



**New Zealand's 4th periodic review under the International Covenant on Economic,
Social and Cultural Rights**

*Submission of the New Zealand Human Rights Commission to the Committee on Economic,
Social and Cultural Rights*

The New Zealand Human Rights Commission is an independent Crown entity pursuant to the Crown Entities Act and derives its statutory mandate from the Human Rights Act 1993. The long title to the Human Rights Act states it is intended to provide better protection of human rights in New Zealand in general accordance with United Nations human rights Covenants and Conventions.

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1. INTRODUCTION

1. The New Zealand Human Rights Commission (“Commission”) is New Zealand’s National Human Rights Institution (“NHRI”). It is accredited as an “A” status NHRI. It is an independent Crown Entity pursuant to the Crown Entities Act 2004 and derives its statutory mandate from the Human Rights Act 1993 (“HRA”). The long title to the HRA states it is intended to provide better protection of human rights in New Zealand in general accordance with United Nations human rights Covenants and Conventions.
2. The Commission welcomes the opportunity to make this submission to the Committee on Economic, Social and Cultural Rights (“Committee”) to inform its development of a list of issues prior to reporting (“LOIPR”) on New Zealand’s upcoming 4th periodic report under the International Covenant on Economic, Social and Cultural Rights (“ICESCR”).
3. This submission sets out what the Commission views as key challenges that have emerged since New Zealand’s last review under ICESCR. The submission is divided into the following 4 sections:
 - background and general matters of implementation;
 - inequalities;
 - violence and abuse; and
 - additional matters.
4. A full list of proposed questions to be included in the Committee’s LOIPR for New Zealand is attached as Appendix 1.

2. BACKGROUND AND GENERAL MATTERS OF IMPLEMENTATION

5. New Zealand has high levels of human rights realisation. New Zealanders are generally free to say what they think, read and view what they like, worship where and how they choose, move freely around the country and feel confident in the laws that protect them from discrimination and the arbitrary abuse of power. Most New Zealanders also experience the benefits of economic, social and cultural rights – education, decent work, good health and affordable, healthy housing.
6. Challenges remain, however, to fully realising human rights for everyone in New Zealand. Despite the many efforts of communities and successive governments, disparities in social and economic outcomes remain a reality for some groups of people. Those seriously affected include women and girls, Māori, Pacific people, migrants, refugees and disabled people.
7. These disparities are reflected in material hardship, incarceration rates, education achievement levels, health outcomes, and housing adequacy. Family status has a significant bearing on outcomes amongst these groups.
8. In 2012, the Committee recommended that the government develop specific equality targets for these groups and that it closely monitor progress.¹ In 2014 New Zealand underwent its second Universal Periodic Review (“UPR”) before the United Nations Human Rights Council. One hundred and fifty five recommendations were made to New Zealand. The government accepted 121 of these. By accepting these recommendations the government has committed to take action to improve the realization of rights. These actions are set out in New Zealand’s National Plan of Action for the protection and promotion of Human Rights 2015 – 2019 (“NPA”).²
9. Almost a third of the 155 recommendations made to New Zealand related to continuing disparities in the realisation of social and economic outcomes.

A. *Implementation of the Sustainable Development Goals*

10. New Zealand’s commitment to realising the United Nations (“UN”) Sustainable Development Goals (“SDGs”) will have a significant bearing on its progress in implementing ICESCR. Many of the SDGs have a direct correlation with the government’s ICESCR obligations, such as enabling good health and well-being (Goal 3), ensuring inclusive, quality education for all (Goal 4), achieving gender equality (Goal 5), ensuring decent work for all (Goal 8), and reducing inequalities (Goal 10).

¹ Committee on Economic, Social and Cultural Rights, *Concluding observations of the Committee on Economic, Social and Cultural Rights*, E/C.12/NZL/CO/3 (31 May 2012).

² <http://npa.hrc.co.nz/#/page/about>

11. The incorporation of the SDGs into the New Zealand public policy framework is currently at a very early stage. As a developed country, New Zealand will be expected to report on its sustainable development indicators.³ These indicators, which are being developed by the UN with the assistance of national statistics commissions, including Statistics New Zealand, will provide an international benchmark that will assist with the assessment of measures taken to implement ICESCR.
12. The government is currently undertaking a significant amount of work to upgrade and improve its data usage and capabilities. The Data Futures Partnership (“DFP”) currently being developed by Statistics New Zealand, will be at the centre of this work. The DFP consists of a cross-sector Working Group of “influential individuals” drawn from the government and non-government sectors, supported by a Secretariat based at Statistics New Zealand to support the DFP work programme. The DFPs mandate includes the development of data use projects that allow progress on system-wide public sector issues.
13. **The Committee may wish to consider including the following questions in its LOIPR for New Zealand:**
 - **What steps is the government taking to incorporate the SDGs into its public policy framework?**
 - **How does the government intend to monitor and review its progress in meeting its ICESCR related commitments under the SDGs?**
 - **What steps is the government taking – as part of the DFP or otherwise - to develop systems to collect robust disaggregated data regarding the extent, cause and mitigating/aggravating factors for vulnerable populations in New Zealand?**

B. Business and Human Rights

14. The *United Nations Guiding Principles on Business and Human Rights* (“UNGPs”) were unanimously endorsed by the UN in late 2011.
15. Application of the UNGPs would support ICESCR rights compliance. However, the New Zealand government is yet to take any concrete steps towards incorporating the UNGPs within its policy and regulatory frameworks. Furthermore the government has not made any commitment to develop a National Action Plan on Business and Human Rights.
16. Through the Canterbury Earthquake Recovery the role of business in protecting economic, social and cultural rights has come to the fore. This has been particularly

³ <https://sustainabledevelopment.un.org/content/documents/1684SF - SDG Universality Report - May 2015.pdf>

evident in relation to insurance related matters and disputes in relation to reconstruction and repair of homes in the Canterbury region.

17. The insurance model has not been without its problems and 7 claims have been filed with New Zealand's National Contact Point under the OECD Guidelines on Multinational Enterprises.
18. **The Committee may wish to consider including the following question in its LOIPR for New Zealand:**
 - **What steps is the government taking to ensure businesses delivering goods or services, such as housing and health, understand their responsibilities under the UNGPs and comply with these responsibilities?**
 - **What steps is the government taking to develop a National Action Plan on Business and Human Rights?**
 - **What is the government doing to ensure that businesses involved in the earthquake recovery understand their responsibilities under the UNGPs and comply with these responsibilities?**
 - **Can the government update the Committee on the cases taken to the National Contact Point in relation to the earthquake recovery?**

3. INEQUALITIES

19. Most New Zealanders enjoy a high quality of life and experience good outcomes. However, a small proportion continue to experience poor outcomes across a range of indices, including material deprivation, housing, education, health, employment and imprisonment.
20. Recent research from the University of Victoria, Wellington shows that there has been some success in reducing inequality for Māori and Pacific people. However, many indicators investigated in the study show worsening or static outcomes over the last decade.⁴ Reproduced below is a summary of the findings:

Appendix I: Summary of Indicators and Findings

Group	Table Indicator	European	Māori	Pacific	Gap (European & Māori)	Gap (European & Pacific)
Health	1 Life expectancy at birth	Improved	Improved	N/A	Closing	N/A
	2 Prevalence of cigarette smoking	Improved	Improved	Improved	Increasing	Increasing
	3 Obesity	Worse	Worse	Worse	Increasing	Increasing
	4 Age-standardised suicide rates	Mixed	Mixed	N/A	Increasing	N/A
	5 Infant mortality rates	Improved	Improved	Improved	Closing	Closing
Knowledge and Skills	6 Participation in early childhood education	Improved	Improved	Improved	Closing	Closing
	7 School leavers with a qualification of NCEA Level 2 or higher	Improved	Improved	Improved	Closing	Increasing
	8 Proportion of the population with a Bachelor's degree or higher	Improved	Improved	Improved	Increasing	Increasing
	9 Tertiary participation rates	Improved	Improved	Improved	Gap is gone	Gap is gone
Paid Work	10 Unemployment	Worse	Worse	Worse	Increasing	Increasing
	11 Employment	Worse	Worse	Worse	Increasing	Increasing
	12 Workplace injury claims	Improved	Improved	Improved	Closing	Increasing
	13 Median weekly earnings	Improved	Improved	Improved	Same	Same
	14 Percentage of the population receiving a core benefit	Improved	Worse	Improved	Increasing	Increasing
Economic Standard of Living	15 Median weekly income	Improved	Improved	Improved	Increasing	Increasing
	16 Personal income distribution	Worse	Worse	Worse	Increasing	Increasing
	17 Housing affordability	Worse	Improved	Improved	Closing	Closing
	18 Household crowding	Improved	Improved	Improved	Closing	Closing
Cultural Identity	19 Māori language speakers	N/A	Worse	N/A	Worse	N/A
	20 Māori medium education	N/A	Worse	N/A	Worse	N/A
Social Connected- ness	21 Internet access in the home	Improved	Improved	Improved	Increasing	Increasing

⁴ http://www.victoria.ac.nz/sacl/centres-and-institutes/cpf/publications/pdfs/2015/WP09_2014_Indicators-of-Inequality.pdf

21. This section summarises the current situation for those most affected by inequalities, namely children and young people, Māori, Pacific people, women, disabled people and refugees.

