-related rents in 2000, and the progressive introduction of the 'Working for Families' package from 2004 to 2007.²⁹

Working for Families changed the tax credits available to families with dependent children in three fundamental ways. It increased both the total amount of assistance available and the number of families entitled to receive it.

22 Other changes to living situations can affect eligibility, including overseas travel and admission to a rest home. A veteran who has reached the qualifying age for New Zealand Superannuation may qualify for a veteran's pension. This is paid at the same rate as New Zealand Superannuation. It is taxed but not asset-tested and, unlike superannuation, veteran's pension payments are not reduced should a veteran require long-term hospital care.

23 St John S and Dale C (2010), 'Pension rules causing stress and ill health', *New Zealand Herald*, 17 August. Accessed 24 September 2010 from http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10666540

24 Krishnan V (1995), 'Modest but adequate: an appraisal of changing household income circumstances in New Zealand', *Social Policy Journal of New Zealand* 1, 4, pp 76–97

25 Royal Commission on Social Policy (1988), *The April Report – Report of the Royal Commission on Social Policy*, volume 1, (Wellington: RCSP), p 731

26 St John S and Wynd D (Eds) (2008), *Left behind: How social and income inequalities damage New Zealand children* (Auckland: CPAG).

27 Fletcher M and Dwyer M (2008), p 28

28 *ibid*; p 37

29 Perry B (2009), *Household incomes in New Zealand: trends in indicators of inequality and hardship 1982–2008* (Wellington: MSD), p 104

In 2004 and 2005, Working for Families included changes to the Accommodation Supplement, which helped reduce outgoings relative to incomes for low-income working families and those beneficiaries with children who earned income.³⁰

From 2004 to 2008, household incomes below the median grew more quickly than those above it, for the first time in 25 years. However, by 2009, rising housing costs had cancelled out final gains from the Working for Families package that were rolled out in 2007.³¹

Working for Families also tilted provisions in favour of non-beneficiary families, as those on benefits did not receive the In Work Tax Credit, and the child component of some benefit rates was removed. Initial MSD analysis in 2006 showed that after paying for housing, beneficiary families' income remained below recognised poverty lines.³² For those families dependent solely on a benefit, household income after housing costs was less than 40 per cent of the median household income. At those income levels, there is nothing in reserve.³³

For some families with children where the unemployment or domestic-purposes benefit was their sole source of income, financial hardship was acute. For example, those living in accommodation supplement areas 2 or 3 (most towns or cities, excluding central Auckland or the North Shore) had household incomes of between 30 per cent and 35 per cent of median disposable incomes.³⁴

New Zealand Superannuation

Hardship rates among older New Zealanders are very low by international standards. This reflects both public

provision of universal superannuation and levels of private savings and home ownership among the current elderly population.³⁵ Eligibility for New Zealand Superannuation is universal, though the age of eligibility has risen over time to 65. New Zealand Superannuation payment rates are adjusted annually, using a mix of wage and price changes.

The 2009 General Social Survey confirmed that those aged 65 or older were between two and two-and-a-half times less likely to report inadequate income than any other younger age groups. It has been argued that "a similar approach to setting and adjusting working-age benefits would better maintain levels over time and could help reduce child poverty".³⁶

FREEDOM FROM POVERTY

In New Zealand, an official commitment to eliminate poverty emerged in the context of the Agenda for Children (launched in June 2002). In 2005, Working for Families was explicitly framed as an "offensive on child poverty".³⁷

However, New Zealand, like many other countries, does not have an official measure of poverty.³⁸ Given its complex nature, poverty cannot be captured by a single indicator. Each measure shows a different aspect of relative poverty or material hardship.

MSD's analysis of trends in inequality and hardship combines both income poverty measures and living standards research.³⁹ It defines poverty as "exclusion

30 Further discussion about the accommodation supplement and housing affordability appears in the chapter on the right to housing.

