



Te Kāhui Tika Tangata  
Human Rights Commission



# Aotearoa New Zealand's Fourth Universal Periodic Review

Submission by Te Kāhui Tika Tangata | New Zealand Human Rights Commission

2023/24



Te Kāhui Tika Tangata  
Human Rights Commission

# Aotearoa New Zealand's Fourth Universal Periodic Review

Te Kāhui Tika Tangata | Aotearoa New Zealand Human Rights Commission

## About the Commission

Te Kāhui Tika Tangata | New Zealand Human Rights Commission was created to provide better implementation and protection of human rights in Aotearoa New Zealand. The Commission was formed in 1977 and works under the Human Rights Act 1993. We are funded through the Ministry of Justice but operate independently of the New Zealand Government as an independent Crown Entity.

The Commission is Aotearoa New Zealand's 'A' status national human rights institution, operating under the United Nations 'Principles Relating to the Status and Functions of National Institutions for the Promotion and Protection of Human Rights' (Paris Principles).

Information about the Commission's activities can be found on our website:

<https://tikatangata.org.nz/>

# Contents

<b>Foreword</b> .....	<b>2</b>
<b>Introduction</b> .....	<b>3</b>
<b>Scope of International Obligations</b> .....	<b>3</b>
<b>Constitutional Framework</b> .....	<b>3</b>
Human rights protections .....	3
Te Tiriti o Waitangi and Indigenous rights .....	4
National Action Plan for United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) .....	4
<b>Climate change</b> .....	<b>5</b>
<b>Business and human rights</b> .....	<b>5</b>
<b>Civil and political rights</b> .....	<b>6</b>
Racial discrimination.....	6
Criminal Justice System.....	6
Over-representation of Māori .....	6
Use of force and conditions in prisons .....	6
Human Rights Review Tribunal.....	7
<b>Economic, social and cultural rights</b> .....	<b>7</b>
Right to Housing .....	7
<b>Right to healthcare and public health</b> .....	<b>8</b>
Public Health .....	8
Mental Health .....	8
Covid 19.....	8
Right to work.....	9
Pay equity.....	9
Bullying and harassment.....	9
<b>Rights of specific persons or groups</b> .....	<b>9</b>
Women.....	9
Violence and abuse .....	9
Children .....	10
Abuse in care.....	10
<b>Rights related to SOGIESC</b> .....	<b>10</b>
<b>Disabled People</b> .....	<b>11</b>
<b>Asylum seekers and migrants</b> .....	<b>12</b>
Trafficking, modern slavery and labour exploitation.....	12
Migrant discrimination and exploitation.....	12
Asylum seekers.....	12
<b>Endnotes</b> .....	<b>13</b>

# Foreword

On 29 April 2024, Aotearoa New Zealand's human rights record will be the subject of discussion at the fourth cycle of the Universal Periodic Review (UPR) at the United Nations (UN) Human Rights Council. The UPR is a peer review dialogue where all UN Member States are reviewed approximately every five years. The UPR helps identify human rights achievements, challenges and solutions by allowing other States to ask questions and provide recommendations on human rights.

National Human Rights Institutions are encouraged to be part of the process and provide an independent assessment of the country under review. Te Kāhui Tika Tangata | New Zealand Human Rights Commission has been actively engaged in the UPR since New Zealand's appearance at the first cycle in 2009.

The UPR is based on three main reports: a national report by the New Zealand Government; a summary of UN engagement with New Zealand since the previous UPR appearance; and a 'stakeholder report' with input from the Commission and civil society organisations.

The Commission's submission describes the status of human rights in New Zealand by noting key developments since the previous review and making recommendations about ongoing challenges.

In the period between reviews, New Zealand has been rocked by several significant human rights events: the devastating terror attack on Christchurch mosques in 2019, which was described by the Prime Minister as "one of New Zealand's darkest days"; the COVID-19 pandemic; and severe weather events in early 2022 reflecting the disastrous impacts of climate change.

This submission welcomes Government's positive developments since the last cycle, including ratifying the Optional Protocol on a Communications Procedure under the Convention on the Rights of the Child; committing to introducing legislation that addresses gender pay gap reporting, modern slavery and improving the Mental Health Act; introducing a national strategy and action plan to eliminate family and sexual violence, and a national action plan against racism; and decriminalising and making abortion services more accessible.



