This document provides a transcription of the online launch on 19 June 2020 of the New Zealand Human Rights Commission’s report *Prism: Human Rights issues relating to Sexual Orientation, Gender Identity and Expression, and Sex Characteristics (SOGIESC) in Aotearoa New Zealand - A report with recommendations*.

As New Zealand was still in COVID-19 lockdown, the launch took place via Zoom for public health safety measures. Speakers joined from separate offices, and guests attended from as far away as Buenos Aires, Argentina.

The launch covered the background to the report, and a summary of its findings and recommendations.

The event was MC’d by Tuiloma Lina-Jodi Samu.

Key speakers were Chief Human Rights Commissioner Paul Hunt and report author Taine Polkinghorne, Human Rights Commission advisor on SOGIESC issues.

Technical support was provided by Jac Lynch, Human Rights Commission senior communications advisor.

The 70-minute launch has been transcribed below.

**Transcript begins**

**Tuiloma Lina-Jodi Samu, MC**

[0:07]
Kia ora tātou katoa e te whānau. Nau mai, haere mai, ki tenei mahi tino whakahirahira mō tātau. Me timata tātau me te waiata, Te Aroha. Please we will start by asking for a blessing from the Atua to bless us with love and compassion and kindness as we enter into our Prism launch. We will sing Te Aroha the waiata first, and then we will say the karakia, Whakataka Te Hau.

Te aroha. Te whakapono. Me te rangimarie. Tātou tātou e
Te aroha. Te whakapono. Me te rangimarie. Tātou tātou e

Whakataka te hau ki te uru,
Whakataka te hau ki te tonga.
Kia mākinakina ki uta,
Kia mātaratara ki tai.
E hī ake ana te atākura
He tio, he huka, he hauhu.
Tihei mauri ora!

Whānau, it is my great honour this morning to be your MC for this launch of Prism, our takatāpui Rainbow paper, written by Te Kāhui Tika Tangata, the Human Rights Commission. I welcome you all, you are very very welcome to this launch, to this ‘zui’, to this ‘zono’ – as we say in Sāmoan, a Zoom fono – today.

As-salamu alaykum, ni hao, talofa lava, kam na mauri, noa'ia e mauri, bonjour, rau rangatira mā, tēnā koutou katoa, nau mai, haere mai.

We acknowledge you all and your presence here today to celebrate this magnificent event. We also want to acknowledge some of our rangatira who are joining us today. We have Race Relations Commissioner Liu Gen Meng Foon, kia ora, tēnā koe te rangatira. We also have Saunoamaali’i Dr Karanina Sumeo, the Equal Employment Opportunities Commissioner and Commissioner of Pacific issues, at Te Kāhui Tika Tangata, malo soifua manuia i Lau Afioga. We also have Louisa Wall MP, who is a stranger to none of us in our takatāpui whānau. Tēnā koe te rangatira, nau mai, haere mai koe.

All of you, we honour you and thank you for joining us this morning. Our first speaker is our Chief Commissioner of Te Kāhui Tika Tangata, the Human Rights Commission, Professor Paul Hunt. He will be giving opening remarks. Tēnā koe, over to you, Professor.

**Chief Human Rights Commissioner Professor Paul Hunt**

[3:32]

Tihei Matariki!

Ki te whai ao

Ki te ao marama

Talofa lava, mālō e lelei, as-salamu alaykum, shalom, bonjour, namaste, good morning, and warm welcome to you all.

I want to make just a few remarks and I want to begin by thanking many of the individuals who have led to today's launch. It’s such a pleasure to work with you again, Tuiloma, it’s a pleasure to see you and to collaborate with you once more, thank you. And thank you, Jac, you said your capacity was just a technical one; that actually isn’t quite right, it’s much more than technical. It’s substantive and technical. Thank you both for making this event happen. I’m really grateful to our two sign language interpreters; thank you, Alan, thank you, Rosie. I know how super busy you are, so thank you for making time for us. I also want to thank and acknowledge the many community members who shared with the Commission about their most pressing human rights concerns. Community leaders who reviewed a draft of the report, thank you. Huriana, for the beautiful, beautiful artwork. And I must acknowledge current and previous Commission staff and Commissioners who supported the development of this important publication, Prism. And not least, can I acknowledge and thank my colleague and fellow Commissioner, Dr Karanina Sumeo, who carried this portfolio for some time. Thank you so very much, Karanina. And of course - of course - I’ve got to thank Taine. I’ve got to acknowledge Taine who wrote this report. Not alone, but he drove it, he shaped it, and he wrote almost all of it. What can I say, Taine? What a contribution you’ve made. What a fine, fine piece of work. Thank you so very very much, and we know that you poured your heart and your soul into this, and we are extremely indebted to you. And thanks to all of you who are attending this morning.

We are delighted to have so many of you join us today for the launch of Prism. I would much prefer to be face to face with you. We have to manage with Zoom - it is difficult to connect over Zoom, but we will do our best. I just want to make some very brief remarks and then hand over to Taine.