31 Perry B (2010), *Household Incomes in New Zealand: trends in indicators of inequality and hardship 1982-2009* (Wellington: MSD)

32 Ministry of Social Development (2007), *Pockets of significant hardship and poverty* (Wellington: Centre for Social Research and Evaluation, MSD)

33 *ibid*, p 1

34 *ibid*, p 1

35 Perry, B. (2009b), Non-income measures of material wellbeing and hardship: first results from the 2008 New Zealand Living Standards Survey, with international comparisons. Working Paper 01/09 (Wellington: MSD), p 53

36 Fletcher M and Dwyer M (2008), p 38

37 Clark H (2005), 'Speech from the throne', delivered by the Governor General Dame Silvia Cartwright at the State Opening of Parliament, 8 November. Accessed 25 June 2010 from <http://www.beehive.govt.nz/node/24330>

38 Perry B (2008), *Household incomes in New Zealand: trends in indicators of inequality and hardship 1982-2007* (Wellington: MSD), p 57

39 Similarly the OECD notes that "measures of material deprivation point to the importance of looking at factors that go beyond the income and earnings capacity of people, to other constituents of an acceptable standard of living". Organisation for Economic Co-operation and Development (2008), *Growing unequal? Income distribution and poverty in OECD countries* (Paris: OECD) p 194. Accessed 6 October 2010 from <http://www.oecdbookshop.org/oecd/display.asp?sf1=identifiers&st1=9264044183>

from the minimum acceptable way of life in one's own society because of inadequate resources".⁴⁰ The section of this chapter analysing child poverty draws heavily on this MSD data.

Since 2001, MSD has produced its annual Social Report, which analyses and comments on New Zealand's social progress and helps the Government set its areas for action. Economic standards of living are measured by five indicators, monitoring market income per person, income inequality, the population with low incomes, housing affordability and household crowding.

The Ministry of Health's Atlas of Socio-Economic Deprivation enables policy-makers to visualise socio-economic divisions within New Zealand society.⁴¹ Māori and Pacific peoples and children are disproportionately represented in the most deprived areas of the country.⁴²

Data from Statistics New Zealand's first General Social Survey, released in November 2009, provides further indications of material hardship among some in New Zealand. Around one in seven people said they did not have enough money to meet their everyday needs. Almost a third of those without enough money were Pacific peoples (31.3 per cent), a quarter were Māori, and 20 per cent were Asian. Inadequate benefit and income levels within refugee communities were also raised as issues at the National Refugee Resettlement Forum and the Refugee Health and Wellbeing conference in 2009.⁴³

The General Social Survey does not provide disaggregated data for disabled people. However, the New Zealand Household Disability Survey indicates high levels of

unemployment and underemployment among disabled people.⁴⁴ This significantly reduces the income available to disabled people. At the same time, many have high direct and opportunity costs resulting from their disability. Together these factors make disabled people particularly vulnerable to poverty. The absence of sufficient data compounds the invisibility of these issues.

Child poverty

Children are dependent on adults for food, clothing and housing. When parents do not have sufficient income, there is a direct impact on their children. Redistribution through the tax-welfare system plays a particularly critical role in mitigating child poverty generated by the market distribution of incomes.⁴⁵

Before Working for Families, New Zealand's expenditure on financial support for children was among the lowest in the OECD.⁴⁶ Working for Families improved child poverty outcomes among the employed poor.⁴⁷ Child poverty rates fell from 26 per cent to 22 per cent, reversing the strong rise from 1998 to 2004.⁴⁸

Yet these gains have not reached the poorest children in New Zealand. The graph below shows the impact that policy decisions around benefit rates, Working for Families and income-related rents have had on child poverty rates. It compares the experiences of 'workless households' with other households where at least one adult is in paid employment.

Children in sole-parent families are more than three times more likely to be at risk of hardship (46 per cent) than

40 Perry B (2008), p 59

41 See White P, Gunston J, Salmond C, Atkinson J and Crampton P (2008), *Atlas of Socioeconomic Deprivation in New Zealand NZDep2006* (Wellington: Ministry of Health). The atlas is based on the New Zealand Index of Deprivation developed by the Wellington School of Medicine, Otago University, and ranks all areas of New Zealand from 1 (least deprived) to 10 (most deprived). Accessed 25 June 2010 from <http://www.moh.govt.nz/moh.nsf/pagesmh/3357?Open>

