

1. Introduction

Kōrero whakataki

Human Rights in New Zealand 2010 maps how well human rights are promoted, protected and implemented in New Zealand.

This is the second comprehensive report undertaken by the Human Rights Commission to assess how well New Zealand meets international human-rights standards and where we fall short. It highlights improvements since the first assessment in 2004 and identifies where there has been some deterioration. It pinpoints areas of fragility, persistent and entrenched inequalities, and gaps in human-rights protections.

What is clear, as it was in 2004, is that human rights matter. Their realisation is vital to our expectations about life, education, health, work, our personal security, equal opportunity and fair treatment, and to our system of government. They affect the lives of everyone in New Zealand. Respect for each other's human rights is a pre-requisite for harmonious relations among the diverse

groups that make up contemporary New Zealand. Human rights are equally vital to peace, security and sustainable development worldwide.

In 2004 the Commission found that there was much to celebrate about New Zealand's human rights record; that New Zealand had the key elements essential for the protection, promotion and fulfilment of human rights; and that most people experienced the fundamental rights and freedoms in their daily lives and had the opportunity to participate in all aspects of society.

The most pressing human-rights issues identified in 2004 were the poverty and abuse experienced by a significant number of children and young people; the pervasive barriers that prevented disabled people from fully participating in society; the vulnerability to abuse of those in detention and institutional care; the entrenched economic and social inequalities that continued to divide Māori and Pacific people from other New Zealanders; and the

THIRTY PRIORITY AREAS FOR ACTION ON HUMAN RIGHTS IN NEW ZEALAND:

SECTION ONE – GENERAL

International Human Rights Framework

Parliament

- 1 Strengthening Parliament's human-rights responsibilities by establishing a Human Rights Select Committee and tabling human-rights reports in Parliament

Civil society

- 2 Establishing a fund to support civil-society participation in international human-rights mechanisms

Equality and Freedom from Discrimination

Substantive equality

- 3 Incorporating a specific reference to equality in the Bill of Rights Act and the Human Rights Act

Human Rights and the Treaty of Waitangi

Pathways to partnership

- 4 Developing and implementing new pathways to partnership between Tangata Whenua and the Crown

Declaration on the Rights of Indigenous Peoples

- 5 Promoting awareness of the United Nations Declaration on the Rights of Indigenous Peoples in New Zealand

Human Rights and Race Relations

Structural discrimination

- 6 Investigating the extent to which structural discrimination underlies entrenched racial inequalities, and developing programmes to address it

Languages

- 7 Developing and implementing a national languages policy

challenge of the Treaty of Waitangi now and in the future.

Human Rights in New Zealand 2010 confirms that New Zealand continues to meet and often surpasses human-rights standards in many respects. It highlights steady improvements since 2004, but also reveals the fragility of some of the gains and areas where there has been deterioration. It makes clear that there is no room for complacency and that New Zealand continues to face serious human-rights challenges. These are challenges that can be met where there is political will and strong civil-society commitment and engagement.

PRIORITY AREAS FOR ACTION

The Commission has selected thirty priority areas – from over a hundred identified by the research and public consultation process undertaken in preparing *Human Rights in New Zealand 2010*. In these 30 areas, further action is essential over the next five years to strengthen human-rights protections and better ensure the dignity, equality and security of everyone in New Zealand.

The thirty priority areas focus on strengthening New Zealand's constitutional and legal framework; tackling entrenched inequalities and systemic structural discrimination; and more explicitly and effectively implementing civil, political, economic, social and cultural rights. The 30 priority areas highlight what needs to be done to better protect groups of people who are particularly vulnerable to human-rights abuses, or subject to structural discrimination.

In selecting the areas for action the Commission recognised that while the State is primarily responsible for ensuring that human rights are promoted, protected and fulfilled, it does not have the sole responsibility. Responsibility to respect human rights extends beyond central government – to regional and local government, to the business and community sectors, to voluntary groups and organisations. The report highlights the critical role individuals, community groups and other civil society organisations play in creating an environment of respect for human rights and harmonious race relations.