The Human Rights Commission has a broad mandate to promote and protect the human rights of all people in Aotearoa. This involves working alongside Rainbow communities and organisations to support their voices being heard.

Some of you may be familiar with our previous work in this area, perhaps including the Transgender Inquiry, published back in 2008; also the Intersex Roundtable reports. But it has been a considerable length of time – since about 2010 – since we have published anything for all Rainbow communities in a self-standing piece of work.

This document that Taine has so carefully, patiently shepherded through, is a hopeful document. It has been two plus years in the making, and by publishing it what the Commission wishes to do it to amplify the voices of our Rainbow communities, by shining a light on progress that is still needed for people who have a diverse sexual orientation, gender identity and expression, and sex characteristics. People with a diverse SOGIESC contribute to the fabric of our society and they have much to offer, and they must be honoured, respected, and protected.

Prism canvases six key human rights as they relate to rainbow communities in Aotearoa. It references of course Te Tiriti o Waitangi, also international and domestic law, amongst the voices of those who have attended our hui. Taine will talk about this more, but this approach of ours was deliberate; it is a fundamental human rights principle that people should be involved in making decisions which affect their lives. Participation is particularly important for the most vulnerable, the most marginalised groups facing barriers which prevent full participation. While sexuality diverse communities have had the benefit of rapid gains in social acceptance in Aotearoa, the pace of change for those with diverse gender identities, gender expressions, and sex characteristics; that progress has been much, much slower.

So to wrap up my brief remarks, Prism must be read in the context of the work undertaken over decades by SOGIESC-diverse communities to advance their human rights. The report points out that a lack of adequate legal protections combined with hostile and ignorant public attitudes leads to widespread discrimination against SOGIESC diverse people. We also know that issues are magnified if a person experiences multiple minority or marginalised identities. I want to make it very, very clear that stigma and discrimination are the barriers to full and equal participation in society. The barriers are not a person’s sexual orientation, gender identity or expression, or sex characteristics.

With my deep thanks again to everybody responsible for this important document – a special thanks to Taine, if I may – I now hand back Tuiloma. Thank you.

**Tuiloma**

[10:21]
Thank you very much, Professor. Opening remarks from Chief Commissioner of Te Kāhui Tika Tangata, Professor Paul Hunt.

Because in our Pacific way the rangatira speaks first, I introduce myself to you now. I am Tuiloma Lina Samu, previously with Te Kāhui Tika Tangata, the Human Rights Commission, as the Human Rights Advisor for Pasifika issues. I am very honoured and proud to be the MC for this event today. I’m joining you from Whanganui-a-Tara, from Wellington, from my Ministry of Pacific Peoples office with the great background in the back with all of our cultural icons. The Professor is joining you from Whanganui-a-Tara, Wellington; and Taine is joining you from Tāmaki Makaurau. Jac, who we heard from earlier, is joining you from Ōtautahi Christchurch. Our sign language interpreters are also here in Whanganui-a-Tara, Wellington. Again, we acknowledge you and welcome you. Many of you on the chat have acknowledged that you can’t speak or see others, and that is because we are recording this session to be available to everybody in a few days after this ‘zui’ – this Zoom hui. We encourage you to write down some of your remarks as the event goes along in the chat function.

We now have the great privilege of hearing from our brother, the author of this magnificent report, Prism. He is the Human Rights Advisor at Te Kāhui Tika Tangata, the Human Rights Commission, for SOGIESC issues, for our Rainbow whānau issues. Please everybody, give it up in your own special way for the man of this event, Taine Polkinghorne. Kei a koe, e hoa.

**Taine Polkinghorne**

[12:34]
Tēnā koe, Tuiloma. Hi Mum! Tēnā koutou katoa, talofa lava, fakaalofa lahi atu, ni sa bula vinaka, kia orana, talofa nī, kia ora whānau.

I am extraordinarily excited and privileged to be sharing this work with you today, and I too wish to begin with some thank you’s. Our Chief Commissioner Paul, tēnā koe, Tuiloma Lina thank you for being here and MC’ing our event. Jac, you have done so much for me over the past two weeks and I’m incredibly grateful for every call and email and piece of support that you have given me. Rosie and Alan, kia ora kōrua. Our Commissioners Saunoamaali’i and Meng Foon. Tēnā koe Louisa if you are there. And to all our guests, nau mai, haere mai, welcome, thank you for joining us today.

Tuiloma has asked me to speak about the report’s purpose and development. Let me start by saying the values Prism is based on include self-determination, dignity, equality, and hope. The whakapapa of this mahi takes us back two years ago to 2018, when the Commission held five hui for people with a diverse sexual orientation, gender identity and expression, and sex characteristics. Tuiloma, our colleague Moana Eruera, and myself, co-facilitated these. Three of the five were open to the public, in Auckland, Wellington, and Christchurch. A further one involved colleagues and I visiting an Auckland prison to speak to a small group of transgender prisoners. And the final hui was specifically for disabled SOGIESC diverse people.