A. *Material Deprivation*

22. The number of children in New Zealand who live in poor households and face material deprivation remains unacceptably high for a developed nation. The correlation between household income poverty, poor quality housing and poor child health outcomes, including hospitalisation and mortality rates, is extremely concerning. It is further compounded by ethnic disparities, with disproportionate numbers of Māori and Pacific children living in households with incomes below the relative income poverty line. Family status has a significant bearing on outcomes amongst these groups. In 2015 46% of children aged 6+ from sole parent families were in hardship compared to 17% from two parent families.⁵ Similarly a greater percentage of children in families with more than 4 children were identified as being in hardship – 35% of children aged 6+ in households with more than 4 children were identified as being in hardship compared to 22% in one child households.⁶

23. Disabled children are more likely to live in low-income households and in socioeconomically deprived areas than non-disabled children.⁷

24. According to the most recent government data on living standards approximately 25% of New Zealand children live in low income households, and 150,000 live in material hardship.⁸

25. New Zealand's Child Poverty Monitor⁹ – a joint project from the Children's Commissioner, J R McKenzie Trust and Otago University - monitors trends in four measures of child poverty: income poverty, material hardship, severe poverty and persistent poverty. The 2015 Child Poverty Monitor found:¹⁰

- 305,000 (29%) of dependent 0–17 year olds were living in income poverty defined using a relative threshold measure of below 60% of the median income after housing costs were taken into consideration. In 2013, the percentage was 24;

⁵ http://www.nzchildren.co.nz/#toc_17

⁶ Ibid.

⁷ Expert Advisory Group on Solutions to Child Poverty, Solutions to Child Poverty in New Zealand: Evidence for Action, p 2, <http://www.occ.org.nz/assets/Uploads/EAG/Final-report/Final-report-Solutions-to-child-poverty-evidence-for-action.pdf>

⁸ New Zealand Household Incomes Report

<https://www.msd.govt.nz/about-msd-and-our-work/publications-resources/monitoring/household-incomes/>

⁹ <http://www.childpoverty.co.nz/>

¹⁰ <http://www.nzchildren.co.nz/#>

- 245,000 (23%) of dependent 0–17 year olds were living in income poverty defined using a fixed-line threshold measure of below 60% of the 2007 median income after housing costs were taken into consideration;
 - 14% of children are going without basic essentials like fresh fruit and vegetables, a warm house and decent clothing;
 - 9% of children are in severe poverty; and
 - 3 out of 5 children living in current poverty live in persistent poverty.
26. Every year over 40,000 children are hospitalized due to illness with a socio-economic gradient. Poverty rates for those in the Māori and Pacific ethnic groups are consistently higher than for those in the European/Pakeha ethnic group (roughly double), whatever measure is used.¹¹
27. The focus on child poverty was strongly reflected in New Zealand’s second UPR. Thirteen child poverty related recommendations were made, all of which were accepted by the New Zealand government.
28. In December 2012 the Expert Advisory Group on Solutions to Child Poverty (“EAG”) - a group of independent experts commissioned by the Children’s Commissioner – issued a report containing 78 recommendations that covered a range of areas, including social security benefits and tax credits, housing policy, legislative mechanisms, education and child care, health, employment and community strategies.¹²
29. The government has introduced new policy measures that reflect the EAG recommendations. These have included support for food-in-schools programmes, a small increase in social security benefits (albeit accompanied by more onerous work-testing requirements and tougher sanctions for non-compliance) and increasing the age threshold for free primary healthcare for children from 6 years to 13 years. Furthermore, following the general election in late 2014, the Prime Minister indicated that developing further strategies to address child poverty would be a major focus on the incoming government.¹³
30. However, to date the government is yet to take any steps towards developing a systemic approach to reducing household income poverty and its impact on child health and well-being. The EAG recommended that the Government develop a systemic, whole-of-

¹¹ Perry, B., (August, 2015), *Household Incomes Report 2014*, Wellington: MSD.
<http://www.msd.govt.nz/about-msd-and-our-work/publications-resources/monitoring/household-incomes/index.html>

¹² <http://www.occ.org.nz/assets/Uploads/EAG/Final-report/Final-report-Solutions-to-child-poverty-evidence-for-action.pdf>

¹³ <http://www.stuff.co.nz/national/politics/10535794/Child-poverty-on-Key-agenda>

government strategy underpinned by legislation as “a first step” in addressing child poverty.¹⁴ Parliament’s Health Committee has also recommended that the government develop an action plan for reducing child poverty, with annual targets and a transparent monitoring system.¹⁵ In its response to the Health Committee, the government did not address this recommendation directly and pointed to its work in developing the Vulnerable Children’s Act and Better Public Services Results, among other things, as evidence of current related actions.¹⁶

31. The Vulnerable Children Act 2014 provides the basis for the introduction of a Vulnerable Children’s Plan, to be implemented by specified Government agencies. The Vulnerable Children Act enables the Vulnerable Children’s Plan to include measures to improve the economic and social well-being of vulnerable children. This provides the basis for a systemic approach to be implemented, albeit across a relatively narrow cohort of children, with the current policy definition of a “vulnerable child” limiting its application to approximately 30,000 children who are deemed to be in significant risk of harm. However, the Vulnerable Children Act does not contain a specific definition of a “vulnerable child”, which means it is possible that its scope could be expanded in the future to include a greater range of vulnerable children, including those living in poverty. The Vulnerable Children’s Plan is yet to be introduced by the government.
32. Reducing material deprivation and the related non realisation of economic and social rights relating to household income poverty, poor quality housing, poor educational outcomes and poor child health outcomes on New Zealand children will of course require additional investment by the government. The absence of a budgetary mechanism that enables budget allocations which are targeted to materially deprived children to be tracked, monitored and evaluated means that it is difficult to accurately ascertain the extent of the government’s subsequent and ongoing additional spending on initiatives aimed at reducing child poverty or mitigating its effects. The introduction of such a mechanism was proposed by the EAG. However, there has been no formal government response or apparent consideration of that particular proposal.¹⁷
33. **The Committee may wish to consider including the following questions in its LOIPR for New Zealand:**

¹⁴ Supra note 7 at 7.

¹⁵ Health Committee, Report of Health Committee on Inquiry into improving child health outcomes and reducing child abuse with a focus on preconception until three years of age, Recommendation 5

¹⁶ Government response to Report of Health Committee on Inquiry into improving child health outcomes and reducing child abuse with a focus on preconception until three years of age, page 9
http://www.parliament.nz/resource/mi-nz/50DBHOH_PAP25992_1/33af84276a8645b14543e16c411e6b2e881afa1e

¹⁷ The EAG recommended that the introduction of legislation that would implement a systemic approach to child poverty reduction which included obligations upon the Minister of Finance to include child poverty related allocations in annual budgetary statement issued under the Public Finance Act – see EAG Working Paper 6: Legislative Mechanisms to Reduce Child Poverty, para 87
<http://www.occ.org.nz/assets/Uploads/EAG/Working-papers/No-6-child-poverty-legislative.pdf>

- **When does the government intend to develop, introduce and implement the Vulnerable Children’s Plan?**
- **Does the government intend to introduce measures to address the socio-economic well-being of vulnerable children under the auspices of the Vulnerable Children Plan, and, if so, does the government intend to broaden its scope for that purpose?**
- **If not, does the government intend to implement a systemic child poverty strategy underpinned by legislation as recommended by the EAG?**
- **Since 2012, how much additional spending has the government allocated for new policies specifically designed to reduce material deprivation caused by household income poverty, poor quality housing, poor educational outcomes and poor child health outcomes or to mitigate its causes or effects?**

Social security

34. The Government’s *Support for Children in Hardship Bill*¹⁸ introduced a \$25 per week increase to the parent payment and youth parent payment social security benefit. This is welcome and is the first increase in 43 years.¹⁹ However, the Bill also introduces more onerous work testing requirements for parents which further toughen the strict sanctions regime introduced by the 2012 reforms to social security legislation.²⁰
35. The impact of sanctions on children is yet to be measured as the Ministry of Social Development does not report on the requisite data. However, recent figures obtained by the media indicate that 43,000 children were affected by cuts to household income brought about by benefit sanctions in the period between July 2013 and July 2015.²¹
36. The Social Security Act 1964 which governs social security benefits does not contain any provision that requires Government officials to consider the welfare and best interests of any affected child as part of its decision-making process under the Act, including sanctions.
37. **The Committee may wish to consider including the following question in its LOIPR for New Zealand:**

¹⁸http://www.legislation.govt.nz/all/results.aspx?search=ts_act%40bill%40regulation%40deemedreg_support+for+children+in+hardship_resel_25_a&p=1

¹⁹ <https://www.national.org.nz/news/news/media-releases/detail/2015/12/03/Benefits-to-rise-after-Child-Hardship-Bill-passes>

²⁰ Section 117, Social Security Act 1964 – the sanctions impose, among other things, a 50% reduction in the benefit payment until re-compliance for the first instance of non-compliance with an obligation, suspension of the benefit for a second instance of non-compliance, and cancellation of the benefit for the third instance

²¹ <http://www.radionz.co.nz/news/national/279597/thousands-of-children-hit-by-benefit-sanctions>

- **What measures does the government take to ensure that the welfare and best interests of the child are taken into account in decision-making processes regarding benefit sanctions under the Social Security Act 1964?**

B. Housing

38. Housing is a key determinant of health, educational and social outcomes. Significant concerns remain about the availability of adequate housing. There is a serious undersupply of social housing and the quality of some, largely private, rental properties remains poor – with many of New Zealand’s most vulnerable children living in overcrowded, cold, damp and mouldy houses.
39. Nine hundred and sixty children die per year as a result of overcrowding.²² Sixteen percent of New Zealand children live in a crowded house (defined as households requiring one or more additional bedrooms).²³ Māori, Pacific and Asian children are significantly more likely than European children to live in a crowded house – 23% of Māori and 50% of Pacific children live in overcrowded households.²⁴ Those from sole parent families are more likely to live in inadequate housing.
40. Māori home ownership rates have declined from 75 % in 1926 to 28.2% in 2013. The consequence of this decline in home ownership was an increase in the number of Māori whānau who became long-term renters, either in the private sector or as Housing New Zealand tenants.²⁵
41. Māori make up 14% of the New Zealand population but comprise:
- 34.5% of those who live in severe housing deprivation;
 - 34.5% of all Housing NZ tenants (Social housing); and
 - 28.2% of all Accommodation Supplement recipients.
42. In 2013 Pacific home ownership was 18.5%.²⁶ As a result a large number of community housing tenants are Pacific people.²⁷ Pacific people make up approximately 7 % of the population but comprise:

²² <http://www.oecd.org/eco/surveys/New-Zealand-2015-overview.pdf>

²³ http://www.nzchildren.co.nz/#toc_17

²⁴ Ibid.