THIRTY PRIORITY AREAS FOR ACTION ON HUMAN RIGHTS IN NEW ZEALAND:

SECTION TWO – CIVIL AND POLITICAL RIGHTS

Democratic Rights	Representation	8	Increasing the representation of Māori, Pacific and other ethnic groups in local government
Right to Justice	Evidence from vulnerable people	9	Developing more appropriate methods for taking and recording of evidence from vulnerable victims and witnesses in criminal proceedings
Life, Liberty and Security of Person	Programme of action	10	Implementing in partnership with civil society a comprehensive strategy and programme of action to address the drivers of crime
Freedom of Opinion and Expression	Section 61, Human Rights Act 1993	11	Reviewing section 61 of the Human Rights Act to ensure it fulfils its legislative purpose
	Human rights and the Internet	12	Promoting debate about access to the internet as a human right and a Charter of Internet Rights
Freedom of Religion and Belief	Guidelines	13	Developing guidelines for respecting diversity of religion and belief in specific contexts

Across *Human Rights in New Zealand 2010* a number of themes have emerged.

INTERNATIONAL HUMAN-RIGHTS STANDARDS

The international human-rights framework has a welcome and growing visibility in government and among some sectors of New Zealand society. During the period under review, there have been three new international human-rights instruments of direct interest to New Zealand: the Optional Protocol to the Convention against Torture; the Convention on the Rights of Persons with Disabilities; and the Declaration on the Rights of Indigenous Peoples. The Commission's report shows that the ratification by New Zealand of the first two has already had an effect on the wellbeing of disabled people and those held in detention. Ratification has served to raise expectations among different communities about their implementation.

Human Rights in New Zealand 2010 also reveals increasing references to human rights and specific covenants

and conventions in New Zealand law. But for the most part these continue to be ad hoc, and there is still no comprehensive incorporation of ratified treaties in New Zealand's domestic law.

THE TREATY OF WAITANGI

The question of the place of the Treaty of Waitangi in New Zealand's constitutional arrangements remains unresolved. The Government issued in May 2010 a statement of support for the Declaration on the Rights of Indigenous Peoples, a document that offers an international perspective that could assist a national conversation on the contemporary and future significance of the Treaty of Waitangi.

PARTICIPATION

Participation emerges as critical issue for a robust democracy and harmonious race relations. Lack of

THIRTY PRIORITY AREAS FOR ACTION ON HUMAN RIGHTS IN NEW ZEALAND: SECTION THREE – ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Right to Health	Capacity	14	Amending the Mental Health (Compulsory Assessment and Treatment) Act 1992 to better reflect the concept of capacity in line with international standards
Right to Education	Human Rights values	15	Implementing the human rights values explicit in the New Zealand curriculum, Te Marautanga o Aotearoa and Te Whāriki, to ensure that early childhood services and schools respect diversity, are free from violence and enable full participation by children and young people
Right to Work	Equal Employment Opportunities framework	16	Implementing a new framework for equal employment opportunities that addresses access to decent work for disadvantaged groups such as Māori, Pacific youth and disabled people
Right to Housing	Homelessness	17	Developing and implementing regional and national strategies to reduce homelessness
	Social housing provision	18	Increasing the supply and diversity of social housing
Right to Social Security	Poverty Reduction	19	Reducing child poverty through a co-ordinated and integrated approach, with specific attention to Māori, Pacific and disabled children
	Adequacy of core benefits	20	Reviewing and addressing the adequacy of core benefit rates

participation and representation that reflects fairly the diversity of New Zealand society are barriers to the development of sustainable social and economic policy. They also contribute to alienation, marginalisation and ultimately conflict.

POVERTY, ENTRENCHED INEQUALITIES AND STRUCTURAL DISCRIMINATION

Poverty, entrenched inequalities and structural discrimination continue to severely limit the ability of significant numbers of young people to develop and achieve to their

THIRTY PRIORITY AREAS FOR ACTION ON HUMAN RIGHTS IN NEW ZEALAND: SECTION FOUR – RIGHTS OF SPECIFIC GROUPS

Rights of Children and Young People

United Nations Convention on the Rights of the Child obligations

21 Ensuring that legislation reflects New Zealand's obligations under the United Nations Convention on the Rights of the Child, including recognising the interests of the child, the age of criminal responsibility, protection under the Children, Young Persons, and Their Families Act, age discrimination protections and adoption procedures

Participation

22 Increasing avenues for children to participate and have their views heard

Rights of Disabled People

Measuring outcomes

23 Developing a full range of social statistics to ensure that key outcomes for disabled people are measured

Implementing the Convention on the Rights of Persons with Disabilities

24 Ensuring an integrated and co-ordinated government response to implementing the Convention on the Rights of Persons with Disabilities with the full participation of disabled people

Rights of Women

Pay and employment equity

25 Timetabling pay and employment-equity implementation with a minimum target of halving the gender pay gap by 2014 and eliminating it by 2020