These hui involved the Commission listening, rather than talking, and they served a dual purpose. The first was to inform our – the Commission’s – reporting to a range of international human rights mechanisms, such as the Convention on the Elimination of All Forms of Discrimination Against Women, or CEDAW. And the second purpose was for this report.

At each of these hui, we asked the community what their top human rights issues were as people with a diverse SOGIESC. We gathered some extremely helpful information about this topic. But we didn’t just talk about problems: we asked them what their solutions were, what their recommendations were, for solving these issues.

Briefly, I will just share that the key considerations in the design of each of these hui were to reach people from different backgrounds and in different settings; to ensure that the venues that we used were physically accessible and that we created a welcoming and participative environment; to be clear in the messages we were communicating and avoiding jargon (of which there is a lot in the human rights world); and finally to build connections with a range of groups. We took detailed notes at each of these hui, and for the three that were public these are available on our website.

I often participate in hui such as these, but this was my first experience of being on this side. I wondered to myself how high a priority discussing human rights might be for people who are already burdened with the stresses of everyday life, whether that is inaccessibility, or economic hardship, or ill-health. For me personally, the stories that people shared with us tore my heart wide open. There was pain that was shared, and joy, and authenticity, and bravery. We heard many people talk about falling through the cracks in systems and processes. And in those moments of sharing with, they needed to know they could be vulnerable and break down without the fear of being judged for those experiences. While those stories might be hard to hear, they are harder to tell.

What I remember being most struck by was how many people wanted to talk. As it turned out, there was great consistency among the human rights issues that were raised at these hui. The top three were the right to highest attainable standard of physical and mental health, the right to data or access to information, and the third was the right to education. Prism looks at these three rights, in addition to a further three: the right to be free from discrimination, the right to recognition before law, and the right to work.

Prism seeks to assist – Paul has mentioned this – in providing a baseline understanding for greater, further, future discussion and collaboration. It is current to the end of 2019 – December last year – and in fact was meant to be published earlier this year, but was significantly delayed due to the impact of COVID-19. However, actually, now it aligns with Matariki, which is a time of reflection, reframing, and resetting. These elements are all in the report.

The data that have been compiled from the desk-based part of this report come from a range of sources. They include peer-reviewed journal articles, books, postgraduate theses, organisational reports, information sheets, and numerous submissions. The research ranges from small case studies to large scale, national projects with thousands of people.

As the report was drafted, it was then shared with a small group of community leaders to be reviewed and critiqued, and they were Dr Elizabeth Kerekere, Mani Mitchell, Kevin Haunui, Jack Byrne, Jono Selu, Stace Robertson, Ahi Wi-Hongi, Tommy Hamilton, and Katie Fitzpatrick. I thank each of you significantly; your contributions have greatly strengthened the content and the mana of this report. I did not write it on my own. Huriana Kopeke-Te Aho did our beautiful cover and artwork, and I can’t wait for you to see this on your own computer screens later on today and when we print copies as well. I offer my profound thanks to Huriana as well.

I’ll finish here on this. We called this paper, “Prism.” When light hits a prism, a rainbow can be seen. But a prism does not create colours; it reveals them. This paper provides a particular lens through which to see people with a diverse sexual orientation, gender identity and expression, and sex characteristics: the human rights lens.

Thank you, malo Tuiloma, back to you.

**Tuiloma**

[21:28]
Fakaaue lahi, many thanks and so much appreciation to you, dear Taine. Thank you very much for your vānanga [Northern Cook Islands language for “speaking”], kōrero.

Whānau, I’ve been given a few minutes to add to Taine’s kōrero about my experiences of undertaking this research and facilitating some of the ‘uipa’anga [Cook Islands Māori for “meeting”], the hui, the fono, that were held around the country. May I say it was a great honour. I was thinking, when I was a teen during the Homosexual Law Reform Bill, during 1985 and 1986 and the struggle of our community, our giants who had to fight so hard and so much. I was thinking of the kōrero we have that we ‘stand on the shoulders of giants.’ Giants such as the late Lee Smith, who was not only a founder of Ngā Tamatoa, the youth movement in order to get Te Reo Māori, Te Tiriti, and tikanga recognised, but he was also fighting amongst his own Māori community to ensure that takatāpui were recognised. He passed away last year; I think a lot about him. I think about our Pasifika leaders, in particular Harold Samu, Lealailepule Buckwheat Edward Cowley, Peseta Betty Sio, also Tuafale Linda Tanoa'i – people who have been fighting for a long time. How I bring it back to our Prism is report is all of you who have contributed to this report – they were the giants of that time to this time, and you are the giants – we are the giants – of this time standing up for our rights as rainbow people. One of the most significant parts and all of the honour to do our – pardon me, that’s a fire alarm – to do our mahi was when Mani Mitchell and Kevin Haunui, as the elders of this mahi, blessed Taine and I in the mahi that we did. I really appreciate them so much, as I appreciate you all.

Whānau, we will now go to Taine who will talk about the progress and the ongoing developments and recommendations discussed in the Prism report. Arohamai.