It also highlights weaknesses in the protection of human rights, including the constitutional status of te Tiriti o Waitangi | the Treaty of Waitangi; the over-representation of Māori across most socio-economic indicia and at all stages of the criminal justice system; and the challenges faced by an urgent housing crisis.

The UPR is an important process aimed at encouraging reflection and debate and generating movement towards better human rights protections in New Zealand and around the world. I look forward to engaging with the Government, Tangata Whenua, and civil society as we strive together to press forward on human rights achievements and continue to address remaining challenges.

A handwritten signature in black ink, appearing to read 'K. Sumeo'.

**Saunoamaali'i Dr Karanina Sumeo**  
Te Amokapua | Chief Commissioner (Acting)  
Kaihautū Ōritenga Mahi | Equal Employment  
Opportunities Commissioner

## Introduction

1. At Aotearoa New Zealand's (New Zealand's) third cycle Universal Periodic Review (UPR) the Government supported 160 of 194 recommendations.
2. This submission highlights the Government's positive steps and remaining challenges in implementing key recommendations from the last UPR.

## Scope of International Obligations

3. The Government has partially implemented recommendations on ratifying international conventions. The Government has ratified the Optional Protocol on a Communications Procedure under the Convention on the Rights of the Child,<sup>1</sup> but not other recommended conventions. Nor has it removed its reservation to article 14 of the Convention Against Torture.<sup>2</sup>

### Recommendations

- Adopt a timeline for becoming party to the:
  - International Convention for the Protection of All Persons from Enforced Disappearance
  - International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
  - Optional Protocol to the International Covenant on Economic, Social and Cultural Rights
  - 1954 Convention relating to the Status of Stateless Persons
  - ILO, Indigenous and Tribal Peoples Convention, 1989 (No. 169)
  - ILO, Domestic Workers Convention, 2011 (No. 189)
  - ILO, Violence and Harassment Convention, 2019 (No. 190)
  - Adopt a timeline to remove the reservation to article 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

## Constitutional Framework

4. The Government has taken some steps to strengthen constitutional protections of human rights,<sup>3</sup> but not Te Tiriti o Waitangi (Te Tiriti).<sup>4</sup>

### Human rights protections

5. New Zealand does not have a written constitution. The New Zealand Bill of Rights Act 1990 (**NZBORA**) affirms New Zealand's commitment to the International Covenant on Civil and Political Rights (**ICCPR**). However, it does not incorporate all ICCPR rights, including rights to privacy, self-determination, or a remedy. Nor does it incorporate economic, social, or cultural rights.
6. NZBORA can be amended by a simple Parliamentary majority. The courts cannot strike down rights-inconsistent legislation.
7. The 2022 NZBOR (Declarations of Inconsistency) Amendment Act requires the Government to respond to declarations of inconsistency by the courts under the NZBORA or Human Rights 1993 (**HRA**). However, there is not requirement to repeal inconsistent laws.



## Te Tiriti o Waitangi and Indigenous rights

8. Te Tiriti, signed in 1840 between the British and Māori, is New Zealand's founding constitutional document, affirming the status of Māori as Tangata Whenua (Indigenous Peoples), and recognising their pre-existing and ongoing tino rangatiratanga (sovereign authority) and self-determination.
9. Te Tiriti is not legally enforceable unless incorporated into legislation and there is little to no recognition of Māori tino rangatiratanga (sovereign authority) in New Zealand's constitution or law.
10. The impacts of colonisation and breaches of Te Tiriti have led to persistently poorer outcomes for Māori, across all areas. In 2022, the Commission released two reports highlighting the ways white supremacy, colonisation, and institutional racism impede Māori rights to tino rangatiratanga (sovereign authority) and self-determination.<sup>5</sup>
11. Despite repeated domestic and international recommendations for the Crown and Māori to determine the appropriate constitutional protections and endorsements of Te Tiriti,<sup>6</sup> its constitutional status remains unclear and unprotected. Accordingly, Te Tiriti and Indigenous Rights remain vulnerable to the political climate of the day. For example, Parliament recently enacted legislation<sup>7</sup> that extinguished, without consent, active court proceedings brought by Wairarapa Māori<sup>8</sup> seeking the return of lands and assets.