42 White et al (2008)

43 Human Rights Commission (2010), *Tūi Tūi Tuituia – Race Relations in 2009* (Auckland: HRC), p 62

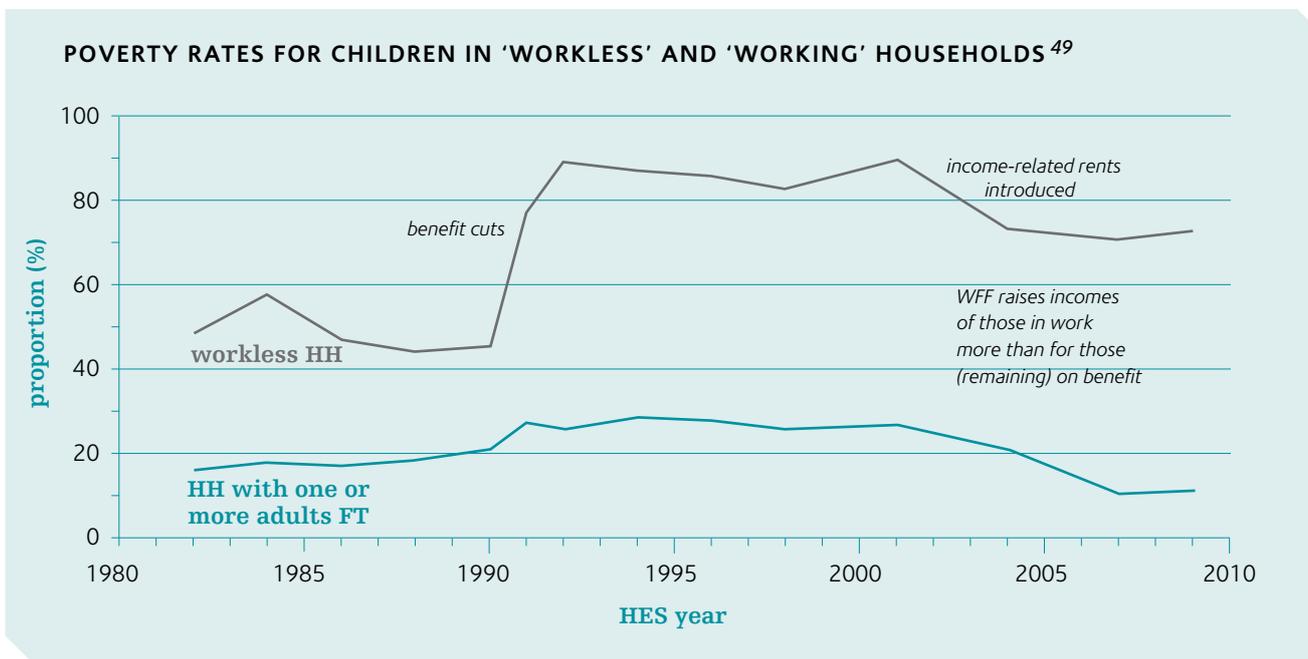
44 Statistics New Zealand (2008), *Disability and the Labour Market in New Zealand in 2006* (Wellington: SNZ)

45 Fletcher M and Dwyer M (2008), p 37

46 Stephens R (2003), 'The level of financial assistance to families with dependent children: a comparative analysis', *Social Policy Journal of New Zealand*, issue 20, June, pp 173–196

47 Perry B (2009)

48 Using incomes before housing costs (BHC) and a moving-line poverty measure.



those in two-parent families (14 per cent).⁵⁰ Beneficiary families with dependent children have a hardship rate of 51 per cent, around five times that for working families with children (11 per cent). Māori and Pacific peoples have hardship rates two to three times those in the European or Other ethnicity groups.⁵¹

Analysis of 2003–04 data identified that while 23 per cent of all children lived in poor households, this was most prevalent for the combined category of Pacific and Other children (40 per cent), and for Māori children (27 per cent). Ethnicity breakdowns of child poverty data are no longer reported because low sample sizes raise concerns about data quality.⁵² This severely limits the ability to monitor the number and proportion of Māori or Pacific children living in poverty.