**Jac Lynch**

[24:06]
Lina, you need to go.

These things are going to happen in a Zoom hui, as we are all in different offices. Fortunately some of us can keep going, so until Lina can join us again, I’ll pick up in that MC role. Taine, you were going to talk about the findings and recommendations.

**Taine**

[24:51]
Thank you. Gosh, I was thinking when we decided that we would have this launch online, ‘What could possibly go wrong?’ and a fire evacuation was not something I had considered, but perhaps I should have.

This is the part where I give a brief overview of the report’s findings and recommendations. Jac, please help me keep to time in case I talk too much or for too long.

All people have the same human rights and freedoms, regardless of their actual or perceived sexual orientation, gender identity and expression, and sex characteristics. Our role, as the Human Rights Commission, is to promote and protect those rights, through education and advocacy.

Briefly I will take us through each of the six chapters; and then Paul is going to follow - and we will speak a bit together - about acting on the recommendations that come at the end of each chapter.

The first one is about the right to be free from discrimination.

This is one of the most fundamental human rights principles, and many of you watching will be aware that the first article of the Universal Declaration of Human Rights stipulates that, “[a]ll human beings are born free and equal in dignity and rights,” so we start from that baseline.

Prior to the European colonisation of Aotearoa, diverse expressions of sexuality and gender were accepted as a normal and natural part of te ao Māori, the Māori world. The colonisation of Aotearoa New Zealand in the 19th century has obviously had a profound impact on tangata whenua and their human rights, including rights related to SOGIESC.

Since 1993, the Human Rights Act has prohibited discrimination on 13 specific grounds, in section 21 of the Act. Discrimination has a specific meaning when used by the Human Rights Commission, and that is to be treated unfairly or less favourably than others in similar circumstances. It is a particular legal definition, and perhaps different from the one that we might use on the street to say that we were discriminated against.

We know – Paul has touched on this already – that the rights of Rainbow people are often intersectional, and sometimes closely connected to other groups who are disproportionately vulnerable and affected by discrimination.

What the Human Rights Act doesn’t explicitly cover is protection from discrimination on the basis of gender identity, gender expression, and sex characteristics under section 21. The Commission does interpret the Act in that way, which means that we receive complaints from people who are transgender and/or intersex related to discrimination that they have faced. But that’s not enough: it needs to be reflected in the law. We have advocated for this change to be made for many years, and it was also echoed in the voices present at our community hui in 2018. The need to amend the current Human Rights Act was mentioned at every single one. This is meaningful and provides strong support for the need to amend that law.

Justice Minister Andrew Little has made public statements to say that he is looking at incorporating gender identity into section 21 of the Act, and communities have expressed their hope to the Commission that protection will extend also to gender expression and sex characteristics.

The second chapter looked at the right to information

This was about data collection. One of the biggest challenges in my role as the Human Rights Commission’s SOGIESC Advisor is the lack of data we have about our communities. This unmet need for information presents a considerable obstacle to resolving many of the human rights issues that our communities face.

There is a contradiction between invisibility and the desire for proof, which is challenging for those of us working in this space. The current lack of reliable data sources on both the size and characteristics of our diverse populations significantly limits the capacity of our policy and decision makers, administrators, and practitioners to address our needs.

Since the 2015/16 New Zealand Health Survey, the Ministry of Health have been collecting sexual orientation data. Since 2018, Stats NZ have started to collect some sexual orientation data as well, and it pops up in a few population and sample surveys.

We don’t yet have good numbers on the number of transgender and intersex people in Aotearoa New Zealand, and often when questions are asked, data is collected in a way which can erase or invisibilise non-white identities – perhaps traditional cultural identities such as many of our neighbours in the Pacific and other cultures around the world.

One of the issues that is raised around collecting data about a person’s SOGIESC is the privacy concerns. This is because in many places our identities are stigmatised and we still find ourselves discriminated against on the basis of our SOGIESC.

Data collection in this area is very new worldwide, and currently there is no globally agreed on or accepted definition, or international classification scheme, to facilitate comparisons between different countries, or between subpopulations.

I want to mihi to the significant work that Stats NZ are starting to do, which does involve community, around the updating of statistical standards of sex and gender identity. That work is ongoing at the moment and it will be going out later in the year for public consultation.

The third chapter of the Prism report looks at legal gender recognition.

This is primarily in relation to the current process for amending sex on a birth certificate for our transgender, and some intersex, whānau.

There is no overarching single identity document that is used in New Zealand; there is in some other countries. The three most commonly used here are passports, driver’s licences, and birth certificates. Passports and driver’s licences you have to apply for and pay for; birth certificates are provided after a birth.

A birth certificate is the only one of these three identity documents that cannot be taken away from you; a significant thing to point out as not everybody has access to gaining a passport or driver's licence.

