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**APF Member Reports - New Zealand**

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**Te Kahui Tika Tangata  
New Zealand Human Rights Commission**

The Human Rights Commission's *vision* is that:

New Zealanders know their rights, acknowledge their responsibilities and respect the rights of others.

*Kia mohio nga iwi katoa o Aotearoa, ki o ratou tika, te kawenga o nga tikanga, me te whakamana i nga tika o etahi atu tangata.*

Our *mission* is that we will:

Champion human rights as a fundamental framework for a fair and just society for all the people of New Zealand.

*Kia ata takia e te Kahui Tika Tangata nga tika tuturu o te tangata hei whakaruruhau i te nohonga pai o nga iwi katoa o Aotearoa.*

**Human Rights Commission**

The Human Rights Commission has three major statutory functions under the *Human Rights Act* 1993:

“(a) to advocate and promote respect for, and an understanding and appreciation of, human rights in New Zealand society;  
(b) to encourage the maintenance and development of harmonious relations between individuals and among the diverse groups in New Zealand society; and  
(c) to provide information to members of the public who have questions about discrimination and to facilitate resolution between the parties of disputes about discrimination (as defined in the Human Rights Act 1993) in the most efficient, informal and cost-effective manner possible.”

The Act also sets out specific responsibilities for leading, evaluating, monitoring and advising on equal employment opportunities.

**Commissioners**

The Act provides for the positions of Chief Commissioner, Equal Employment Opportunities Commissioner, Race Relations Commissioner, five part-time Human Rights Commissioners, the Director of Human Rights Proceedings, and the General Manager and staff.

Commissioners are required by the Human Rights Act to act independently.

## **Powers**

The Human Rights Act sets out the powers and related responsibilities of the Commission. These include:

- advocating for human rights
- conducting human rights programmes and activities
- making public statements on matters affecting human rights
- promoting understanding of the human rights dimensions of the Treaty of Waitangi
- publishing guidelines and voluntary codes of practice
- receiving and inviting public representations on human rights
- consulting and cooperating with other organisations
- inquiring into infringements of human rights
- bringing proceedings and intervening in court proceedings
- reporting to the Prime Minister on human rights compliance, international standards and legislation
- making public statements on hostility against or contempt of particular groups
- developing a national plan of action for human rights.

## **Office of Human Rights Proceedings**

The Office of Human Rights Proceedings is part of the Commission and is headed by the Director of Human Rights Proceedings. The Director decides, independently of the Commission and Crown Ministers, whether to provide legal representation in relation to discrimination for a complainant or group of people in proceedings before the Human Rights Review Tribunal and in related proceedings. The Director may also act for the Human Rights Commission and intervene in Privacy Act cases before the Tribunal.

## **Staff**

The Human Rights Commission and the Office of Human Rights Proceedings employ 62.56 full-time equivalent staff based in three offices situated in Auckland, Wellington and Christchurch.

## **International Accreditation**

The Human Rights Commission, a member of the Asia Pacific Forum of National Human Rights Institutions, is recognised by the International Coordinating Committee of National Human Rights Institutions as an accredited, independent, national human rights institution with the mandate to promote and monitor international human rights and race relations standards in New Zealand.

## **Human Rights and Race Relations in New Zealand September 2004-August 2005**

The last 12 months have been particularly significant for the New Zealand Human Rights Commission with the completion of the New Zealand Action Plan for Human Rights and major projects across all areas of the Commission's statutory responsibilities.

This report focuses on the New Zealand Action Plan for Human Rights and briefly summarises other key activities.

### **September 2004: Human Rights in New Zealand Today/ Nga Tika Tangata O Te Motu**

In September 2004 the Commission released Nga Tika Tangata O Te Motu/Human Rights in New Zealand Today the first comprehensive report on the status of human rights in New Zealand. The report concludes that:

“New Zealand meets international human rights standards in many respects, and often surpasses them. Although New Zealand is not flawless, the report shows that we have most of the elements essential for the effective protection, promotion and fulfilment of human rights: democracy, the rule of law and an independent judiciary free of corruption; effective structures of governance; specific processes for human rights and other forms of accountability; recognition of the vulnerability of particular groups and individuals; and active, involved, diversely organised citizens.

Further, as individual New Zealanders we are generally free to say what we think, read what we like, worship where and how we choose, move freely around the country, and feel confident in the laws that protect us from discrimination and the arbitrary abuse of power.

Most New Zealanders today also experience the benefits of the economic, social and cultural rights - education, decent work, good health, and affordable, healthy housing - that underpin a fair and just society and are crucial to the dignity, equality and security of each individual. The inter-relationship of these rights (for instance, the linkage between healthy housing and children's education and health) is compellingly illustrated in the report.”