Children with disabilities appear to be significantly over-represented in beneficiary families, and are therefore vulnerable to poverty. In 2007, two out of every five

children with a disability severe enough for their carers to receive the child disability allowance were living in families dependent on a core benefit or New Zealand Superannuation.⁵³

A comprehensive 2008 report on child poverty prepared for the Office of the Children's Commissioner recommended actions needed in the health, education, employment, housing, social security and tax sectors. Even more fundamentally, it called for a cross-government commitment to eliminating child poverty, with intermediate milestones and clear measurable targets for key indicators in the areas of education, housing and health.⁵⁴

In November 2009, the first data from the Children's Social Health Monitor were released. This set of both economic and health/well-being indicators was designed by health professionals to monitor the impact of the recession on child well-being. It concluded:

49 This graph is based on a poverty measure set at 60 per cent of median household incomes, after housing costs have been deducted. It uses a fixed-line approach which is adjusted in line with the Consumer Price Index.

50 Perry B (2010)

51 Perry B (2009b)

52 Fletcher M and Dwyer M (2008), p 25

53 Fletcher M and Dwyer M (2008), p 27

54 Fletcher M and Dwyer M (2008)

[T]he available evidence would suggest that one in five New Zealand children are already exposed to low family incomes as a result of their parents' benefit status.

... Further, the Living Standards surveys suggest that New Zealand's current benefit provisions will be unable to protect these children from severe or significant hardship, and that some of the adaptations families make in response to their inadequate resources may have detrimental health consequences for their children.⁵⁵

New Zealand's child poverty rates are above average for the OECD. In 2009, the OECD's first ever report on outcomes for children concluded that "New Zealand needs to take a stronger policy position on child poverty and child health, especially during the early years when it is easier to make a long-term difference".⁵⁶ It identified New Zealand Government spending on children as being considerably below the OECD average, particularly for young children (where New Zealand spends less than half the OECD average).

THE RIGHT TO FOOD

In New Zealand, the right to food is compromised when people do not have sufficient income to feed themselves

and their families adequately. Food security is an internationally recognised term that encompasses assured access to sufficient food that is nutritious, of good quality and safe; meets cultural needs; and has been acquired in socially acceptable ways.⁵⁷ Large families, sole parents and the unemployed are particularly vulnerable to food insecurity.⁵⁸ In 2002, over half of households with Pacific children and more than a third of those with Māori children reported that "food runs out because of lack of money" either often or sometimes.⁵⁹

Poverty and food insecurity have a detrimental impact on health outcomes.⁶⁰ Food choices are likely to be compromised for families on the minimum wage or receiving benefits, who would need to spend between 42 per cent and 75 per cent of their net income, after fixed housing costs, to purchase a diet that meets Ministry of Health nutrition guidelines.⁶¹ For these reasons, there has been debate in New Zealand as to whether healthy food should be exempt from the Goods and Services Tax (GST) or from increases to GST.⁶² Australian research has recommended that benefit rates need to be calculated to meet actual costs associated with leading a healthy life.⁶³ A 2009 New Zealand report has also recommended a 'Smart Card' that provides discounts on healthy food.⁶⁴

55 The Children's Social Health Monitor (2009), Introduction to the Children's Social Health Monitor. Accessed 25 June 2010 from <http://www.nzchildren.co.nz/documents/introduction.pdf>

56 Organisation for Economic Co-operation and Development (2009), *Doing Better for Children* (Paris: OECD). Accessed 25 June 2010 from www.oecd.org/els/social/childwellbeing

57 Food security is measured in the New Zealand Nutrition Surveys. All indicators of food insecurity were higher in the 2002 Children's Nutrition Survey, compared with the 1997 Adult Nutrition Study. Both reports are accessible at <http://www.moh.govt.nz/moh.nsf/indexmhf/dataandstatistics-survey-nutrition>. Key results from the 2008/09 Adult Nutrition Survey are due to be released in 2011

58 Carter K, Crohn M, Blakely T, Heyward M and Richardson K (2009), Cohort Profile: Survey of Families, Income and Employment (SoFIE) and Health Extension (SoFIE-health). *International Journal of Epidemiology* 39(3), pp 653–9

59 Ministry of Health (2003), *NZ Food NZ Children: Key Results of the 2002 National Children's Nutrition Survey* (Wellington: MoH), p 110

60 NZ Network Against Food Poverty (2000), *Hidden Hunger – Food and Low Income in New Zealand* (Wellington: NZNAFP); Parnell W and Bethell S (2000), Nutritional consequences of poverty in developed countries. In Mann J and Truswell S (eds.), *Essentials of Human Nutrition* (New York: Oxford University Press), pp 581–588