I'm going to briefly hark back to the Commission’s Transgender Inquiry published in 2008. Following that landmark piece of research into the discrimination faced by transgender people, the Department of Internal Affairs changed their passport policy to allow an applicant to amend the sex marker on their passport by statutory declaration to one of three options. Those are the *letters* M, F, or X. This was actually a world-first policy, and to this day it provides a good practice example of a simple, accessible, administrative process which doesn’t require the need for any medical intervention or medical ‘proof.’

In 2013, the NZTA also amended their own policy to allow a licence holder to amend the sex on their licence to - and passports were letters; these are words - to the *words* Male, Female, or Indeterminate. Sex isn’t printed on a licence but it is held in the database, and similarly you can update it using a statutory declaration process.

When we come to birth certificates, this is a different beast. That is because passports and driver's licenses - those changes in the respective agencies were able to be done because they only required a change in their internal policy; it didn't require a change in the law, which birth certificates do.

We know from recent community-led research that 83% of trans people do not have the correct sex recorded on their birth certificate. Trans people's identity documents frequently conflict with one another in terms of the sex or gender marker that's recorded.

The issue with the current Act, which sets out the process to amend the sex marker on a birth certificate, is that you have to provide medical evidence and opinion to change that marker. In 2017, a Bill which would have repealed and replaced the current Act was introduced into Parliament. It had its first reading and went off to the Select Committee, and following the report back from the Select Committee, the Minister in charge of the Bill deferred further progress on it, citing that there had been insufficient public consultation. Following that, Minister Tracey Martin convened a Working Group of trans and intersex people, and some medical and legal experts who work with them, to look at the issues around the Act. The scope was limited to the current Act and not the amendments that were proposed in the Bill that was before Parliament.

Still now, there hasn't been any resolution of the issues that have been identified and we are waiting for further progress to come. We hope that that will be swift and smooth. The Commission has provided two submissions on this Bill in favour of amending the current Act to be in line with international human rights law through a simpler and more accessible process, which is based on self-determination and doesn't require medical treatment or opinion.

The fourth chapter of Prism is around the right to the highest attainable standard of physical and mental health.

In our hui in 2018, this was the most significant issue raised with us by a long way. There were many different issues that were raised, with particular emphasis on the right to health for transgender and intersex people, particularly around the issues of informed consent.

This chapter explores a range of different issues related to health care, including general health care; aged care - the health needs of our older SOGIESC-diverse whānau; it looks at the issue of HIV infections and progress we've seen around decreasing some of the numbers of new infections recently. We look at mental health, including the mental health of young people; as well as a significant proportion of the chapter dedicated to medical interventions to alter sex characteristics.

Here we're talking about our intersex whānau; many of you will be familiar with that term. Intersex is an umbrella term that encompasses a range of different variations in sex characteristics, which can involve internal reproductive organs, hormones, chromosomes, as well as external genitalia. A subset of the intersex umbrella are born with visible variations to their genitalia. Often, these infants, these babies, are subject to and operated on to “normalize” their bodies. This is a significant human rights issue, and it is the most pressing one for our intersex whānau. The Human Rights Commission has done a considerable amount of work in this area over the last decade-plus, particularly with our national intersex organization, ITANZ. That work is ongoing.

There is a section of the Crimes Act which makes these surgeries legal still. At the moment, the parents of an intersex infant provide the consent for these procedures on behalf of their baby. What is not happening is that person themselves giving informed consent about what is happening to their body and their bodily autonomy. That is the human rights issue.

We talk a little bit about informed consent in this chapter, and what that means for both intersex people, as well as transgender people in accessing what we call gender affirming healthcare. ‘Gender affirming healthcare’ might be a new term for some people, and that covers a wide range of interventions, which may range from counselling support to laser hair removal, voice therapy, hormone therapy, and perhaps surgeries for some people as well.

There are significant gaps in the availability and accessibility of transgender gender affirming health care. Throughout Aotearoa, it's very patchy; it's what we might call a ‘postcode lottery,’ where what you're able to access depends on where you live.

Finally, this chapter explores and goes a little bit into the conversations that we had with transgender prisoners. For them as well, the most significant human rights issue was access to healthcare in prison.

The Department of Corrections is funded to provide primary health care to the same standard as a person would receive in the community, but we heard some concerns from the people that we spoke to about access to the hormones and other gender affirming things that they required. Our visit was three weeks after the Department of Corrections implemented a new policy on the management of transgender prisoners. That was rolled out specifically to improve the care, the management, and the safety of trans people in prison regardless of whether they were in a facility which aligned with their gender identity or not.

After we spoke to the transgender prisoners, that same policy was due to be reviewed within four months of its implementation. It was, and we describe some of the findings here in our report.

All of these issues - we have some recommendations at the end of the chapter - are areas that must be addressed in future health planning, without reducing momentum on existing programs. We are very aware that health systems alone cannot reduce the inequalities in health, but they do have a vital role. Our health ministries have an important role as active stewards, because they are in the position to affect the development plans, the policies, and the actions of other players and their sectors.

Then we came to the right to education

All people have the right to education. This includes primary education, as well as access to higher education: secondary and tertiary education. Education was the most significant human rights issue that was raised in our consultation in Christchurch.