## National Action Plan for United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

12. The Government has partially implemented recommendations on developing a National Plan of Action on UNDRIP.<sup>9</sup> As described in our mid-term report,<sup>10</sup> in 2019 a Ministerial advisory group produced the report, *He Puapua*, on realising UNDRIP in New Zealand. Drawing on the proposed constitutional models in *Matike Mai Aotearoa*,<sup>11</sup> it recommended a Tiriti-based constitutional framework, enabling Māori authority over Māori matters, including exclusive and/or shared jurisdiction over their lands, territories, resources, and culture.<sup>12</sup>
13. Due to political opposition to Indigenous Peoples' rights, the Government has postponed the plan's development until 2024.

### Recommendations

- Ensure that New Zealand's obligations under the ICCPR and the International Covenant for Economic, Social and Cultural rights are comprehensively incorporated into law.
- Set a timeline for progressing discussions and action, in partnership with Māori, to determine and implement the appropriate constitutional processes and institutions to recognise, respect, and give effect to Te Tiriti o Waitangi in New Zealand.
- Intensify efforts to implement the UNDRIP in New Zealand, grounded in Te Tiriti o Waitangi, including through a National Plan of Action.
- Restore Wairarapa Moana Incorporation's right to have their claim heard and determined in the New Zealand Courts by reversing the settlement of their Wai 85 claim and enabling the Waitangi Tribunal to pursue the path outlined for it in *Wairarapa Moana ki Pouākani v Mercury NZ Ltd [2022] NZSC 142*.

## Climate change

14. The Government has partially implemented recommendations on climate change.<sup>13</sup> New Zealand recently experienced severe flooding and one of its worst cyclones. Commission staff visited some affected communities. Community members described a sense of powerlessness and desire for national and local Government to support Māori and community-led responses to recovery.<sup>14</sup>
15. The Commission welcomed the Government's shift towards proactive adaptation through the first National Adaptation Plan 2022-2028. In 2023, it also proposed an inquiry into community-led retreat and adaption funding to ensure everyone can contribute to how New Zealand prepares to adapt.<sup>15</sup>
16. Māori, Pacific peoples, rural communities, older people, and disabled people<sup>16</sup> are more vulnerable to the impacts of climate change. Their voices are central to any proposed legislation or policies. Māori have a long history of effectively adapting to natural hazards and changing environments, including to recent severe weather events.
17. While recognising these developments, the Commission is concerned that the Climate Change Response (Zero Carbon) Amendment Act 2019 net zero target for 2050 omits biogenic methane, comprising 43.5% of total greenhouse gas emissions in New Zealand in 2020.

### Recommendation

- Integrate te ao Māori (Māori world view) and mātauranga Māori (Māori knowledge) and Pacific peoples' voices into climate mitigation and adaptation, by seeking to incorporate key learnings, knowledge, and frameworks that iwi, hapū and Māori are already using to address the impacts of climate change.

## Business and human rights

18. As recommended at the last UPR, the Government is considering options to develop and adopt a national action plan for business and human rights.<sup>17</sup>

### Recommendation

- Immediately develop and adopt a comprehensive national plan of action for business and human rights based on the United Nations Guiding Principles on Business and Human Rights.



# Civil and political rights

## Racial discrimination

19. As described in our mid-term report,<sup>18</sup> the Government has partially implemented recommendations on racial discrimination<sup>19</sup> by establishing and following up on recommendations of the Royal Commission of Inquiry into the March 15 terror attacks (RCOI)<sup>20</sup> and implementing recommendations to develop a national action plan against racism<sup>21</sup> (NAPAR), due for public consultation in early 2024.
20. Following the RCOI, the Government apologised for intelligence and security agencies' "disproportionate scrutiny" of Muslim communities. However, it has not made any payments to victims or their families in accordance with its international obligations.<sup>22</sup>
21. The Government also agreed, in principle,<sup>23</sup> to amend the hate speech provisions<sup>24</sup> under the HRA.<sup>25</sup> However, the Government has now referred the matter of legislating hate crimes and hate speech to the Law Commission for review.<sup>26</sup> In December 2022, the Government withdrew a Bill expanding the incitement provisions of the HRA to include religious communities.<sup>27</sup> New Zealand does not have specific hate crime laws.<sup>28</sup>

### Recommendations

- Urgently develop a reparations package for the survivors, families and witnesses affected by the Christchurch terrorist attacks.
- Urgently progress implementation of the recommendations of the Royal Commission of Inquiry into the Christchurch Mosque Attacks that relate to hate crimes and hate speech.
- Prioritise completion and implementation of the National Action Plan Against Racism by 2025.