²⁵ Ministry of Business, Innovation and Employment, (July, 2014), *He Whare Āhuru, he Oranga Tāngata: Māori Housing Strategy 2014-2025*, at p 4. Available at: <http://www.mbie.govt.nz/info-services/housing-property/Māori-housing-strategy/document-image-library/strategy.pdf>

²⁶ <http://www.stats.govt.nz/Census/2013-census/profile-and-summary-reports/quickstats-about-housing/home-ownership-individuals.aspx>

²⁷ <http://www.mbie.govt.nz/info-services/infrastructure-growth/pacific-economic-development/documents-image-library/mbie-pacific-economic-strategy.pdf>

- 25% of those who live in severe housing deprivation;²⁸ and
- 27% of all Housing NZ tenants (Social housing).²⁹

43. A project on Housing and Disability commissioned jointly by the Centre for Housing Research and the Office for Disability Issues in 2007 found that there is considerable unmet need for accessible, safe, warm, and comfortable housing for people with mobility impairments.³⁰ The report noted that the demand for such housing is likely to increase as the number of people who have a disability or mobility impairment increases and recommended that accessible and universal design principles be incorporated into ‘ordinary’ mainstream housing. Despite the recommendations being published more than eight years ago, media stories suggest finding suitable housing is an ongoing issue for disabled people across the country.³¹

Canterbury Earthquake Recovery

44. In 2012 the Committee recommended that New Zealand “*adopt a human rights approach to reconstruction efforts, ensuring thereby appropriate consideration to availability, affordability and adequacy of housing, including for temporary housing. In this regard, the Committee refers the State party to its general comment No. 4 (1991) on the right to adequate housing.*” Despite the continuing efforts of government – both central and local – many people remain in inadequate housing which is having a significant impact on their mental health and wellbeing.

²⁸ University of Otago, Sever Housing Deprivation: The problem and its measurement (2013), <http://www.statisphere.govt.nz/further-resources-and-info/official-statistics-research/series/2013/severe-housing-deprivation.aspx>

²⁹ Housing New Zealand, Briefing to Incoming Minister 2014, <http://www.hnzc.co.nz/our-publications/briefing-to-the-incoming-minister/briefing-for-the-minister-of-housing-2014/briefing-for-the-incoming-minister-2014.pdf>

³⁰ <http://www.chranz.co.nz/pdfs/housing-and-disability-future-proofing-new-zealands-housing-stock-for-an-inclusive-society-bulletin.pdf>

³¹ See for example:

<http://www.stuff.co.nz/dominion-post/news/67925111/Disabled-dumped-in-rest-homes>

<http://www.stuff.co.nz/national/health/64958628/Special-needs-family-face-life-in-tent>

<http://www.stuff.co.nz/marlborough-express/news/65347648/Lack-of-suitable-housing-for-people-with-disabilities>

<http://www.stuff.co.nz/national/65485571/long-wait-for-modifications-forces-boy-to-shower-at-stadium>

<http://www.stuff.co.nz/national/health/8256621/Disabled-look-for-alternative-to-rest-home-life>

<http://www.stuff.co.nz/auckland/local-news/auckland-city-harbour-news/8537743/Home-access-appeal/>

<http://www.stuff.co.nz/auckland/local-news/eastern-courier/8413511/Auckland-needs-mobility-friendly-housing>

45. In 2012 the government did not consider that housing was an issue of the magnitude that is now acknowledged. Since then the government has commissioned numerous reports and projects on the housing situation in New Zealand.³² Housing is now a key priority for government.
46. **The Committee may wish to consider including the following questions in its LOIPR for New Zealand:**
- **What information does the government have on the gaps in realisation (disaggregated by ethnicity, disability and family status) of the right to adequate housing under each of the indicia of the right to adequate housing as set out in General Comment 4?**
 - **What measures has the government taken to address each indicia of the right to adequate housing as set out in General Comment 4?**
 - **What measures has the government taken, or intends to take, to ensure that public and private providers of rental housing uphold and protect human rights?**
 - **What steps is the government taking to address the lack of suitable housing for disabled people in New Zealand?**
 - **Can the government update the Committee on the housing situation in Canterbury and advise on the steps it is taking to address the right to adequate housing for all Cantabrians?**

C. Education

47. New Zealand's National Certificates of Educational Achievement ("NCEA") are national qualifications for senior secondary school students. NCEA is recognised by employers and used as the benchmark for selection by universities and polytechnics. Education achievement of Level 2 NCEA is a significant indicator of positive outcomes in later life.
48. *Ka Hikitia – Accelerating Success 2013-2017* outlines five focus areas to raise Māori achievement in education, namely improving Māori language, increasing early-childhood education ("ECE"), improving achievement in primary and secondary education, increasing success in tertiary education, and for education sector agencies to create conditions for Māori students to achieve. Since *Ka Hikitia* was introduced, more Māori children are attending ECE and Māori students' performance in National Standards (reading, writing and mathematics) and since 2013 attainment of NCEA

³² See for example:

http://www.productivity.govt.nz/sites/default/files/Final%20Housing%20Affordability%20Report_0_0.pdf and <http://www.productivity.govt.nz/sites/default/files/using-land-for-housing-final-report-full%2C%20PDF%2C%204511Kb.pdf>

Level 2 has increased by approximately 2 %.³³

49. Māori participation and achievement in tertiary education has also increased in recent years. Twenty eight percent of Māori students were studying at Bachelors level and above in 2014, up from 21 % in 2007. The rate at which Māori complete qualifications has also increased: of Māori who started full-time study at Level 4 or above in 2007, 62 % had completed a qualification within five years, compared with a rate of 53 % for those who started in 2004.³⁴
50. However, as acknowledged in *Ka Hikitia*, more needs to be done. Accordingly it sets the following targets:
- 98% of children starting school will have participated in early childhood education in 2016;
 - 85% of all 18 year olds will have achieved NCEA level 2 or an equivalent qualification in 2017; and
 - 60% of 25 to 34 year olds will have a qualification at Level 4 or above on the New Zealand Qualifications Framework by 2018.
51. Despite these improvements, current data shows a continuing gap between Māori and other ethnicities.³⁵ In 2014, 67.7% of Māori 18-year-olds had at least NCEA Level 2, compared with 85.1% of 18-year-olds of European descent, and the overall national rate of 81.2%.³⁶ Schools continue to stand-down, suspend, and exclude more Māori students than any other ethnic group.³⁷
52. Thirty two percent of Māori aged between 25 and 34 had qualifications at level 4 or above, compared with 54% for those of European decent.³⁸
53. Pacific students' performance in NCEA level 2 has also progressively improved. Seventy five percent of Pacific students achieved NCEA level 2 in 2014 compared with 65% in 2011. Pacific participation and achievement in tertiary education has also

³³ <http://www.education.govt.nz/assets/Documents/Ministry/Strategies-and-policies/Ka-Hikitia/KH-DataSnapshot2014.pdf>

³⁴ New Zealand's twenty first to twenty-second periodic reports under the International Convention on the Elimination of All Forms of Racial Discrimination

³⁵ Ministry of Education (August, 2015): http://www.stats.govt.nz/browse_for_stats/snapshots-of-nz/nz-social-indicators/Home/Education/18-year-olds-with-higher-qualif.aspx. See also Better Public Services targets – Boosting skills and employment: <http://www.ssc.govt.nz/bps-boosting-skills-employment>

³⁶ Ministry of Education (August, 2015): http://www.stats.govt.nz/browse_for_stats/snapshots-of-nz/nz-social-indicators/Home/Education/18-year-olds-with-higher-qualif.aspx

³⁷ <http://www.educationcounts.govt.nz/indicators/main/student-engagement-participation/stand-downs-suspensions-exclusions-expulsions> (date updated June 2015)

³⁸ http://www.stats.govt.nz/browse_for_stats/snapshots-of-nz/nz-social-indicators/Home/Education/ed-attainment-adults.aspx

increased in recent years.³⁹

54. However, despite these improvements the gap between Pacific and other ethnicities remains. In 2014, 75% of Pacific 18-year-olds had at least NCEA Level 2, compared with 85.1% of 18-year-olds of European descent, and the overall national rate of 81.2%.⁴⁰
55. In 2010, the Ministry of Education introduced its *Success for All – Every School, Every Child* policy programme, which sought to achieve a fully inclusive school environment by 2014. The final 2015 evaluative report on *Success for All* produced by the Education Review Office (“ERO”) indicates that, while the policy’s objective of a fully inclusive educational environment was not reached, some progress has been made. ERO’s 2014 evaluation of a sample of 152 schools found that 78% were “mostly inclusive”, compared to 50% in 2010.
56. However, ERO also reported that only half of the schools in the sample were effective in promoting achievements and outcomes of students.⁴¹ ERO went on to issue broad recommendations for schools and the Ministry of Education focused at improving the use of achievement data, increasing teacher capability, and improving the information available to school boards.⁴²
57. *Success for All* has now concluded and is yet to be succeeded by a new inclusive education policy or strategy. While the Ministry of Education has affirmed the application of the inclusive education principles of Article 24 of the Convention on the Rights of Persons with Disabilities to primary and secondary schools⁴³, the Education Act 1989 is yet to be updated to explicitly include or reflect those principles.
58. Parliament’s Education and Science Select Committee is undertaking an Inquiry into the identification of and support for students with dyslexia, dyspraxia, and autism spectrum disorders. The Inquiry may have significant implications for the education sector. A considerable number of students in New Zealand schools are affected by dyslexia (approximately 10% of the school population) and dyspraxia (6%). Students with autistic spectrum disorders are estimated to constitute around 1%.