Sexual and family violence

26 Reducing sexual and family violence through target-setting and fully resourcing a national programme of action

Rights of Sexual and Gender Minorities

Legal equality

27 Completing the legislative steps needed for formal legal equality, including rights to found and form a family, regardless of sexual orientation or gender identity

Rights of Migrants

Employment

28 Addressing barriers to the employment of migrants, and ensuring that the rights of temporary, seasonal and rural workers and those on work-to-residence visas are respected

Rights of Refugees

Comprehensive strategy

29 Completing a comprehensive whole-of-government resettlement strategy for convention refugees, quota refugees and family reunification

Rights of People Who Are Detained

Māori imprisonment

30 Committing to specific targets and timelines for reducing the disproportionate number of Māori in prison

full potential, particularly those of Māori, Pacific heritage and people who are disabled. The Commission's report identifies incremental, but insufficient, progress. It notes that in some cases progress has halted or even reversed as a consequence of the global economic recession.

VIOLENCE

Violence, bullying and harassment are violations of the most fundamental of human rights – security of the person. Their persistence constitutes one of the most difficult and intractable human rights challenges we face in New Zealand.

DATA

While *Human Rights in New Zealand 2010* has been able to draw on a range of statistics and data to provide empirical evidence to complement the legal and policy analyses, data is severely limited in relation to disabled people and for sexual and gender minorities.

WHAT HUMAN RIGHTS IN NEW ZEALAND 2010 COVERS

The Commission assesses how well human rights are recognised, respected and fulfilled against the civil and political, economic, social and cultural rights proclaimed in the Universal Declaration of Human Rights and as enacted as international law in United Nations Covenants and Conventions and in the International Labour Organisation's fundamental labour standards.

This report updates *Human Rights in New Zealand Today, Ngā Tika Tangata O Te Motu*, published in September 2004. It assesses progress against the priorities set out in the New Zealand Action Plan for Human Rights 2005–2010. It draws on significant work undertaken by the Human Rights Commission since 2005 and its coverage extends beyond that of its 2004 predecessor.

The publication begins with a general section, 'Tirohanga Whānui', introducing New Zealand's human-rights framework, which includes international human-rights law and the Treaty of Waitangi. The chapter on human rights and the Treaty of Waitangi is new. Section 1 also covers race relations, demonstrating the centrality of respect for human rights to harmonious relations.

Section 2, 'Tikanga Tangata me te Tikanga Tōrangapū', covers civil and political rights. The emphasis is on

participation in central and local government as a right and a responsibility; on access to justice and on tackling the drivers of crime; and on practical steps to ensure freedom of religion and belief in the workplace and other domains. The chapter on freedom of opinion and expression introduces a new focus on human rights and the Internet.

Economic, social and cultural rights, 'Tikanga Ōhanga, Pāpori me te Ahurea', are assessed in Section 3. As well as updating the 2004 assessment of the rights to health, education, work and housing, Section three contains a new chapter on the right to social security, a key element of the right to an adequate standard of living.

Section 4, 'Tikanga Uepū', focusses on seven specific groups of people who are particularly vulnerable to human rights abuses and the effects of structural discrimination. The separate chapters on 'Women' and 'Sexual and Gender Minorities' are new to the 2010 review.

Each chapter introduces the specific right or topic, summarises the international law and context, canvasses the New Zealand legal and policy context, and then assesses the situation in New Zealand against the relevant standards. Each concludes with key areas for action to progress the rights under consideration, which have been identified following consultation with stakeholders and members of the public.

PROMOTING AND PROTECTING HUMAN RIGHTS TODAY

In New Zealand human rights have never been protected by a single constitutional document or superior legislation. Instead, as this report graphically illustrates, a raft of disparate laws, policies and programmes provides elements of protection. Similarly no single institution of the State or government agency has sole or even primary responsibility for the promotion and protection of human rights.

Further, even where there are supportive laws and policies, the extent to which people enjoy their human rights in their everyday lives depends on the extent to which those they come in contact with, whether family members, whānau, neighbours, friends, work colleagues, service providers or government officials, reflect basic human-rights principles and values in their behaviour and practices.

Human Rights in New Zealand 2010 provides the evidential foundation and catalyst for the further work that must be done by Parliament, the Government, the business and community sectors, and the Human Rights Commission to develop detailed plans of action and programmes of work that will strengthen laws, policies and practices in the critical areas it has identified.

THE HUMAN RIGHTS COMMISSION 2010

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