61 Robinson V (2010), *Food Costs for Families: analysis of the proportion of the minimum wage and income support benefit entitlements that families need to purchase a healthy diet* (Wellington: Regional Public Health)

62 The Goods and Services Tax (Exemption of Healthy Food) Amendment Bill. Accessed on 25 September 2010 from <http://www.legislation.govt.nz/bill/member/2010/0140/latest/whole.html>

63 Kettings C and Sinclair A (2009), 'A healthy diet consistent with Australian health recommendations is too expensive for welfare-dependent families'. *Australian and New Zealand Journal of Public Health*, 33(6), pp 566–572

64 Bowers S et al. (2009), *Enhancing food security and physical activity for Māori, Pacific and low-income peoples* (Wellington: Clinical Trials Research Unit, University of Auckland; GeoHealth Laboratory, University of Canterbury; Health Promotion and Policy Research Unit, University of Otago; Te Hotu Manawa Māori)

Use of food banks is one indicator of food insecurity. Comprehensive statistics are available about larger food bank operations co-ordinated by churches and community organisations. In addition, there are many small-scale, local, informal food banks throughout New Zealand.

The Salvation Army has a food bank network involving 48 community ministry centres and 106 churches. In the year to 30 December 2009, nearly 47,000 food parcels were provided to more than 25,000 families. This was the second year in a row that the Salvation Army experienced a large increase in demand, with 29 per cent growth in the year to December 2008 and 39 per cent growth in the following 12 months.⁶⁵ This rise has occurred across all parts of the country.

Figures collated by the New Zealand Council of Christian Social Services⁶⁶ for the year to September 2009 show an average increase of almost 30 per cent in the use of all other large food banks around New Zealand. For some urban food banks in Hamilton and South Auckland, demand has more than doubled.

RECENT DEVELOPMENTS

In February 2010, the Salvation Army published its third annual report tracking social progress across five key areas. It found that the impact of the recession on vulnerable groups had accelerated in 2009, and children and young people had been the most affected. The increased demand for its services led the Salvation Army to describe food banks as the unsustainable third tier of benefit provision. It concluded that there are big decisions to be made if the benefits of an economic recovery are to be fairly distributed.⁶⁷

Others have stressed the need for the Government to play a role in addressing food insecurity and other symptoms of socio-economic inequality:

One lesson of history (we might take the latter half of the 19th century as a prime example) is that, for all its merits, voluntary charitable provision cannot guarantee a standard of living adequate for the health and well-being of all, and therefore some degree of government intervention will be required if this is to be achieved.⁶⁸

Income support is one of the most effective and practicable policy instruments for poverty alleviation and achieving improved living standards.⁶⁹ There is no doubt that Working for Families diminished child poverty among the working poor. However, the recession has highlighted concerns about its relative effectiveness for some of the poorest children whose parents are not in paid work, and so cannot receive the 'in work tax credit':

The policy is too blunt to take account of the difficulties faced by parents who cannot work because of sickness, redundancy or disability (their own or that of family members). It also does nothing to prevent child poverty in a group that is at risk of being poor for a relatively long time – sole parent families with very young children.⁷⁰

New Zealand's after-tax distribution ranks poorly compared with other OECD countries. A low Gini coefficient indicates a more equal income distribution, and New Zealand ranks above the OECD median.

UK epidemiologists Richard Wilkinson and Kate Pickett list New Zealand as the sixth most unequal country among 23 developed OECD countries.⁷¹ This poor ranking is also noted in a 2009 UN Development

65 Johnson A (2010), *A Road To Recovery: A State of the Nation report from the Salvation Army (Manukau City: The Salvation Army Social Policy and Parliamentary Unit)*

66 New Zealand Council of Christian Social Services (2009), *Vulnerability Report*, Issue 3 (Wellington: NZCCSS)

67 Johnson A (2010)

68 Bradstock A (2009), Tackling economic inequality. Paper presented to the Ethical Foundations of Public Policy conference, Wellington, 10–11 December

69 Perry B (2004), 'Working for Families: The Impact on Child Poverty', *Social Policy Journal of New Zealand*, 22, July, pp 9–54