³⁹ <http://www.educationcounts.govt.nz/statistics/pasifika-education/progress-against-pasifika-education-plan-targets>

⁴⁰ Ministry of Education (August, 2015): http://www.stats.govt.nz/browse_for_stats/snapshots-of-nz/nz-social-indicators/Home/Education/18-year-olds-with-higher-qualif.aspx

⁴¹ Education Review Office, *Inclusive practices for students with special needs in schools*, March 2015, page 2, page 28 accessed <http://ero.govt.nz/National-Reports/Inclusive-practices-for-students-with-special-needs-in-schools-March-2015/National-report-summary>

⁴² Education Review Office, *ibid* p3-4

⁴³ Ministry of Education, *Supports and Services for Learners with Special Education Needs/Disabilities* April 2012

59. Recently the Ministry of Education released its *Special Education Update Action Plan*. Under the Plan the Ministry of Education will lead a programme of work that will significantly redesign the system of education for students with additional learning needs. Locally led projects in communities around the country will be rolled out in 2016 to improve service delivery.⁴⁴ Lessons learned from these projects will inform the redesign of the national service delivery model.
60. In May 2014 the Taskforce on Regulations Affecting School Performance reported to the Minister on how improved legislation and regulation could contribute to the goal of raising the achievement of all students. The Taskforce considered that the Education Act 1989 was out of date, did not reflect current practice and is no longer fit for purpose. The Ministry of Education is now reviewing the Education Act and in late 2015 undertook public consultation on the future of the Act. Participants were specifically asked to comment on the following 5 proposals:
- making sure everyone knows the goals for education - What the goals for education should be, and how national priorities for learners aged 0-18 years could be set out;
 - supporting school and kura boards to focus on what's important - How the responsibilities of boards can be made clearer, unnecessary red tape can be removed, and boards can respond more effectively to lift student and school performance;
 - enabling collaboration, flexibility and innovation - How resources can be better focused to get the best whole-of-community education outcomes;
 - making every school and kura a great one - How a graduated range of responses could be developed to better support schools when difficulties arise; and
 - making best use of local education provision - How local arrangements can support choice and diversity.
61. The Review of the Education Act presents an opportunity to clearly embed the right to education for all New Zealanders in the regulatory framework.
62. **The Committee may wish to consider including the following questions in its LOIPR for New Zealand:**
- **What concrete actions is the government taking to accelerate the narrowing of the gap in educational outcomes between Māori and Pacific, and other ethnicities?**
 - **What future measures does the Government intend to take to achieve a fully inclusive education system, now that the *Success for All* programme has concluded?**
 - **What steps has the government taken to ensure that the Special Education Update Action Plan is based on the principle of inclusive education?**

⁴⁴ <http://www.education.govt.nz/ministry-of-education/specific-initiatives/special-education-update/>

- **What steps is the government taking to ensure all aspects of the right to education are adequately protected in any new Education Act and corresponding regulations?**
- **Does the government plan to make any statutory amendments to codify an enforceable right to an inclusive education?**
- **Can the government update the committee on the educational outcomes of those children who are materially deprived, disaggregated by gender, ethnicity and family status?**

D. Health

63. As a group, Māori have poorer health outcomes than non-Māori for many indicators:

- the life expectancy gap between Māori and non-Māori has been steadily narrowing. The difference in life expectancy for Māori males and non-Māori males has dropped from around 13 years in 1950 -1952 to around 7 years today. In 2013, life expectancy at birth was 73.0 years for Māori males (still 7years) and 77.1 years for Māori females; it was 80.3 years for non-Māori males and 83.9 years for non-Māori females;⁴⁵
- Māori have higher rates than non-Māori for many health conditions and chronic diseases, including cancer, diabetes, cardiovascular disease and asthma;⁴⁶
- Māori experience higher disability rates;⁴⁷ and
- Māori adults and children are also more likely than their non-Māori counterparts to have unmet health needs.⁴⁸ In this regard, barriers continue to exist in relation to cost, childcare availability and transport.

64. Pacific people also continue to experience poorer health outcomes than other groups:

- life expectancy is more than four years less than for the total population – 73.9 years for Pacific men and 78.9 years for Pacific women;
- Pacific children are nearly 50 times more likely as European children to be admitted to hospital with acute rheumatic fever;

⁴⁵ NZ Social Indicators – health: http://www.stats.govt.nz/browse_for_stats/snapshots-of-nz/nz-social-indicators/Home/Health.aspx

⁴⁶ Ministry of Health, (2015). *Tatau Kahukura: Māori Health Chart Book 2015 (3rd edition)*. Wellington: Ministry of Health. <http://www.health.govt.nz/publication/tatau-kahukura-Māori-health-chart-book-2015-3rd-edition>

⁴⁷ Ibid.

⁴⁸ Ministry of Health, (2015). *Tatau Kahukura: Māori Health Chart Book 2015 (3rd edition)*. Wellington: Ministry of Health. <http://www.health.govt.nz/our-work/populations/Māori-health/tatau-kahukura-Māori-health-statistics/nga-ratonga-hauora-kua-mahia-health-service-use/primary-health-care>

- pacific people experience higher levels of unmet primary health care needs – the cost of visits to doctors and prescriptions have been identified as key barriers;
 - infant mortality rates have remained static at about 20% higher than for the rest of the population; and
 - pacific peoples have higher rates of infectious diseases than other New Zealanders making up approximately 32% of hospitalizations for infectious disease.⁴⁹
65. People with intellectual disabilities continue to experience poor health outcomes across all indices and face significant barriers to accessing appropriate and adequate primary health care services. The Committee on Economic, Social and Cultural Rights at New Zealand’s last review recommended that the government “ensure that its primary health system is adequately equipped to provide care to persons with intellectual disabilities.”
66. The Commission understands that after many years of inaction the government has now committed to taking concrete action to address the enduring disparity in health outcomes for people with intellectual disabilities.
67. **The Committee may wish to consider including the following questions in its LOIPR for New Zealand:**
- **What steps is the government taking to improve health outcomes for Māori and Pacific people?**
 - **How is progress measured and monitored?**
 - **What steps is the government taking to address each element of the right to health for Māori and Pacific people?**
 - **Can the government please update the committee on the concrete steps it is taking to improve the health of people with intellectual disabilities and to ensure that the primary health system provides appropriate care to them?**

E. Employment

⁴⁹ http://www.bpac.org.nz/BPJ/2010/November/docs/BPJ_32_infectious_pages_10-14.pdf

68. While labour market outcomes for Māori improved slightly over 2015, the Māori unemployment rate (12.6%) at September 2015 was more than double the national rate (6%) and has increased by 1% since 2009. Labour market participation was also slightly lower (at 66.6%, compared to the national rate of 68.6%).⁵⁰
69. The rate of Māori young people not engaged in employment, education or training (“NEET”), while lessening slightly in recent years, is also higher than that of other ethnic groups. As at September 2015, the NEET rate for Māori was around double that of Europeans and the national average (20.8% for Māori; 9.4% for Europeans; 11.4% for other ethnic groups).⁵¹
70. The labour market participation rate for Pacific peoples in 2015 was 63.2 % (up 0.5% from the previous year). Fewer Pacific people were NEET, 16.5% (down from 18% the previous year). The Pacific unemployment rate also dropped. However, it remained twice as high as the national rate at 12.1%.⁵²
71. Data from the Disability Survey 2013⁵³ showed that only half of disabled adults participated in the labour force, compared to three-quarters of non-disabled adults. Disabled people in the labour force are also considerably more likely to be unemployed. In 2013 disabled people had an unemployment rate of 9%, compared with 5 % for non-disabled people.⁵⁴ The rate of unemployment for disabled people was also recorded as 9% in the 2001 Disability Survey, showing the situation has not improved in recent years.
72. A recent Westpac online survey showed that LGBTI workers were twice as likely to experience bias in the workplace and 27% experienced discrimination at work due to their sexual identity.⁵⁵

⁵⁰ Statistics NZ, (November, 2015), *Māori in the Labour Market – September 2015*. Available at: <http://www.mbie.govt.nz/info-services/employment-skills/labour-market-reports/Māori-labour-market/Māori-sep-2015>. Statistics NZ, (November, 2015), *Labour Market Statistics – September 2015*, available at: http://www.stats.govt.nz/browse_for_stats/income-and-work/employment_and_unemployment/labour-market-statistics-information-releases.aspx.

⁵¹ Statistics NZ, (November, 2015), *Māori in the Labour Market – September 2015*. Available at: <http://www.mbie.govt.nz/info-services/employment-skills/labour-market-reports/Māori-labour-market/Māori-sep-2015>.

⁵² <http://www.mbie.govt.nz/info-services/employment-skills/labour-market-reports/pacific-peoples-labour-market-trends/september-2015>

⁵³ http://www.stats.govt.nz/browse_for_stats/health/disabilities/disability-and-labour-market.aspx

⁵⁴ Ibid.