## Criminal Justice System

### Over-representation of Māori

22. The Government has partially implemented recommendations on discrimination in the criminal justice system, particularly against Māori. However, the impacts are yet to be seen.<sup>29</sup>
23. Despite numerous Government strategies, programmes, and initiatives, Māori are still over-represented across the criminal justice system. The Commission's 2023 *Maranga Mai!* report details the historic and ongoing disproportionate policing, apprehension, prosecution, conviction, and imprisonment of Māori.<sup>30</sup>
24. Transformational legislative and policy reforms are required to reverse this trend, informed by the Waitangi Tribunal's inquiry into the New Zealand justice system.<sup>31</sup>

### Use of force and conditions in prisons

25. The Government has partially implemented recommendations relating to rehabilitative support for Māori prisoners<sup>32</sup> and human rights-consistent conditions for all prisoners.<sup>33</sup>
26. However, the Commission remains concerned that:
  - the use of force has increased within prisons, particularly against women, Māori, and Pacific peoples
  - the Corrections Amendment Regulations contravene international human rights law standards on the use of pepper spray
  - prisoners are still subject to prolonged and indefinite solitary confinement
  - people with intellectual or psychosocial disabilities are incarcerated at a high rate, and
  - women are segregated significantly more than men in New Zealand's prisons.<sup>34</sup>

## Human Rights Review Tribunal

27. Although the Government has attempted to implement the recommendation to increase resourcing to the Tribunal<sup>35</sup> by increasing the number of its chairpersons, the Commission is concerned about substantially increasing delays of proceedings.<sup>36</sup>

### Recommendations

- Promote and financially support Māori rangatiratanga (sovereign authority) and self-determination to design and implement their own initiatives to address Māori and criminal justice in accordance with Te Tiriti o Waitangi.
- Amend the Corrections Act 2005 and Corrections Amendment Regulations 2023 to prohibit the use of pepper spray in response to passive resistance in confined spaces and against individuals who have been identified as high risk, and prohibit the use of restraints following the deployment of pepper spray.
- Adopt legislative and policy measures to ensure that solitary confinement is used only in exceptional cases as a last resort and for as short a time as possible, in accordance with the Nelson Mandela Rules.
- Dedicate funding to strengthening mental health services to all persons deprived of their liberty.
- Take immediate steps to significantly increase resourcing to reduce delays and clear the backlog in the Human Rights Review Tribunal.

## Economic, social and cultural rights

### Right to Housing

28. The Government has partially implemented recommendations on the right to housing.<sup>37</sup> However, our mid-term report<sup>38</sup> highlights the ongoing severity of New Zealand's housing crisis.
29. The Commission's two-year inquiry into the right to a decent home concluded that, for many people, an affordable, healthy, accessible home remains out of reach.<sup>39</sup> New Zealand's ongoing, urgent housing crisis has been caused by decades of institutional neglect, including a failure to recognise or give effect to the human right to a decent home.
30. Māori are disproportionately excluded from secure housing. Young people, refugee and migrant families, Pacific peoples, single parents, elderly, and disabled people also face more barriers to access compared with the general population.
31. Many people reported that the emergency housing system had failed to support them through housing insecurity into sustainable solutions.<sup>40</sup> These issues are exacerbated by the absence of effective accountability mechanisms with the authority to address systemic housing issues.
32. While the Government's Homelessness Action Plan 2020-2023<sup>41</sup> is commendable, as of June 2023, 24,717 people are on the Government's housing register:<sup>42</sup> more than double from 2018. The vast majority are Māori with severe, persistent, and urgent housing needs.<sup>43</sup>

### Recommendations

- Adopt a human rights-based national housing strategy, legislation, and policy processes, recognising the right to a decent home and giving effect to Te Tiriti o Waitangi.
- Implement effective accountability measures to monitor, review, and evaluate the housing system.

# Right to healthcare and public health

## Public Health

33. The Government has taken some steps to implement recommendations to advance public health.<sup>44</sup> In 2022, as part of wide-ranging reforms to the health system, the Government established the Public Health Advisory Committee (PHAC) to provide independent expert advice to the Government. One of PHAC's major pieces of work is on healthy food environments. Unhealthy diets and obesity contribute significantly to poor health and inequities, healthy life-years lost, premature mortality, and additional costs to the healthcare system in New Zealand. PHAC will report in January 2024.