70 Fletcher M and Dwyer M (2008), p 40

71 Wilkinson R and Pickett K (2009), *The Spirit Level: Why More Equal Societies Almost Always Do Better* (London: Allen Lane)

INCOME INEQUALITY ACROSS THE OECD: GINI COEFFICIENTS (X100) FOR AROUND 2004



Source: OECD (2008), Table 1.A2.4, cited in Perry B (2010), p 148⁷²

72 Data for most countries is from around 2004. Where that was not available, data is from around 2000.

Programme report.⁷³ Wilkinson and Pickett's analysis shows that on almost every index of quality of life, health or deprivation, a correlation exists between a country's level of economic inequality and its social outcomes. These outcomes are worse not only for the poorest groups within a country, but also for the population overall.⁷⁴

In March 2010, the Government introduced the Social Assistance (Future Focus) Bill. This establishes work-test requirements for people on the domestic purposes benefit or sickness benefit. It requires people on the unemployment benefit to reapply and undertake a work assessment every 12 months, and introduces a graduated sanction regime and increased abatement thresholds. These measures do not address concerns about the adequacy of benefit levels, apart from a slight increase to the amount some beneficiaries can earn before their benefit is reduced.

The Human Rights Commission's submission on the bill acknowledged the importance of access to decent and meaningful work, but questioned the efficacy of the policy, given high levels of unemployment. Typically, employment levels are slow to recover after a recession, making it harder to find jobs for those currently on benefits.⁷⁵ In that context, concerted attempts to reduce benefit numbers may be seen as retrogressive measures that undermine the right to an adequate standard of living.

Submissions to this chapter have highlighted that benefit reforms have increased the stigma felt by sole parents and heightened the pressures they face balancing paid work and caring for their children. These can be particularly acute for parents whose children have disabilities. In addition, as the Attorney-General noted, the targeted nature of the work test was discriminatory.⁷⁶

High effective marginal tax rates also significantly reduce the proportion of income from paid work that someone receiving a benefit is able to retain, and create poverty traps.⁷⁷ In New Zealand, the January 2010 report of the Victoria University of Wellington Tax Working Group (TWG) recommended a comprehensive review of welfare policy and how it interacts with the tax system.⁷⁸ The working group did not have the time, resources or mandate to consider this tax/welfare interface.⁷⁹

In April 2010, the Government announced the establishment of a Welfare Working Group. It will provide a report to the Government early in 2011, with a particular focus on "how to reduce long-term benefit receipt, and reduce the growth in numbers and expenditure on benefits". The tax-benefit interface, Working for Families, welfare issues raised by the tax working group and the adequacy of income from welfare are all explicitly outside the scope of this review.⁸⁰ Yet adequacy of welfare payments is one of the core ICESCR requirements of the right to social security. In July 2010, church and beneficiary organisations established an Alternative Welfare Working Group

73 United Nations Development Programme (2009), 'Overcoming barriers: Human mobility and development'. Accessed 25 June 2010 from <http://hdr.undp.org/en/reports/global/hdr2009/>

74 Two recent reports from British economists reiterate that more equal societies almost always do better economically than unequal societies and have lower health inequalities. They also suggest that combining changes to both taxes and benefits is more effective in reducing inequality than relying on just one of these policy settings. See Hills J (2010), *An Anatomy of Economic Inequality in the UK* (London: London School of Economics) and Marmot M (2010), *Fair Societies, Healthy Lives: A Strategic Review of Health Inequalities in England post 2010* (London: University College, London).

75 International Institute for Labour Studies, ILO (2009), 'The financial and economic crisis: A decent work response'. Accessed 25 June 2010 from www.ilo.org/public/libdoc/ilo/2009/109B09_59_engL.pdf

76 New Zealand Attorney-General (2010), Report of the Attorney-General under the Bill of Rights Act 1990 on the Social Assistance (Future Focus) Bill (Wellington: House of Representatives). Accessed 25 June 2010 from http://www.parliament.nz/NR/rdonlyres/6B68F10A-4F92-4321-AB92-7DB9BFAFB034/131877/DBHOH_PAP_19574_AttorneyGeneralReportoftheunderthe.pdf

77 St John S and Wynd D (Eds) (2008)

78 Victoria University of Wellington Tax Working Group (2010), *A Tax System for New Zealand's Future* (Wellington: Centre for Accounting, Governance and Taxation Research, VUW), p 11

