



## SITUATION OF RAINBOW PERSONS IN AOTEAROA / NEW ZEALAND

The Aotearoa New Zealand IDAHOBIT Day Coalition UPR submission<sup>1</sup> summarises human rights issues that Rainbow (lesbian, gay, bisexual, trans, intersex and queer) persons face because of sexual orientation, gender identity or expression, or sex characteristics (SOGIESC). For the purpose of this UPR Pre-Session, human rights issues faced by intersex people are addressed separately by Coalition member, ITANZ, with our full support.

### Implementation of Cycle 2 of the UPR

No recommendations were made to New Zealand in either the first or second cycle that related to SOGIESC. In its response to the Human Rights Council in June 2014, the New Zealand Government noted its intention to follow up on SOGIESC issues raised by civil society.<sup>2</sup> By late 2017, very little action had been taken. The current Government took office in October 2017 and has proposed some significant positive changes.

### National Framework

New Zealand sets out a limited charter of human rights in the New Zealand Bill of Rights Act 1990 (BORA). Anti-discrimination protections in BORA and the Human Rights Act 1993 include sexual orientation but make no explicit reference to gender identity, gender expression, or sex characteristics.

### Rights Most Commonly Violated

Right to the Highest Attainable Standard of Health

Right to Security of the Person

CHALLENGES	IMPACT
Health and mental health services do not address the health inequities faced by Rainbow communities	Rainbow communities face higher rates of poor mental health and addiction issues due to experiences of social exclusion and discrimination, <sup>3</sup> but their needs are absent or inadequately addressed in government strategies, policies and services. These gaps are filled by largely unfunded NGOs providing vital peer-led support services.
Gender affirming health services for trans people are not available in most regions, with a 50-year waiting list for some surgical procedures.	In October 2018, the Acting Minister of Health noted “Our health system has never met the needs of transgender New Zealanders, and that has to change,” and announced that four genital reconstruction surgeries every two years is now a minimum, rather than a maximum, service specification. Many trans people fund most of their gender affirming care including counselling, access to a hormone specialist, hair removal, voice therapy, and a wide range of surgeries. Largely unfunded NGOs have helped develop revised guidelines for providing gender affirming healthcare, based on informed consent. However, no funding has been allocated to District Health Boards for implementation.
Rainbow children and young people are not safe at school and in their communities	Rainbow children and young people experience significant bullying that can lead to depression, self-harm and suicide. <sup>4</sup> Trans students in particular are being excluded from spaces and activities. <sup>5</sup> Despite the Ministry of Education producing a guide for schools on supporting the well-being and inclusion of Rainbow students, <sup>6</sup> schools are not currently required to develop policies or report on SOGIESC bullying to the Education Review Office.

Violence against Rainbow persons and communities is not acknowledged	Community-led research found significant limitations on the ability of mainstream services to respond effectively to Rainbow people experiencing partner, sexual or other violence. <sup>7</sup> Racism compounded the experiences of violence experienced by Māori, Pacific peoples, Asian and other non-European Rainbow people.
Trans refugees and asylum seekers are unable to amend their name or gender marker on any identification document until they become citizens or permanent residents	The welcomed, proposed changes to the Births, Deaths, Marriages, and Relationships Registration Act 1995 introduce a self-determination model for amending gender markers on birth certificates, similar to NZ's progressive passports policy. However, this does not extend to refugees or asylum seekers which exposes them to violence and discrimination, including exclusion from support networks established by other refugees from their country of origin. <sup>8</sup>

### Recommendations

That the New Zealand Government:

1. Develop Rainbow practice standards by 2020, to improve access to health and peer-led service delivery for marginalised Rainbow communities, particularly Māori, Pacific peoples, people with disabilities, trans people in detention, and older people.
2. Provide trans people with gender affirming surgeries and healthcare, based on an informed consent model, by allocating funding to every District Health Board in Budget 2019.
3. Require all schools to produce policies to identify bullying based on a Rainbow student's SOGIESC status for inclusion in schools' regular report to the Education Review Office.
4. Ensure that existing and future anti-violence strategies, policies and services across all government agencies, specify the experiences and needs of Rainbow persons and communities, as identified by them.
5. Ensure refugees and asylum seekers have access to legal gender recognition as soon as they arrive in New Zealand, through a statutory declaration process that verifies their self-determined name and gender identity.

### Contact Information

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<sup>1</sup> <http://insideout.org.nz/wp-content/uploads/2018/10/UPR-Submission-2018.pdf>

<sup>2</sup> <https://www.hrc.co.nz/files/5314/2406/1357/New-Zealand-Government-Response-to-2014-UPR-recommendations.pdf>

<sup>3</sup> [http://www.adhb.govt.nz/documents/Affinity\\_Services\\_Rainbow\\_Health\\_Report.pdf](http://www.adhb.govt.nz/documents/Affinity_Services_Rainbow_Health_Report.pdf);  
<https://www.mentalhealth.org.nz/assets/Our-Work/policy-advocacy/Rainbow-communities-and-mental-health-submission-to-the-Inquiry-into-Mental-Health-and-Addiction-08062018.pdf>

<sup>4</sup> Lucassen, M.F.G., Clark, T. C., Moselen, E., Robinson, E.M., & The Adolescent Health Research Group. (2014). Youth'12 The Health and Wellbeing of Secondary School Students in New Zealand: Results for Young People Attracted to the Same Sex or Both Sexes. Auckland, New Zealand: The University of Auckland.

<sup>5</sup> T.C. Clark, M.F.G. Lucassen, P. Bullen, S.J. Denny, T.M. Fleming, E.M. Robinson and F.V. Rossen (2014) *The Health and Well-Being of Transgender High School Students: Results from the New Zealand Adolescent Health Survey (Youth'12)* in Journal of Adolescent Health. Vol 55 (1).

<sup>6</sup> <http://inclusive.tki.org.nz/guides/lgbtqi/>

<sup>7</sup> <http://www.kahukura.co.nz/wp-content/uploads/2015/07/Building-Rainbow-Communities-Free-of-Partner-and-Sexual-Violence-20161.pdf>

<sup>8</sup> For examples, submissions from [the Human Rights Commission](#) and from [Jack Byrne](#).