## Mental Health

34. The Government has partially implemented recommendations to improve disparities and access to appropriate mental health services.<sup>45</sup> Reported psychological distress has substantially increased over the last ten years, particularly among younger people and women. Trans and non-binary people experience significant psychological distress<sup>46</sup> and our teen suicide rates are among the worst in the OECD. Mental health services are chronically under-funded.
35. The Government has indicated that new mental health legislation will provide a broader range of options beyond medical interventions, including kaupapa Māori (Māori-based) approaches and other cultural support, collective responses to care, and more holistic and comprehensive care-planning.<sup>47</sup>
36. However, the Commission is concerned that the new legislation will still permit involuntary treatment, contrary to the Disability Convention.<sup>48</sup>

## Covid 19

37. The Government supported several recommendations on the right to health and living standards that are relevant to the impacts of COVID-19, particularly regarding disability rights.<sup>49</sup>
38. The Commission's mid-term report<sup>50</sup> addressed various human rights issues arising out of COVID-19. In late 2021, New Zealand implemented its COVID-19 Protection Framework: shifting from eliminating COVID-19 to focusing on increasing vaccination rates.<sup>51</sup>
39. In April 2022, the Commission's Omicron Inquiry highlighted reduced public health protections for disabled people arising from lack of consultation with affected groups and inadequate mitigation methods.<sup>52</sup> The Commission welcomes the Royal Commission of Inquiry into COVID-19.<sup>53</sup>

### Recommendations

- Urgently consider the Public Health Advisory Committee's recommendations, roll-out a national nutrition survey, design a national food strategy, and explicitly recognise the right to nutritious food for everyone in New Zealand.
- Implement all recommendations in the Mental Health Inquiry through a well-resourced plan that addresses systemic issues, improves data collection, and focuses on the needs of marginalised groups.
- Progress work on introducing new mental health legislation, ensuring that any new law is consistent with the right to non-discrimination and equal recognition before the law, consistent with the Convention on the Rights of Persons with Disabilities.
- Ensure adequate provision of a wide range of mental health support services, with a focus on services designed by Māori for Māori.
- Repeal legislation that enables forced detention or medical intervention on persons with disabilities.
- Prioritise the rights of vulnerable communities in protecting them from the ongoing impacts of COVID-19.
- Embed human rights protections in legislation and policy measures that may respond to any future pandemic.

## Right to work

### Pay equity

40. The Government has taken commendable steps to implement recommendations on the gender pay gap.<sup>54</sup> Following the Commission's 2022 Pacific Pay Gap Inquiry,<sup>55</sup> we welcomed the Government's commitment to introducing laws requiring companies with 250+ employees to report on their gender pay gap.<sup>56</sup> However, more work needs to be done to measure, report and close pay gaps experienced by all workers, especially based on ethnicity and disability.

#### Recommendation

- Introduce legislation and policies requiring businesses to measure, report and close pay gaps experienced by all workers, especially Māori, Pacific, Asian, ethnic minorities, and disabled workers.

### Bullying and harassment

41. The Commission's 2022 nationwide workers' survey found that in the past five years 39% had experienced racial harassment, 30% sexual harassment, and 20% frequent bullying behaviour. Māori, Pacific, Asian, disabled, and bisexual workers were also disproportionately affected by bullying and harassment.<sup>57</sup>

## Rights of specific persons or groups

### Women

#### Violence and abuse

42. The Government has made considerable progress implementing recommendations on family and sexual violence.<sup>58</sup> The Government established a Minister for the Prevention of Family Violence, adopted a whole-of-government response to family violence – underpinned by Te Aorerekura National Strategy and Action Plan to Eliminate Family Violence and Sexual Violence – and undertaken legislative reform.<sup>59</sup>
43. However, the Commission remains concerned at the persistently high level of family and sexual violence, which disproportionately affects Māori, trans,<sup>60</sup> ethnic, and disabled women.<sup>61</sup> The Commission has documented the disproportionate violence against disabled people, including tāngata whaikaha Māori (disabled Māori).<sup>62</sup>
44. Māori community responses were effective in providing various safe, accessible supports during the pandemic.

#### Recommendations

- Continue to implement and report on steps taken to progress the National Strategy and Action Plan to Eliminate Family Violence and Sexual Violence.
- Promote and financially support Māori rangatiratanga (sovereign authority) and self-determination to design and implement their own initiatives to address family and sexual violence within Māori communities, in accordance with Te Tiriti o Waitangi.
- Mainstream gender-specific issues within the disability focus of the National Strategy and Action Plan to Eliminate Family Violence, and include disabled people and tangata whaikaha Māori (disabled Māori) in the implementation and design of new measures within the family violence and sexual violence framework.