79 St John S (2010), 'Lessons from the Tax Working Group', *Children: A newsletter from the Office of the Children's Commissioner*, 72, autumn, pp 9–10

80 Accessed 6 October 2010 from <http://ips.ac.nz/WelfareWorkingGroup/Scope.html>

to ensure that beneficiaries and community groups were part of the debate on government welfare reforms.⁸¹

In August 2010, the Welfare Working Group called for submissions on its first report.⁸² Echoing legislative measures already implemented, it specifically asked whether there should be more focus on paid work for sole parents and disabled people and others receiving the sickness or invalids' benefit. The Commission's submission noted that the CEDAW Committee has recommended that, in order to raise sole parents' labour-force participation rates, better access to paid parental leave and early childhood education is required. Given that children whose parents receive benefits are particularly vulnerable to poverty, any welfare reform must be committed to achieving the best outcomes for children.⁸³

In order to improve employment opportunities for disabled people, it is important to acknowledge and address the specific barriers they face. For example, almost a half of all people with experience of mental illness receive some form of benefit – the highest rate for all disability groups.⁸⁴ A 2004 New Zealand study found that 31 per cent of people with experience of mental illness have suffered some kind of discrimination at work, and 34 per cent reported experiencing discrimination when looking for employment.⁸⁵

Conclusion Whakamutunga

With respect to the right to social security, New Zealand is meeting or surpassing human rights standards in a number of key areas. New Zealand has a welfare system that covers all social risks and contingencies identified in the relevant international covenants and conventions.

Rates of hardship among older people are low. New Zealand Superannuation is a compelling example of what

it means to provide accessible, sustainable, and adequate social security for the elderly.

Recent policy initiatives show it is possible to reduce child poverty rates substantially over relatively short periods. Without the Working for Families package, child poverty rates would have risen from 26 per cent to around 30 per cent between 2004 and 2008. Instead, they fell to 22 per cent.⁸⁶ However, sustained progress requires continued commitment and specific targeting of the most vulnerable.

There are other areas where New Zealand is falling well short of international human rights standards. The right to social security is compromised if core benefit levels do not enable people to feed and house themselves and their families.

Civil society groups play a significant role in mitigating the effects of inadequate income, particularly through food banks. However, they lack the resources or tools to deal with systemic inequalities, nor is it their prime responsibility.

In New Zealand, people are not dying of starvation, but relative poverty means that some people do not get enough nutritious food to eat. This can be critical at early stages of a child's development, with direct impacts on health and education outcomes. Poor health and reduced educational achievements are felt most harshly by individual children, but are also detrimental to New Zealand's overall economic and social development. As the OECD has advised, New Zealand needs to take a stronger position on child poverty.

The Commission consulted with interested stakeholders and members of the public on a draft of this chapter. The Commission has identified the following priority areas to advance the right to social security:

81 Accessed 6 October 2010 from <http://www.alternativewelfareworkinggroup.org.nz>

82 Welfare Working Group (2010), *Long Term Benefit Dependency: The Issues* (Wellington: WWG). Accessed 26 September 2010 from <http://ips.ac.nz/WelfareWorkingGroup/Index.html>

83 Human Rights Commission (September 2010), Submission to the Welfare Working Group

84 Jensen J, Sathiyandra S, Rochford M, Jones D, Krishnan V and McLeod K (2005), *Disability and Work Participation in New Zealand: Outcomes relating to paid employment and benefit receipt* (Wellington: MSD)

85 Peterson D, Pere L, Sheehan N and Surgenor G (2004), *Respect Costs Nothing: A survey of discrimination faced by people with experience of mental illness in Aotearoa New Zealand* (Auckland: Mental Health Foundation of New Zealand)

Child Poverty Reduction

Reducing child poverty, with specific attention to Māori, Pacific and disabled children by developing a co-ordinated and integrated approach across economic, social and population agencies.

Data needs

Identifying and addressing data needs required to set measurable child poverty targets for specific population groups.

Measurable targets

Adopting measurable targets, and reporting annually on the effectiveness of economic and social policies in meeting these targets.

Adequacy of core benefits

Reviewing and addressing the adequacy of core benefit rates.