The Education Act of 1989 requires Boards of Trustees to provide physically and emotionally safe environments for all children and young people and staff. So schools have a duty of care to their students to keep them safe, and this includes safety from homophobic and transphobic bullying, for example.

There is a significant survey series of secondary school students, called the *Youth 2000* series. This was done in 2001, 2007, 2012, and last year in 2019. The data from last year have not been published yet, so the most recent one that we are working with is the cohort of 2012. It's a bit out of date now, but that 2012 data shows that secondary school students who have a diverse sexual orientation or gender experience high rates of bullying, substance abuse, and self-harm, and the outcomes are poorer than their heterosexual and cisgender counterparts.

As part of the New Zealand curriculum, schools are expected to provide a broad education that includes health and physical education, and sexuality education is one of those key areas. Schools design their own local curriculum, which can, as you can imagine, result in in a wide range of theories teaching. The Ministry of Education acknowledges that parents and family and whānau are really interested in sexuality education as part of the young people's education. Because of this, Boards of Trustees are required to consult with their school community at least once every two years on the health curriculum.

Health education is the only part of the school's curriculum for which the law specifically requires this consultation with the school’s community. After consultation has taken place, parents and caregivers can write to the school principal and request that their child be excluded from any particular element regarding sexuality education.

In 2015, the Ministry developed a fantastic guide regarding inclusive education for students with a diverse SOGIESC, and I understand it's in the process of being updated at the moment. It provides really useful information on how a school can address equity for all students within their programs and across the wider school environment. A priority area for further action is ensuring that all children and young people have access to high quality comprehensive sexuality education, which should address both identity-based discrimination, as well as incorporating a universal approach to sexual and reproductive rights.

The final chapter in our paper relates to the right to work.

Again, this right is essential for accessing other human rights, including the right to earn a decent living, and the right to a dignified life. The right to work encompasses the right to be treated fairly at every point of the employment process, meaning pre-employment, during interview, through the interview process and afterwards, including when a job has been offered. The benefits gained from work, and the remuneration, should be enough to provide an adequate standard of living.

In New Zealand, we don’t have any data on employed or unemployed people with a diverse SOGIESC. The unemployment rate of trans and non-binary people in Counting Ourselves – which was the trans-led survey that I mentioned earlier – was more than twice the general population; it was 11% versus 5%, so quite a significant difference.

This chapter explores wage discrimination, pre-employment discrimination, and the experiences of concealing our sexual orientation, gender identity and expression, and sex characteristics in the workplace, and the impact that that can have on our ability to perform our jobs.

Last year, the State Services Commission ran a survey called ‘WeCount,’ based on the experiences of our Rainbow whānau in the public service. They published a report on that research which is cited in Prism.

We also mention some New Zealand inclusion initiatives. Many of you on the call will be familiar with, for example, the Rainbow Tick, which is based on a 2015 voluntary standard that organisations can sign up to. This standard was designed by Standards New Zealand to establish some general principles for demonstrating that an organisation can be accredited as inclusive and safe for people of diverse sexual orientations and gender identities. The Rainbow Tick is given to organisations that have successfully completed a baseline certification ascertaining whether their workplace understands and welcomes sexual and gender diversity. However, the Standard hasn’t been updated since 2015, and one of the recommendations we make is to do that in consultation with wider Rainbow communities.

There are some other international guidance and proactive improvements that can be made. The United Nations has provided some Guiding Principles on Business and Human Rights and developed a set of standards of conduct for businesses to tackle their discrimination against people with a diverse SOGIESC within their organisations and workplaces. They recommend a range of nuanced and diverse approaches to improving the environment for our communities, and they point out again that specifically addressing the rights of transgender and intersex people is important, noting that, “companies tend to lag behind for these groups.”

That was a very brief overview – actually it wasn’t very brief – so Tuiloma, I am going to pass back to you for now, thank you.

**Tuiloma**

[52:10]
Malo soifua and fakafetai lahi lele [Tokelau language for “thank you very much”] for that, Taine. Could you please tell the whānau when and how the report is going to be made available?

**Taine**

[52:27]
The report will be made available this afternoon on our website; we are hoping to get it up by 4pm. We will also send you a link to that when it’s live, as well as the media release for those who are interested. We will be uploading both a PDF and an accessible docx version at the same time, and in the future we will be providing some printed copies, as well as looking into ways we can make it more accessible to a greater number of people.

**Tuiloma**

[53:11]
Again, mīharo, kia ora Taine.

Professor, let us turn to you now as the Chief Commissioner about what government agencies, non-government agencies, and other agencies can do towards the recommendations in Prism.

**Paul**

[53:38]
Thank you for the question, and thank you Taine. Time is short, so I want to make a couple of really brief points. The issues set out in Prism are not new. They reflect a range of previous recommendations made by Rainbow communities, and by the Human Rights Commission, and by many others. What I want to emphasise is two things.