⁵⁵ Westpac survey: Kiwi workplace acceptance of Rainbow Community surface deep. <http://www.westpac.co.nz/rednews/business/westpac-survey-kiwis-only-surface-deep-acceptance-of-rainbow-community/>

73. The female labour force participation rate (for women aged 15 and over) rose from 63.1% during the March 2012 quarter to 64.5 % in the year to March 2015. However, despite an increase in qualifications, women remain over-represented in minimum wage jobs. In 2014, 66.6 % of minimum wage earners over 25 were women.⁵⁶
74. New Zealand women have made significant progress in participation in many areas of the labour market. However, the levels of participation are not always matched by levels of representation in corporate governance and in senior management in the public and private sectors. Women represent 33 % of elected officials in local government, the judiciary increased slightly over the reporting period to 29 per cent, and representation in national politics remained static at 32 %. Although women comprise 60 per cent of all public servants, only 24.1% are chief executives of public service departments and 44.2% of senior management are female.⁵⁷ While the government made a commitment in 2011 to 45 % participation on state sector boards,⁵⁸ this figure has remained stagnant over the last 10 years and as at December 2014 women made up 41.7% of Ministerial appointees.⁵⁹
75. At the Forty-Third Pacific Islands Forum, New Zealand endorsed the Gender Equality Declaration which outlined a commitment to “Adopt measures, including temporary special measures (such as legislation to establish reserved seats for women and political party reforms), to accelerate women’s full and equal participation in governance reform at all levels and women’s leadership in all decision making.”⁶⁰
76. Statistics released by the New Zealand Stock Exchange (“NZX”) show that the number of female directors has increased by only 5 % since 2013 – from 12.4 % to 17% in 2015. While NZX Main Board listed companies are required to provide a breakdown of the gender composition of their Directors and Officers, there is no mandatory requirement to establish and disclose gender/diversity policies. Businesses can play a key role in advancing human rights within their organisations and the wider community through accelerating gender equality in their companies by setting targets or adopting special measures.

Gender pay gap

77. The gender pay gap has increased slightly over the reporting period. In 2015 women’s median hourly earnings were \$21.23 compared with \$24.07 for men, a pay gap of

⁵⁶ Minimum Wage Reviews 2014, Ministry of Business and Employment.

⁵⁷ Ibid.

⁵⁸ Ministry of Women’s Affairs, “2014 -2018 Strategic Intentions” Presented to the House of Representatives pursuant to section 39 of the Public Finance Act 1989 in 2014.

⁵⁹ Ministry of Womens’ Affairs, Draft CEDAW report 2016.

⁶⁰ Pacific Islands Forum, “43rd Pacific Islands Forum Communique”, (1 September 2012), <http://www.scoop.co.nz/stories/WO1209/S00002/43rd-pacific-islands-forum-communique.htm>

11.8 % - compared to 9.6 % in 2012. The Commission’s Tracking Equality at Work tool found that when demographic characteristics are combined, the degree of inequality in employment for women is amplified.⁶¹ For example, Pacific and Māori women are paid a lower rate than European women. Disabled women have lower incomes than disabled men. Pacifica women are particularly over-represented in minimum wage jobs.⁶²

78. The State Services Commission Human Resources Capability Survey of the public sector showed that the pay gap between men and women in key leadership roles has not improved since 2010. Moreover, the pay gap for women at lower levels of the public service is 14%, the equivalent of \$11,000.⁶³
79. In 2016 all but 1 government department had gender pay gaps. Nine had pay gaps of 20% or more. The highest was 39% and the average 14%.⁶⁴
80. In New Zealand’s recent UPR, 36 recommendations were made in relation to women, a number of which related to the gender pay gap. Although the government accepted these recommendations, the actions recorded in the NPA only commit to monitoring the gender pay gap, not any measurable outcomes.
81. Both the HRA and the New Zealand Bill of Rights Act recognise that to overcome discrimination, positive actions may be needed to enable particular groups to achieve equal outcomes with other groups in our society. ‘Special measures’ or ‘affirmative action’ are not discriminatory if they assist people in certain groups to achieve equality where information shows that the present position is unequal. The State Services Commission support affirmative action with regard to achieving equal employment opportunities.
82. In October 2014, the Court of Appeal issued a decision in *TerraNova v Service and Food Workers Union (SFWU)* on the interpretation of the Equal Pay Act 1972 (“EPA”). The Court of Appeal confirmed an earlier Employment Court decision that:
 - the EPA provides for equal pay for work of equal value (pay equity) meaning women should receive the same pay as men for jobs that require similar skill, effort and responsibility;
 - the Employment Court may look beyond the immediate employer or industry for comparators if an appropriate comparator does not exist in the immediate employer or industry; and

⁶¹ NZ Human Rights Commission, “Tracking Equality at Work” (webtool), <http://tracking-equality.hrc.co.nz/#/>

⁶² Nz Human Rights Commission, “Tracking Equality at Work - pay” (webtool <http://tracking-equality.hrc.co.nz/#/issue/pay>)

⁶³ State Services Commission, “Human Resource Capability in the New Zealand State Sector” (December 2015) http://www.ssc.govt.nz/sites/all/files/hrc-survey-2015_0.pdf

⁶⁴ State Services Commission, Gender Pay Gap by Department 2008 - 2015

- the Employment Court must take into account evidence of systemic undervaluation of the work in question derived from current or historic or structural gender discrimination.

83. In response to this case the government has established two new processes:

- the *Government Joint working party on equal pay principles across the whole workforce* to develop a set of principles for implementation of equal pay in female dominant work forces; and
- a process to negotiate a settlement for care and support workers to try and resolve the *TerraNova* case before it is due to return to court in March 2016.

84. **The Committee may wish to consider including the following questions in its LOIPR for New Zealand:**

- **What steps is the government taking to increase the participation of Māori, Pacific People and disabled people in the labour market?**
- **What steps is the government taking to increase the representation of women in corporate governance and senior management in the public sector?**
- **What steps is the government taking - together with NZX - to require listed companies to establish and disclose gender polices including measurable objectives and implementation in their annual reports in line with the United Nations Guiding Principles on Business and Human Rights?**
- **What is the government's position on the use of special measures in both the public and private sector to assist in accelerating the realisation of women's equality with men in light of the fact that there has been little to no change in the gender pay gap over 10 years?**
- **How does the government plan to implement SDG Goal 5 – achieving gender equality and empower all women and girls?**
- **What targets has the government set to eliminate the gender pay gap in the public sector? How are these targets monitored?**
- **What specific measures does the government have in place to reduce the gender pay gap particularly for Māori, Pacific, and disabled women?**
- **Can the government update the committee on the work of the Joint Working Party on equal pay principles and any other steps it is taking to achieve pay equity across the labour market?**

F. *Criminal Justice System*

85. Fourteen percent of the population is Māori. The vast majority – approximately 95% - do not come into contact with the justice system. However, those who do come into contact with the justice system are disproportionately represented at every stage of the process.
86. A recent report from the New Zealand Police, *A review of Police and Iwi/Māori relationships: working together to reduce offending and victimisation among Māori* (“Review”), confirmed that “Māori comprise 45% of arrests, 38% of convictions and over 50% of prison inmates.”⁶⁵ Māori are significantly more likely than non-Māori to be reconvicted and re-imprisoned.
87. The Review acknowledged that “on average, Māori experience more factors which contribute to offending and victimisation: low education, low skills, unemployment, drug and alcohol abuse, and living in deprived neighbourhoods. These are often linked and mutually reinforcing so that they can create a vicious cycle in people’s lives.”⁶⁶ The factors which increase the likelihood of exposure to the criminal justice system (“CJS”) can then be compounded by bias within the CJS. This can take the form of direct discrimination and/or indirect discrimination.⁶⁷
88. As the Working Group on Arbitrary Detention (“WGAD”) acknowledged, it is important to address those underlying risk factors which increase the likelihood of exposure to the criminal justice system. The WGAD stated:⁶⁸
- the search needs to continue for creative and integrated solutions to **the root causes which lead to disproportionate incarceration rates of the Māori population.***
- (Emphasis added)
89. Over the last three years, as a result of the *Drivers of Crime* initiative – a whole of government approach to reduce offending and victimisation – the number of young Māori appearing in court has reduced by 30%.⁶⁹ Building on the *Drivers of Crime* initiative, the Government launched the Youth Crime Action Plan (“YCAP”) in October 2013. This plan aims to reduce youth crime and recidivism. An updated work programme for the YCAP is currently being developed by the Ministry of Justice.
90. In addition, a recent crime and crash prevention strategy, *The Turning of the Tide*,⁷⁰ sets targets for reduced Māori offending, repeat offending and apprehensions. The

⁶⁵ <http://www.police.govt.nz/sites/default/files/publications/review-of-police-and-iwi-Māori-relationships.pdf> at i.

⁶⁶ Ibid at i.

⁶⁷ Ibid.

⁶⁸ Supra note 23.

⁶⁹ Minister of Justice, *Opening remarks to the UN Human Rights Council*, January 2014.

⁷⁰ <http://www.police.govt.nz/sites/default/files/resources/the-turning-of-the-tide-strategy.pdf>

Turning of the Tide approach is based on developing relationships and partnerships with iwi and has proved successful. The Commission understands that it has now been extended across other areas of the justice system.

