



Fault lines:

Human rights in

New Zealand

Judy McGregor, Sylvia Bell and Margaret Wilson

Acknowledgements:

The New Zealand Law Foundation funded the three year research project and we are enormously grateful for their financial and moral support. We would like to thank the stakeholders who contributed to the research and to those experts who read individual chapters and provided feedback. We appreciate the work of Kyle Stutter of the New Zealand Human Rights Commission and Kirsty Whitby in the School of Social Sciences and Public Policy at AUT for money matters. Millie Wall patiently formatted the report and designed the cover. Heidi Jones and Anne-Marie Laure provided valuable research in the early stages of the project. Sir Geoffrey Palmer undertook the overall peer review and John Harvey proof read the report several times. Any errors of fact or grammatical imperfections are ours alone and will be corrected in web-based versions of the report.

Contact details: judy.mcgregor@aut.ac.nz

sbell@aut.ac.nz

mwilson@waikato.ac.nz

Summary of recommendations

Institutional Mechanisms

- The Justice and Electoral Select Committee be re-designated as the Justice, Electoral and Human Rights Select Committee and given responsibility for oversight of New Zealand's human rights treaty commitments.
- The New Zealand Bill of Rights (NZBORA) reporting mechanism is amended to require section 7 vets by the Attorney General to be directly considered by the new select committee. Section 7 vets should apply to bills at their third reading and Supplementary Order Papers and the Attorney General should not be required to vote in favour of legislation that is inconsistent with the NZBORA.
- The Māori Affairs Select Committee takes responsibility for developing indicators to monitor human rights treaty recommendations relating to Māori and reports to the Justice and Electoral Select Committee and to Parliament on their realisation.
- The Ministry of Justice becomes the co-ordinating Ministry to ensure consistency of all New Zealand government reports to treaty bodies and to provide a national archive of all treaty body information that is freely accessible to civil society and individuals.

Legislation

- New Zealand lifts the reservations relating to inciting racial disharmony in International Covenant on Civil and Political Rights (ICCPR); age mixing in prisons in both ICCPR and Convention on the Rights of the Child (CRC), and the reservations in both the ICCPR and International Covenant on Economic Social and Cultural Rights (ICESCR) on collective bargaining and trade unions.
- New Zealand ratifies the Optional Protocols to ICESCR and Convention on the Rights of Persons with Disabilities (CRPD) to comply with international commitments and to ensure that individuals have a remedy for the abuse of executive power.
- New Zealand urgently repeals the Public Health and Disability Act to reinstate the jurisdiction of the New Zealand Human Rights Commission and Human Rights Review Tribunal for all New Zealanders.
- A comprehensive review is undertaken of the Human Rights Act 1993 that covers the incorporation of the principle of equality, the appointments process, independence, the status and functions of Commissioners and resourcing.

Policy

- New Zealand pro-actively nominates candidates for the United Nations Human Rights Council, the Human Rights Committee, treaty body committees and special procedures, and institutes a cross party mechanism on UN representation.

- An accurate, well-reasoned and comprehensively researched explanation of New Zealand's unique constitutional arrangements is prepared with help from human rights academics to accompany all country reports to human rights treaty bodies.

Practice

- The Ministry of Justice establishes a formal process for publicising, considering and responding to Concluding Observations, and takes concrete, targeted steps to improve knowledge of international human rights domestically.
- An autonomous forum of non-governmental organisations (NGOs) funded by the Ministry of Justice be held in association with mid-cycle reporting of the Universal Periodic Review to enhance the co-ordination, capacity and capability of civil society.
- Journalists and media organisation, led by the Journalist Educators' Association of New Zealand (JEANZ) and with help from the New Zealand Human Rights Commission, sponsor the development of a practical toolkit for journalists on the reporting of human rights and the international treaty body system.