Each of us have to make the recommendations visible. We need to make a noise about them; I think it’s our responsibility to do that. To raise their profile, make a noise, and make them visible so they are taken seriously. And that won’t happen without pressure from people in this Zoom hui, and the Human Rights Commission, and many others.

My other quick point is that human rights are associated with bestowing entitlements, and of course that’s really important: human rights do bestow entitlements, this is very, very important. But human rights are also about duties; two sorts of duties. There are the duties of those in power – the duties of the executive, for instance, or the duties of large corporations – so these entities have human rights duties. But also, *we* have human rights duties. We, as individuals, have human rights duties to our communities, and I don’t think we hear enough about this duty of us all to each other, our communities, and the environment. I’m not making this up; it’s often overlooked, but in the Universal Declaration of Human Rights which Taine has referred to a couple of times, in Article 29 it talks about duties to our communities. So we have to make a noise, we have to make the recommendations visible. We have a duty to do all we can to ensure these recommendations are taken seriously. We have to support our Rainbow communities, we have a duty to call out discrimination, to call out inequality, to call out intolerance, to call out disrespect: that’s our duty, for all of us in our different ways.

And that links to my final point. At the heart of human rights is the concept of accountability. People, and institutions, have to be held accountable by virtue of human rights. It’s what distinguishes human rights from interests or needs: human rights demand accountability. Accountability isn’t just narrow, legal accountability – for example taking a case to the Human Rights Review Tribunal, important though that is; it's not just about going to Court, important though that is – it's also about accountability in Parliament, accountability through Select Committees – and that’s why our Parliamentary allies are so crucial. It’s about holding to account through civil society organisations, it’s about holding to account through the media, through what I call integrity agencies like the Privacy Commission, the Children’s Commission, and also the National Human Rights Institution of Aotearoa – the Human Rights Commission. So we, in the Human Rights Commission, we are committed to playing our part in two ways: by pushing these recommendations wherever we can, whenever we can, but also by holding people to account. By blowing the whistle when necessary, when the recommendations are not being taken seriously. It seems to me that’s a modest role for the Human Rights Commission.

Kia ora, thank you very much Tuiloma.

**Tuiloma**

[58:34]
Malo ‘aupito [Tongan language for “thank you very much”], Professor Paul.

Can we now go to questions from our whānau. We have one from Dr Jill Chrisp, and I acknowledge Dr Chrisp for all of her mahi that she did in the Human Rights Commission and what she is still doing for SOGIESC and Rainbow communities. She has asked, ‘What follow up has there been by government on the 2016 recommendations of the Committee of the Rights of the Child on the treatment and rights of intersex children and their families?’ That’s a question for you, please, Professor, and Taine.

**Paul**

[59:13]
I’m going to ask Taine to open. He has a very firm grasp of these details, so I’ll take my lead from Taine. Thank you very much, Taine.

**Taine**

[59:25]
Thank you, Paul. Kia ora Dr Jill! Thank you very much for your question. The Convention on the Rights of the Child is one of the seven Treaties that New Zealand has ratified - or signed up to - and agreed to uphold. As part of that, every five years, our country is reviewed by the Committee on the Rights of the Child and has to report back on progress since the previous review five years ago. What Dr Jill is referring to is our most recent review in 2016, where the New Zealand government received four intersex-specific recommendations related to intersex children. Specifically, around surgeries that are carried out on infants, and putting a stop to that.

So what progress has there been? In 2017, the Ministry of Health contracted the Paediatric Society to convene a working group of 12 individuals that brought together both lived experience of intersex people, as well as a range of health and medical professionals, as well as other perspectives like the Human Rights Commission, parent’s perspectives, and others. That group had a short mandate of two years to seek to address, in part, those four recommendations that we had received in 2016. That work has finished now, and the report of that group is in the process of being signed off and going back to the Ministry. It’s confidential at this stage, so I can’t share the details of it, but I will say that there is significant work left to be done, and the Commission has raised this to the Associate Minister of Health, Minister Julie Anne Genter, who holds the Rainbow health portfolio, so that she is aware of the issues and has this on her horizon as a priority.

So, Dr Jill, what progress has there been? Limited. In fact, the word I might use would be glacial, but we remain engaged in this work and we will continue to push for the rights for bodily autonomy and bodily integrity for all intersex people in Aotearoa New Zealand.

**Tuiloma**

[1:02:35]
Kia ora Taine. Professor and Taine, could I please go to Susan Arcus’ question, ‘Taine, you highlighted that the Crimes Act provides for parents to provide consent to surgical procedures for their child (and I see at s61A it does) and indicated that intersex children had been operated on so as to align with one gender (apologies if I paraphrased that incorrectly). My question is - do we know how many times such a procedure has been performed?’

**Taine**

[1:03:08]
Thank you for asking this question, Susan. There are issues with data collection in relation to surgeries on intersex people, and that is in part due to the definition of intersex, or differences of sexual development, the term that is sometimes used. This was a question that has been raised to the Ministry, and I know somewhere in this report - I cannot remember on which page! - that the answer in the last I think five years was seven surgeries. In my opinion, that is a significant undercount, and again it goes back to which surgeries are being counted and coded as being related to diverse sex characteristics. When I find the section of the report, I will highlight it to you!