91. **The Committee may wish to consider including the following questions in its LOIPR for New Zealand:**

- **What steps has the government taken to implement the Youth Crime Action Plan? What impact(s) on youth crime rate is/are demonstrably attributable to the Plan?**
- **Will specific actions will be included in the Youth Crime Action Plan to address the disproportionate representation of Māori in all levels of the Criminal Justice system?**
- **What programmes has the government implemented to extend the focus on partnerships with iwi across all areas of the criminal justice system?**
- **Since the Drivers of Crime initiative what additional steps has the government taken to address the underlying root causes of offending? How effective have these been?**
- **What actions is the government taking to ensure that justice, social sector and care and protection initiatives for Māori are linked up and are based on partnerships with iwi?**

G. *Asylum Seekers*

92. New Zealand has a long standing commitment to providing extensive settlement support to UNHCR resettled refugees. However, this same level of support is not always extended to asylum seekers and Convention refugees. This can severely impact on this group's ability to successfully settle in New Zealand and their long-term mental and physical wellbeing.

93. Public health care is available, social security benefits are available for most asylum seekers and housing is generally available on the same terms as nationals (through both the social and private housing markets). For most asylum seekers in the community things work well. However, for others it does not.

94. The way in which some of these services are administered does not take into account the particular and inherent vulnerability of the asylum situation. In other cases the provision is not adequate.

95. **The Committee may wish to consider including the following questions in its LOIPR for New Zealand:**

- **What steps is the government taking to review the availability, accessibility and adequacy of social security benefits, health care, housing, education and employment opportunities for all people from refugee backgrounds – asylum seekers, UNHCR resettled refugees, and family members who come to New Zealand under its refugee family reunification programme?**
- **What steps is the government taking to ensure that settlement support and other social services are provided to all people from refugee backgrounds without discrimination?**

4. VIOLENCE AND ABUSE

A. Women

96. In 2014, there were 7163 recorded male assaults female offences and 6103 recorded offences for breaching a protection order.⁷¹ There were 1,927 reported sexual offences against an adult over 16 years. While these statistics are compelling, they do not reflect the full picture – only 1 in 10 sexual assaults are actually reported to Police⁷² and only 3 of them are prosecuted.
97. Twenty four percent of New Zealand women report having experienced sexual assault in their lifetime.⁷³ Seventy three percent of these assaults were perpetrated by a partner, ex-partner or other family member. One in three (35.4%) ever-partnered New Zealand women report having experienced physical and/or sexual Intimate Partner Violence (“IPV”) in their lifetime. When psychological/emotional abuse is included, 55% report having experienced IPV in their lifetime.
98. In 2014, Women’s Refuges received 78,161 crisis calls. 5,198 women accessed advocacy services in the community and 2,794 women and children stayed in safe houses.
99. The Commission notes that women with disabilities are much more likely to suffer from domestic violence than other women in New Zealand^{74,75}
100. The continuing high level of violence against women and girls remains one of New Zealand’s greatest contemporary challenges. The absence of an agreed common understanding and definition of family and sexual violence and a lack of appropriate data and indicators invariably limit the ability to monitor and evaluate the effectiveness of various programmes and services.⁷⁶
101. The Commission met with key civil society groups in the development of the New Zealand’s second National Plan of Action on Human Rights (“NPA”). The lack of adequate and sustainable funding for some programmes, and the absence of joined up

⁷¹ <https://nzfvc.org.nz/news/increasing-family-violence-calls-fewer-resolutions-nzfvc-data-summaries-2015>

⁷² <http://www.justice.govt.nz/publications/global-publications/n/new-zealand-crime-and-safety-survey-2014/publications/global-publications/n/new-zealand-crime-and-safety-survey-2014/documents/nzcass-main-findings-report>

⁷³ <http://www.justice.govt.nz/publications/global-publications/n/new-zealand-crime-and-safety-survey-2014/publications/global-publications/n/new-zealand-crime-and-safety-survey-2014/documents/nzcass-main-findings-report>

⁷⁴ Statement by the Minister of Women’s Affairs at the launch of the publication “Domestic Violence and Disabled People” in 2011.

⁷⁵ Also confirmed in Carolyn Frohmader and Therese Sands, “Fact Sheet: Violence Against People with Disabilities in Institutions and Residential Settings, November 2014.

<http://www.pwd.org.au/documents/orgdocs/FS-Violence-PWD2014.doc> (accessed 14 January 2016).

⁷⁶ Reported sexual assaults only account for 1% of actual assaults.

programmes and services that are monitored and evaluated were highlighted as key concerns.

102. It is encouraging therefore that in July 2015 the Government launched a comprehensive work programme that was client-focused to address duplication, fragmentation, and gaps, with a whole of Government approach.⁷⁷ In the Ministerial Group on Family Violence and Sexual Violence Cabinet Paper,⁷⁸ there is also acknowledgement, among other things, of developing shared definitions for sexual and family violence.
103. There are a number of other promising new initiatives underway including a proposed population survey to ascertain the full extent of family and sexual violence in New Zealand, a more efficient and ‘mobile’ way that Police are collecting family violence data, an innovative new model of how victims of sexual violence are managed, and the pilot of healthy relationship training in nine secondary colleges.
104. Business has an important role to play in addressing domestic violence. The Impacts of Domestic Violence on Workers and the Workplace 2014 Survey commissioned by the Public Service Association (PSA) revealed that half of respondents had some experience of family violence and over 25% had direct experience in New Zealand.⁷⁹
105. Recent research has found that domestic violence is a workplace issue and estimated to cost employers in New Zealand on average \$368 million a year or \$3.7 billion dollars when combined over the next ten years. The report concluded by stating that workplace protections could reduce cost and increase productivity.⁸⁰
106. **The Committee may wish to consider including the following questions in its LOIPR for New Zealand:**
 - **What steps is the government taking to develop in consultation with civil society an agreed definition of sexual and family violence and an appropriate minimum data set of indicators?**
 - **What is the government doing to co-ordinate and monitor all interventions to reduce violence and to ensure that they are adjusted and extended as required on the basis of robust empirical evidence?**
 - **What steps is the government taking to ensure that workplace policies support employees who are experiencing family violence?**

⁷⁷ <https://www.national.org.nz/news/news/media-releases/detail/2015/07/29/Launch-of-new-family-violence-work-programme>

⁷⁸ https://beehive.govt.nz/webfm_send/68

⁷⁹ Margaret Michelle Rayner- Thomas, “The impacts of domestic violence on Workers in the Workplace”, A thesis submitted in partial fulfilment of the requirements for the degree of Master of Public Health (MPH), The University of Auckland, 2013. <https://www.psa.org.nz/media/>

⁸⁰ PSA, “Productivity Gains from Workplace Protection of Victims of Domestic Violence” (21 March 2014).

B. Children and Young people

107. The government has set a target for the public service to halt the ten year rise in children experiencing physical abuse and reduce the total number to 3,000 by 2017.
108. While there has been some good progress, the level of family violence in New Zealand is unacceptably high. New Zealand has the fifth worst child abuse record of 31 OECD countries.
109. In 2014, there were 3178 reported cases of children being physically abused, 1294 of being sexually abused and 9,499 who suffered emotional abuse and neglect.⁸¹ This is a decrease of 12 % from 2013 where 3,181 children were reported as being physically abused, 1,423 were sexually abused and 11,386 suffered emotional abuse and neglect.⁸²
110. **The Committee may wish to consider including the following questions in its LOIPR for New Zealand:**
- **What additional measures does the government intend to take to reduce the prevalence of violence and abuse against children – particularly those aimed at reducing family stressors?**
 - **What measures does the government intend to take to evaluate the impact of new policies on reducing the prevalence of violence and abuse against children?**
111. Violence and bullying is endemic in New Zealand schools. Effects on victims can include living with anxiety and fear, lowered self-esteem, engagement in risk-taking behaviours such as substance abuse, self-harming, truanting and dropping-out from school, with associated long term adverse impacts. Victims may also suffer mental health issues including suicidal ideation, relationship difficulties and impeded emotional, behavioural and cognitive development.⁸³ Disabled children and young people, and same-sex attracted, both sex-attracted, trans and intersex children and young people are disproportionately affected by violence in schools.
112. In 2013, the Government established a Bullying Prevention Advisory Group (“BPAG”) whose members included the Secretary for Education, the Children’s Commissioner, the Human Rights Commission and education sector professionals, to address the problem. The BPAG produced non-regulatory guidelines to assist schools develop and

⁸¹ <http://www.scoop.co.nz/stories/PA1501/S00097/child-abuse-down-by-12-%-but-still-way-too-high.htm>

⁸² Ibid.

⁸³ Office of the Children’s Commissioner (2009) *School Safety: An Inquiry into the safety of students at school*

administer bullying prevention practices and programmes.⁸⁴ The guidelines contain reference to obligations upon schools to prevent bullying.

113. However, the principal legislation governing the school sector, the Education Act 1989, does not contain any provisions that establish explicit obligations upon schools to prevent bullying, nor are any contained in the National Administrative Guidelines for schools, issued under that Act.

114. The BPAG 2016 strategic plan includes the following key activities:

- develop an interagency bullying prevention centralised website;
- establish a Bullying Prevention Week and profile bullying prevention best practice through the media;
- heighten awareness of the importance of addressing bullying systematically and proactively by supporting school communities in the development of best practice by providing the knowledge and resources they need to facilitate and sustain their bullying prevention and response efforts; and
- encourage building the evidence-base for effective practice:
 - enhancing the capacity to collect data;
 - encouraging research and evaluation to identify what works;
 - collecting and sharing best / informed practice; and
 - supporting new developments / innovations in line with the evidence.