The report also identifies where New Zealand must do better. While each chapter identifies specific issues, certain themes emerge across the report as a whole:

- A failure to wholeheartedly accept difference and diversity
- The vulnerability to human rights abuses of those most dependent on others - children, disabled people, and those in detention and institutional care
- The extent to which poverty undermines realisation of the most basic human rights
- The persistence of structural disadvantage and discrimination, even when poverty is not a factor. This is most significant for: disabled people; non-Pakeha New Zealanders in some situations; women, in some areas; and gays, lesbians, transgender and intersex people

- Violence, bullying and harassment represent the most flagrant human rights abuses and are present in too many New Zealand homes, schools, workplaces, playgrounds and playing fields
- A need for explicit recognition of human rights standards at all levels of New Zealand society, and for appropriate data, agreed indicators and measures to assess the extent to which those standards are respected
- The possible fragility of New Zealand's human rights protections in the absence of more comprehensive constitutional and legal provisions
- The challenge of agreeing on the place of the Treaty of Waitangi in New Zealand's present and future.

The most pressing issues to emerge from the report were those relating to the poverty and abuse experienced by a significant number of New Zealand children and young people; the pervasive barriers that prevent 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 continue to divide Maori and Pacific people from other New Zealanders; and the challenge of the place of the Treaty of Waitangi now and in the future.

### **March 2005: Mana Ki Te Tangata / New Zealand Action Plan for Human Rights**

The New Zealand Action Plan for Human Rights/Mana Ki Te Tangata was published in March 2005. The plan identifies key human rights outcomes and the actions needed to achieve them.

The Plan identified priority actions in six areas: children and young people, disabled people, race relations, civil and political rights, economic, social and cultural rights, and the framework for a robust human rights environment.

The plan recognises that while government has specific responsibilities for the promotion and protection of human rights, responsibilities extend beyond the State to regional and local government, to the business and community sectors, to voluntary groups and organisations. Indeed, each of us has a responsibility to respect and protect the rights of others. This is crucial in the case of children, and of those adults who are dependent on others for their care and survival.

### **Responses to the New Zealand Action Plan for Human Rights**

#### **General**

Both the launch and the Action Plan have received considerable public and media commentary, most, but not all, favourable. It has raised debate in particular around economic, social and cultural rights, including, for example, what is exactly meant by the right to free, compulsory primary and secondary education.

#### **New Zealand Government**

The Government has welcomed the work done and requested officials, led by the Department of Prime Minister and Cabinet, in consultation with the Ministry of

Justice and other agencies, as appropriate, to report to Cabinet by 20 November 2005, on options for the ongoing process.

### **Parliament and Political Parties**

The first formal Parliamentary cross-party commentary has been made by the Parliamentary Select Committee on Foreign Affairs Defence and Trade in the report on their Inquiry into the role of international human rights in foreign policy. In the unanimous report (representing six political parties) two out of the eleven recommendations referred specifically to the Action Plan:

“2. That the government draw on the New Zealand action Plan for Human rights in its regional dialogues on international human rights, and encourage other countries in the Asia-Pacific region to complete and implement their human rights actions plans.

...

10. We endorse the New Zealand Action Plan for Human Rights recommendation that “a national-wide strategic approach to human rights education in collaboration with government and non-government agencies and organisation” be developed and recommend to the Government that this include education on international human rights.”[\[1\]](#)

To date two political parties have made specific references to it in their manifestos for the General Election.

### **Post-Launch Activities**

- The Commission is working closely with selected government agencies, non-governmental organisations, iwi and ethnic community organisations to build support and understanding of the Action Plan prior to Cabinet decisions in November/December 2005.
- The Commission has developed a five year strategic plan for its own work incorporating the human rights priorities identified in the Action Plan.

### **Race Relations**

In addition to incorporating race relations priorities within the New Zealand Action Plan for Human Rights, the Commission published Race Relations 2004 in March 2005. It provides a record of significant developments in race relations in New Zealand in 2004; includes a summary of race-related complaints made to the Commission; brings together statistics from a variety of sources and provides an overview of race relations research conducted in 2004.

Other significant race relations activities have included are youth forums across New Zealand; leadership of the New Zealand Diversity Action Programme; an active contribution to interfaith dialogue; and the development of Race Relations Day on 21 March into a major national event with high levels of participation across the country.

### **Equal Employment Opportunities**

The New Zealand Action Plan for Human Rights includes specific priorities in relation to the right to work. During the year the Commission also published a paper setting out guiding principles on the right to breastfeed, and hosted a national forum on the issue. Subsequently, the Parliamentary Health Select Committee has

recommended further strengthening of legislative protections for the right to breastfeed.