**Tuiloma**

[1:04:19]
Kia ora. The next question – thank you, ni sa bula vinaka, Leilani Thompson-Rikys, Peer Support Coordinator at OUTLine, for your support and your comment, ‘Awesome mahi and agree that we all need to work together towards these recommendations! I'm grateful that we now have this useful tool to take into different contexts.’ Kia ora rawa atu.

This comment and question from Kieran Moorhead, tēnā koe Kieran, thank you very much, ‘Do we need a national Rainbow/SOGIESC strategy with tagged funding for actions from this to get more momentum on rainbow issues? Or can we rely on individual government agencies to raise it within each of their institutions?’ Mīharo, Kieran. Taine, Professor?

**Paul**

[1:05:08]
Taine, can I begin this one and then you please add and correct if needs be. I’m not quite sure what the politically correct answer is to this question, but I’m just going to tell you off the cuff what I think. I think it’s extremely important that, in response to Kieran’s question, that we have a Rainbow/SOGIESC strategy with tagged funding for actions, and I don’t think that we should seek to rely on individual government agencies to raise it within each of their institutions alone. I think it does need a strategy – that’s my view – with tagged funding. I would make one important qualification, which maybe we need to talk through further. I think that such a strategy needs to be part of a wider strategy on inclusivity generally, whether it’s around ethnic diversity, gender, or religion. We need, I think, an inclusivity strategy which is duly appropriately respectful of, and founded on, Te Tiriti o Waitangi, and under that umbrella, there must be a Rainbow/SOGIESC strategy with funding. So my view is – and Taine, we can debate this later amongst friends and our stakeholders – but my view is the starting point should be an overarching strategy within which there is a dedicated, detailed, funded Rainbow strategy.

**Taine**

[1:07:02]
Kia ora Paul.

Tuiloma, if I may just go back to Susan very briefly because I’ve found what I was looking for. Susan, I am reading from page 14 of the report, “In 2017, the United Nations Committee Against Torture requested the New Zealand government comment on reports of surgery and other medical treatment to which intersex children were subjected, and provide the number of intersex children who had undergone surgery, from 2015 to 2019. The government responded in September 2019 stating seven intersex people underwent surgery in the reporting period.”

As I say, I think that’s a significant undercount.

**Tuiloma**

[1:07:52]
Taine, did you want to respond to Kieran Moorhead’s question and statement as well?

**Taine**

[1:08:01]
I think Paul did a fantastic off-the-cuff job of answering this, thank you Paul. I recall around March last year that a similar idea was floated in the media around a Rainbow Minister, or even a Rainbow Ministry. We would love to see some progress and some named, tagged resource and funding go towards the Rainbow communities’ health and wellbeing, and other issues that we face. The lack of data, again, makes this a significant issue because we cannot say how many of us there are, and so it becomes very difficult to argue the case in some people’s eyes. We would love to see some movement on that.

**Tuiloma**

[1:09:04]
Tēnā koe, Taine. Everybody, we have reached the end of our launch of the Prism report today. Please can we give it up with a sign of appreciation and wellbeing to you all.

I want to thank Professor Paul Hunt, Chief Commissioner of Te Kāhui Tika Tangata, the Human Rights Commission. I want to thank SOGIESC Human Rights Advisor, Taine Polkinghorne. I want to also thank Alan J Wendt and Rosie Henley, our New Zealand Sign Language interpreters. Thank you, Jac Lynch, for doing all of the coordination, and Chika Navarro, our colleague at the Human Rights Commission, and all of you for being here for this most momentous occasion and the launch of Prism, a human rights paper of Te Kāhui Tika Tangata, the Human Rights Commission.

Taine, could I please ask you, in closing, if you could lead us with former Commissioner, the late Professor Merimeri Penfold’s karakia, Ruia, to finish our hui, our ‘zui’ today. Tēnā te mihi ki a koutou katoa. Mīharo, tino mīharo tenei mahi. Arohanui ki a koutou. Tēnā ra koutou katoa. Kia ora mai.

**Taine**

[1:10:33]
Tēnā koe, Tuiloma, thank you very much, it would be my honour.

Kia tau te rangimārie ki runga i a tatou katoa
Ruia, ruia, ruia, ruia
Ruia ki runga, ruia ki raro
Ruia ki waho, ruia ki roto
Ruia ki uta, ruia ki tai
Hū ana ki te Rangi, turu ana ki Nuku
Na, kua tau!
Kua mau!
Kua ia!
Tihewa – mauri ora!

**Tuiloma**

[1:11:05]
Tihewa mauri ora, whānau. Haere rā, e noho rā mai. Kia ora.

**Taine**

[1:12:12]
Ngā mihi nui ki a koutou, thank you very much for being with us today, we look forward to being in touch with a copy of this report this afternoon. Thank you, kia ora.