115. **The Committee may wish to consider including the following question in its LOIPR for New Zealand:**

- **What steps has the government taken to systematically collect data on violence and bullying in schools; monitor the impact of the student mental health and well-being initiatives recently introduced in schools on the reduction of the incidence of violence and bullying; and assess the effectiveness of measures, legislative or otherwise, in countering violence and bullying?**
- **What steps has the government taken towards implementing a binding obligation on schools to prevent violence and bullying?**

C. Disabled people

116. A recent study⁸⁵ focusing on violence against disabled people highlighted the hidden nature of much abuse directed against disabled people living in care situations akin to

⁸⁴ <http://www.wellbeingatschool.org.nz/sites/default/files/Bullying-prevention-and-response-A-guide-for-schools.pdf>

⁸⁵ *The Hidden Abuse of Disabled People Residing in the Community: An Exploratory Study*, Roguski, M (18 June 2013) <http://www.communityresearch.org.nz/wp-content/uploads/formidable/Final-Tairawhiti-Voice-report-18-June-2013.pdf>.

a family relationship within the community. In addition to the physical, emotional and sexual abuse experienced by non-disabled people, “locked in” and “silencing” violence is often specifically directed at disabled people.

117. The report noted that it was reasonable to interpret the Domestic Violence Act 1995 as generally excluding people in employer/employee relationships, such as care workers, from the definition of a domestic relationship. The author continued:⁸⁶

As such, it is not clear whether the Act adequately protects disabled people experiencing abuse in home-care/live-in support situations. There appears to be an uncertainty about the legal protection available to disabled people experiencing such abuse, and particularly emotional and psychological abuse.

118. **The Committee may wish to consider including the following questions in its List of Issues for the New Zealand:**

- **What steps is the government taking to ensure that the Domestic Violence Act 1995 applies to disabled people in community care?**
- **How will the government specifically track violence/domestic violence against people with disabilities and educate the public as to the disability/violence nexus?**

D. Transgender women

119. In 2015, there were anecdotal reports regarding the human rights abuses and discrimination of transgender women⁸⁷ including rape, violence and threats of violence for inmates in prison⁸⁸ and an apparent lack of understanding from the judiciary regarding gender identity issues.⁸⁹

120. Genital-normalising treatment, involving both surgery and hormone therapy, occurs in New Zealand. Concerns have been raised with the Commission that it is often not medically necessary, not always consistent with the person’s gender identity, can pose severe risks for sexual and reproductive health and is often performed without free and fully informed consent. Section 240A of the Crimes Act 1961 criminalises surgery on the female genitalia of any person, in certain situations. Despite international developments regarding the prohibition of surgical genital normalising interventions

⁸⁶ Ibid.

⁸⁷ Anna Leask, “Details of trans discrimination in New Zealand Revealed, 2 July 2015, http://m.nzherald.co.nz/lifestyle/news/article.cfm?c_id=6&objectid=11474211 (accessed 13 January 2015).

⁸⁸ David Fisher, “Possible changes to system after transgender inmate's alleged rape” 7 October 2015 http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11524653 (accessed 13 January 2016).

⁸⁹ GAYNZ, “Judge says transwoman’s identity is a “lifestyle choice,” 14 October 2015, http://www.gaynz.com/articles/publish/2/article_17420.php (accessed 13 January 2016).

until children are able to make their own full and informed decisions, this issue has not been directly addressed by the New Zealand government.

121. **The Committee may wish to consider including the following questions in its List of Issues for the New Zealand:**

- **What steps is the government taking to protect gender minorities from violence and abuse?**
- **How is this measured and monitored?**

5. ADDITIONAL MATTERS

122. The Commission wishes to draw 4 additional matters to the Committee's attention:

- mental health in detention;
- legislative recognition of economic, social and cultural rights;
- the optional protocol to ICESCR; and
- the realisation of economic, social and cultural rights in Tokelau.

A. *Mental Health in detention*

123. The high prevalence of mental health issues amongst people in detention, and their access to care and treatment in detention are longstanding issues. Sixty to seventy percent of people in prison have either a learning disability or mental illness.

124. In 2012 the Ombudsman completed an investigation into prison healthcare,⁹⁰ identifying deficiencies in the management of mentally unwell prisoners, and finding that aspects of the management of prisoners at risk of self-harm could be detrimental to their long term mental health. In general, it was found that services were insufficiently responsive to the diverse needs of prisoners requiring mental health care.

125. Also in 2012, the IPCA carried out a review of deaths in police custody,⁹¹ highlighting the effect of alcohol, drugs and mental health issues on people in Police custody as areas requiring attention. The 20 recommendations made by the IPCA included “to work towards establishing detoxification centres to provide appropriate care for heavily intoxicated people, and expansion of the watch-house nurse programme to help identify and manage detainees with mental health, alcohol or other drug issues.”⁹²

126. Despite some very positive developments, such as increased adolescent mental health services, improved screening for mental health issues in prisons, efforts to reduce seclusion, and a successful pilot initiative placing mental health nurses in Police watch houses, overall, mental health issues in detention remain a concern. An ongoing concern is that detainees experiencing mental illness should be professionally treated in a therapeutic environment, rather than managed in a custodial setting.

127. According to the New Zealand Police Mental Health Team, Police dealt with around 5,000 mental health related jobs in 1995/96. By contrast in 2103/14 Police responded to over 25,500 mental health related calls for assistance.⁹³

⁹⁰http://www.ombudsman.parliament.nz/system/paperclip/document_files/document_files/456/original/own_motion_prisoner_health.pdf?1349735789

⁹¹ <http://ipca.govt.nz/Site/media/2012/2012-June-30-Deaths-in-Custody.aspx>

⁹² Ibid.

⁹³ New Zealand Police, *Mental Health Team Newsletter*, November 2014, p2.

128. In March 2015 the IPCA released a review of Police custodial management⁹⁴ that identified systemic and organizational deficits that contributed to recurring problems in Police detention. Specifically, the IPCA noted that discussions with Police and Area Mental Health Services staff have clearly shown that the problems with the way Police respond to vulnerable and mentally impaired persons are commonplace.
129. The report highlighted the absence of appropriate alternatives to Police detention for dealing with vulnerable people, including those who have not committed an offence, and the lack of a timely response by Mental Health Services to mentally impaired persons in Police custody. The IPCA considers that, unless they are violent or pose an obvious and immediate threat to the safety of others, all practicable steps should be taken to avoid having mentally impaired people detained in Police cells solely for the purpose of receiving a mental health assessment.⁹⁵
130. Police have developed new training packages for both recruit and frontline officers based on feedback from Mental Health Service User (“MHSU”) groups, and acknowledged the importance of having MHSU involved in future thinking around mental health crisis response. Police watch houses with on-site mental health nurses have also resulted in better monitoring and continuity of care during police custody. The SPT recommended this practice be applied nationally.
131. **The Committee may wish to consider including the following question in its LOIPR for New Zealand:**
- **What steps is the government taking to develop a national strategy and agree a set of actions to ensure the provision of mental health care in places of detention which includes mechanisms to ensure the timely and appropriate sharing of individuals’ health information across Government agencies?**
 - **What actions – whether in YCAP or otherwise – has the government adopted to collect evidence, track and design interventions for individuals in youth justice custody who have neurodisability issues?**

B. Legislative recognition of economic, social and cultural rights

132. Despite New Zealand’s commitment to its international obligations, some significant gaps continue to exist in how New Zealand has incorporated these rights into domestic law. New Zealand’s policy of not ratifying a treaty until the necessary laws are already in place, together with a longstanding commitment to social welfare rights, has meant that its domestic law has generally provided an adequate framework for enforcing the international standards without further change being necessary.
133. However, in practice this can mean that not all of the rights contained in the various international treaties to which New Zealand is a party are given explicit domestic legal

⁹⁴ IPCA, *Review of Police Custodial Management*, Wellington (March 2015).

⁹⁵ *Ibid.*

expression or protection. For example, while aspects of social and economic rights are addressed in New Zealand through some legislation, at present economic social and cultural rights are not recognised as fundamental, justiciable rights.⁹⁶

134. A recent research project⁹⁷ evaluating the implementation of international human rights treaties in New Zealand provides a good analysis of the status of ICESCR domestically. The report found that:⁹⁸

Successive governments have argued that New Zealand's commitments under ICESCR have been realized by devising and developing administrative systems, policies and legislation to implement the obligations under the Convention and relied on public policy expressed through general Acts of Parliament such as the Education Act 1989, New Zealand Public Health and Disability Act 2000, Social Security Act 1964 and the Housing Corporation Act 1974 for compliance with ICESCR.

In effect New Zealand has argued the best way to implement ESCR obligations is through the establishment of a legislative and policy framework that sets a standard for all citizens to access ESCR. There is, however, no explicit reference to ESCR in Cabinet policy making or legislation.

135. The report concluded that unless economic, social and cultural rights are incorporated within a statutory framework it will be difficult to enforce the implementation of ICESCR obligations. The authors considered that:⁹⁹

The primary means for doing so will remain ensuring public policy and legislation reflect the international obligations although explicit reference to ICESCR in the Cabinet Manual would ensure greater attention is given to ESC obligations during the policy making process. Greater information and knowledge of ICESCR amongst NGOs and the community would increase the level of awareness of the ICESCR and expectations that Governments take active steps to implement these obligations.

136. In 2013 the Constitutional Review Panel released its final report. In that report it recommended that the government:

Sets up a process, with public consultation and participation, to explore in more detail the options for amending the [New Zealand Bill of Rights Act 1990] to improve its effectiveness such as:

- *Adding economic, social and cultural rights...*

⁹⁶ In the absence of a comprehensive constitutional document or entrenched legal provisions, economic, social and cultural rights are mainly provided for through policy and practice.

⁹⁷ McGregor, Bell and Wilson, *Fault Lines: Human Rights in New Zealand*, http://www.waikato.ac.nz/data/assets/pdf_file/0004/248782/NO-watermark-Fault-lines-Human-rights-in-New-Zealand.pdf

⁹⁸ *Ibid* at 53.