Other significant equal employment opportunities activities have included publication of the first of three issues of NEON, a bi-monthly, electronic newsletter for the National Equal Opportunity Network, which the Commission is developing.

Most recently the Equal Employment Opportunities (EEO) Commissioner published a book on older workers.

### **Complaints / Dispute Resolution**

A total of 7215 enquiries and complaints were received by the Commission during the 2005/2006 year. Of these at least 1900 matters have been complaints with an unlawful discrimination component. The balance of matters is predominantly complaints about other human rights matters.

### **Court Cases**

Ahmed Zaoui case – the Commission has acted as Intervenor, setting out for the Courts the human rights issues, in the case of Ahmed Zaoui, an Algerian refugee who is the subject of a security risk certificate, which he is challenging. The case went right to the Supreme Court and has resulted in a more robust basis for the review of the security risk certificate.

Sex discrimination in employment: the Human Rights Review Tribunal found for a complainant alleging sex discrimination in the allocation of jobs in a fish factory. The company is appealing. The case has significant implications for labour market deregulation.

### **Human Rights and the Treaty of Waitangi**

In the year 1 July 2004 to 30 June 2005 the Commission has held:

- 15 symposia involving 1155 people
- 78 dialogue session with 1877 people
- 50 briefings and presentations covering 2016 people
- 7 facilitated training courses for 75 people.

Papers, discussion summaries and other feedback from these activities are posed on the Commission's website ([www.hrc.co.nz](http://www.hrc.co.nz)).

Major themes emerging relate to:

- the right of government to govern\
- the right to citizenship
- the right of Maori to live as Maori
- the right to equal opportunities and outcomes
- the relationships between the Treaty, indigenous rights and human rights.

## **Inquiry into the Accessibility of Public Land Transport for Disabled People**

The two and a half year inquiry has just ended and the report will be released publicly on 3 October 2005, immediately following the General Election.

The three major recommendations deal with the participation of disabled people in public transport planning and decision-making; the development of mandatory national accessibility design standards; and the requirement for disability awareness and competency training for public passenger transport drivers and other front-line staff.

## **Human Rights Education**

Human rights education, including human rights education by and for people with experience of mental illness, through the Korowai Whaimana programme, continued. Three groups of trainers now cover the upper North Island, lower North Island and the South Island.

The Commission has continued its focus on regional and community education, developing a Memorandum of Understanding with the local organisations and a range of specific projects including production of a CD, the exploration of the concept of a human rights-based Marae, youth expression of human rights through performance music, a range of human rights education workshops and the establishment of human rights clinics.

During the year the Commission has developed with the New Zealand Police a programme to integrate human rights into police pre-service training.

## **International**

The Commission remained active in promoting increased protection and support for human rights in New Zealand's foreign and trade policies, in the wider Asia Pacific region and in New Zealand's immediate Pacific neighbourhood. Specifically, it:

- participated in the development of a UN convention on the rights of disabled people
- advocated for completion of the Draft Declaration on the Rights of Indigenous Peoples
- continued strong support for the regional activities of the Asia Pacific Forum of National Human Rights Institutions (APF), including in the follow-up to the APF/Pacific Islands Forum Secretariat Nadi Workshop on National Human Rights Mechanisms in Pacific Islands Forum countries
- worked closely with the Fiji Human Rights Commission exchanging experience and expertise
- welcomed Commissioner and staff study visits from the Palestinian Independent Commission for Citizens Rights  
continued support for the development of a national human rights action plan in Timor-Leste, through one in-person visit and ongoing advice provided by telephone and email

- engaged with the Ministry of Foreign Affairs and Trade (MFAT) and the New Zealand Agency for International Development (NZAID) on human rights in New Zealand's foreign and development policies
- responded to a request from the Chairperson of Parliament's Foreign Affairs, Defence and Trade Select Committee to make a submission for its Inquiry into New Zealand's role in the promotion of international human rights
- hosted regular Pacific Human Rights Roundtables for government agencies and civil society which have an interest in human rights in the Pacific Islands region, for the purpose of sharing information relevant to human rights on New Zealand activities in the region and developments and trends there
- hosted a Speakers Forum on "Human Rights and Trade" at which representatives of the NZ CTU, MFAT, Business New Zealand, Amnesty International, and Oxfam NZ discussed issues relating to New Zealand's international trade and human rights

[1] Pages 3 and 4, Inquiry into the role of international human rights in foreign policy, Report of the Foreign Affairs, Defence and Trade Committee, Forty-seventh Parliament, August 2005 (1.4D)