⁹⁹ *Ibid* at 60.

137. **The Committee may wish to consider including the following question in its LOIPR for New Zealand:**

- **What steps has the government taken to implement the recommendation from the Constitutional Review Panel to set up a process to explore options for amending the New Zealand Bill of Rights Act 1990 by *inter alia* adding economic, social and cultural rights?**

C. The Optional Protocol to ICESCR

138. Whilst New Zealand engaged constructively in the negotiation of the Optional Protocol to ICESCR, it has not agreed to ratification. The government has, however, indicated it may consider reviewing this position once the costs of the process are understood (along with the Optional Protocol to the CRPD).¹⁰⁰

139. **The Committee may wish to consider including the following question in its LOIPR for New Zealand:**

- **What steps has the government taken towards considering ratification of the Optional Protocol to ICESCR?**

D. The realisation of economic, social and cultural rights in Tokelau

140. Although the Commission does not have a mandate under the HRA in relation to realm countries, it reminds the Committee that a number of human rights instruments apply in realm countries through New Zealand treaty action, including the International Covenant on Civil and Political Rights (“ICCPR”) and its two Optional Protocols; the International Covenant on Economic, Social and Cultural Rights (“ICESCR”), the Convention Against Torture (“CAT”) and the Convention on the Elimination of Discrimination Against Women (“CEDAW”). The government does not have to report on Niue or the Cook Islands.¹⁰¹ It does, however, have a responsibility to report on the realisation of ICESCR rights in Tokelau.

141. **The Committee may wish to request in its LOIPR for New Zealand that the government provide further information on the realisation of Economic, Social and Cultural Rights in Tokelau.**

¹⁰⁰ National Report Submitted in Accordance with Paragraph 15(A) of the Annex to Human Rights Council, Resolution 5/1 at para 2.1.

¹⁰¹ Niue has had full treaty making capacity since 1994 and the government of the Cook Islands has “exclusive executive and legislative competence to implement treaties.”

APPENDIX 1: List of proposed questions to be included in LOIPR for New Zealand

The Committee may wish to consider including the following questions in its LOIPR for New Zealand:

1. BACKGROUND AND GENERAL MATTERS OF IMPLEMENTATION

A. Implementation of Sustainable Development Goals

- What steps is the government taking to incorporate the SDGs into its public policy framework?
- How does the government intend to monitor and review its progress in meeting its ICESCR related commitments under the SDGs?
- What steps is the government taking – as part of the Data Futures Partnership or otherwise - to develop systems to collect robust disaggregated data regarding the extent, cause and mitigating/aggravating factors for vulnerable populations in New Zealand?

B. Business and Human Rights

- What steps is the government taking to ensure businesses delivering goods or services, such as housing and health, understand their responsibilities under the UNGPs and comply with these responsibilities?
- What steps is the government taking to develop a National Action Plan on Business and Human Rights?
- What is the government doing to ensure that businesses involved in the earthquake recovery understand their responsibilities under the UNGPs and comply with these responsibilities?
- Can the government update the Committee on the cases taken to the National Contact Point in relation to the earthquake recovery?

2. INEQUALITIES

A. Material Deprivation

- When does the government intend to develop, introduce and implement the Vulnerable Children's Plan?
- Does the government intend to introduce measures to address the socio-economic well-being of vulnerable children under the auspices of the Vulnerable Children Plan, and, if so, does the government intend to broaden its scope for that purpose?

- If not, does the government intend to implement a systemic child poverty strategy underpinned by legislation as recommended by the EAG?
- Since 2012, how much additional spending has the government allocated for new policies specifically designed to reduce material deprivation caused by household income poverty, poor quality housing, poor educational outcomes and poor child health outcomes or to mitigate its causes or effects?
- What measures does the government take to ensure that the welfare and best interests of the child are taken into account in decision-making processes regarding benefit sanctions under the Social Security Act 1964?

B. Housing

- What information does the government have on the gaps in realisation (disaggregated by ethnicity, disability and family status) of the right to adequate housing under each of the indicia of the right to adequate housing as set out in General Comment 4?
- What measures has the government taken to address each indicia of the right to adequate housing as set out in General Comment 4?
- What measures has the government taken, or intends to take, to ensure that public and private providers of rental housing uphold and protect human rights?
- What steps is the government taking to address the lack of suitable housing for disabled people in New Zealand?
- Can the government update the Committee on the housing situation in Canterbury and advise on the steps it is taking to address the right to adequate housing for all Cantabrians?

C. Education

- What concrete actions is the government taking to accelerate the narrowing of the gap in educational outcomes between Māori and Pacific, and other ethnicities?
- What future measures does the Government intend to take to achieve a fully inclusive education system, now that the *Success for All* programme has concluded?
- What steps has the government taken to ensure that the Special Education Update Action Plan is based on the principle of inclusive education?
- What steps is the government taking to ensure all aspects of the right to education are adequately protected in any new Education Act and corresponding regulations?
- Does the government plan to make any statutory amendments to codify an enforceable right to an inclusive education?
- Can the government update the committee on the educational outcomes of those children who are materially deprived, disaggregated by gender, ethnicity and family status?

D. Health

- What steps is the government taking to improve health outcomes for Māori and Pacific people?
- How is progress measured and monitored?
- What steps is the government taking to address each element of the right to health for Māori and Pacific people?
- Can the government please update the committee on the concrete steps it is taking to improve the health of people with intellectual disabilities and to ensure that the primary health system provides appropriate care to them?

E. Employment

- What steps is the government taking to increase the participation of Māori, Pacific People and disabled people in the labour market?
- What steps is the government taking to increase the representation of women in corporate governance and senior management in the public sector?
- What steps is the government taking - together with NZX - to require listed companies to establish and disclose gender polices including measurable objectives and implementation in their annual reports in line with the United Nations Guiding Principles on Business and Human Rights?
- What is the government's position on the use of special measures in both the public and private sector to assist in accelerating the realisation of women's equality with men in light of the fact that there has been little to no change in the gender pay gap over 10 years?
- How does the government plan to implement SDG Goal 5 – achieving gender equality and empower all women and girls?
- What targets has the government set to eliminate the gender pay gap in the public sector? How are these targets monitored?
- What specific measures does the government have in place to reduce the gender pay gap particularly for Māori, Pacific, and disabled women?
- Can the government update the committee on the work of the Joint Working Party on equal pay principles and any other steps it is taking to achieve pay equity across the labour market?

F. Criminal Justice System

- What steps has the government taken to implement the Youth Crime Action Plan? What impact(s) on youth crime rate is/are demonstrably attributable to the Plan?

- Will specific actions will be included in the Youth Crime Action Plan to address the disproportionate representation of Māori in all levels of the Criminal Justice system?
- What programmes has the government implemented to extend the focus on partnerships with iwi across all areas of the criminal justice system?
- Since the Drivers of Crime initiative what additional steps has the government taken to address the underlying root causes of offending? How effective have these been?
- What actions is the government taking to ensure that justice, social sector and care and protection initiatives for Māori are linked up and are based on partnerships with iwi?

G. Asylum Seekers

- What steps is the government taking to review the availability, accessibility and adequacy of social security benefits, health care, housing, education and employment opportunities for all people from refugee backgrounds – asylum seekers, UNHCR resettled refugees, and family members who come to New Zealand under its refugee family reunification programme?
- What steps is the government taking to ensure that settlement support and other social services are provided to all people from refugee backgrounds without discrimination?

3. VIOLENCE AND ABUSE

A. Women

- What steps is the government taking to develop in consultation with civil society an agreed definition of sexual and family violence and an appropriate minimum data set of indicators?
- What is the government doing to co-ordinate and monitor all interventions to reduce violence and to ensure that they are adjusted and extended as required on the basis of robust empirical evidence?
- What steps is the government taking to ensure that workplace policies support employees who are experiencing family violence?

B. Children and Young People

- What additional measures does the government intend to take to reduce the prevalence of violence and abuse against children – particularly those aimed at reducing family stressors?
- What measures does the government intend to take to evaluate the impact of new policies on reducing the prevalence of violence and abuse against children?
- What steps has the government taken to systematically collect data on violence and bullying in schools; monitor the impact of the student mental health and well-being initiatives recently introduced in schools on the reduction of the incidence of violence and

bullying; and assess the effectiveness of measures, legislative or otherwise, in countering violence and bullying?

- What steps has the government taken towards implementing a binding obligation on schools to prevent violence and bullying?

C. Disabled People

- What steps is the government taking to ensure that the Domestic Violence Act 1995 applies to disabled people in community care?
- How will the government specifically track violence/domestic violence against people with disabilities and educate the public as to the disability/violence nexus?

D. Transgender Women

- What steps is the government taking to protect gender minorities from violence and abuse?
- How is this measured and monitored?

4. ADDITIONAL MATTERS

A. Mental Health in Detention

- What steps is the government taking to develop a national strategy and agree a set of actions to ensure the provision of mental health care in places of detention which includes mechanisms to ensure the timely and appropriate sharing of individuals' health information across Government agencies?
- What actions – whether in the Youth Crime Action Plan or otherwise – has the government adopted to collect evidence, track and design interventions for individuals in youth justice custody who have neurodisability issues?

B. Legislative recognition of ICESCR

- What steps has the government taken to implement the recommendation from the Constitutional Review Panel to set up a process to explore options for amending the New Zealand Bill of Rights Act 1990 by *inter alia* adding economic, social and cultural rights?

C. The Optional Protocol to ICESCR

- What steps has the government taken towards considering ratification of the Optional Protocol to ICESCR?

D. Realisation of economic, social and cultural rights in Tokelau

- Please provide further information on the realisation of Economic, Social and Cultural Rights in Tokelau.