## Children

45. The Government has made some progress implementing recommendations on the rights of children,<sup>63</sup> including committing to reducing child poverty<sup>64</sup> and increasing the upper age threshold for the child protection and youth justice system from 16 to 17.
46. However, child poverty persists – especially for Māori and Pacific children. Recent proposed legislation seeks to increase criminalisation of children aged 12-13,<sup>65</sup> contravening human rights law.<sup>66</sup>

### Abuse in care

47. The Commission welcomed the Royal Commission of Inquiry into abuse in State care and in the care of faith-based institutions.<sup>67</sup>
48. The Royal Commission's interim report on progress (December 2020),<sup>68</sup> interim report on redress (December 2021),<sup>69</sup> and report into abuse at the State-run Child and Adolescent Unit at Lake Alice Hospital reveal the grave extent of physical, psychological and sexual abuse that took place across various institutions, in some cases amounting to torture.<sup>70</sup> The investigation into Māori experiences highlighted the State's failure to care for children in its care and the intergenerational harm the abuse caused to whānau Māori (Māori families).<sup>71</sup> The Royal Commission's final report is expected in March 2024.
49. The Government has agreed to a high-level design of a new redress system.<sup>72</sup> However, survivors still have no immediate prospect of full redress, including compensation and rehabilitation.

### Recommendations

- Immediately provide full redress, including compensation and the means for as full a rehabilitation as possible, to survivors of abuse in state and faith-based care.
- Immediately raise the minimum age of criminal responsibility to 14 years old, in line with international standards.
- Commit to addressing child offending using non-punitive measures that promote the welfare of the child and their family, and address issues underlying offending.

## Rights related to SOGIESC<sup>73</sup>

50. The Government has made some progress in addressing recommendations relating to discrimination based on sexual orientation, gender identity and expression, and sex characteristics.<sup>74</sup>
51. The Commission welcomed the Births, Deaths, Marriages, and Relationship Registration Act 2021, which introduced a more streamlined administrative process to amend the sex recorded on a New Zealand birth certificate, based on a self-declaratory model. However, it excludes people who do not have citizenship or permanent residency.<sup>75</sup>
52. The Conversion Practices Prohibition Legislation Act 2022 introduced a civil and criminal prohibition on practices intended to change or suppress someone's sexual orientation, gender identity, or gender expression. Additional funding enabled the Commission to provide a dispute resolution service for complaints alongside an educative function to promote consistency with the new legislation. However, this funding has now ceased.
53. The Government has not implemented recommendations to amend the HRA to include gender identity, expression, or sex characteristics as prohibited grounds of discrimination.<sup>76</sup> Despite extensive review by the Commission and other parties, it has referred the issue to the Law Commission.
54. The Government has taken some steps to implement recommendations relating to intersex persons,<sup>77</sup> by providing resources to develop a rights-based approach to the health care of intersex children and young people and their whānau.<sup>78</sup> However, medical and surgical intervention on intersex infants and children remains an ongoing human rights concern.

55. Despite recommendations to improve access to healthcare for people whose sexual orientation, gender identity and expression, and sex characteristics differ from majority, binary norms,<sup>79</sup> as reiterated in the Commission's PRISM report,<sup>80</sup> these disparities remain pervasive.

#### Recommendations

- Ensure those who are refugees, asylum seekers, and migrants on temporary visas can amend the sex marker on their identification documents.
- Prioritise amending the Human Rights Act 1993 to include gender identity, gender expression, and sex characteristics as prohibited grounds of discrimination.
- Ensure the Commission's baseline permanent funding is increased to ensure it can continue to adequately resources its response to the new conversion practices law.
- Develop human rights-based health strategies and healthcare services for intersex people.
- Improve access to gender-affirming healthcare for transgender and non-binary people, including by providing clear local pathways, based on informed consent and self-determination.

## Disabled People

56. The Government has not implemented recommendations on the right to inclusive education for all children.<sup>81</sup> The Commission is concerned about the ongoing investment, increasing rolls and levels of physical restraint in residential specialist schools. While enrolment in these schools had declined over the past decade, the Government's adjustment to entry criteria has almost doubled enrolments between July 2022 and July 2023.<sup>82</sup>
57. The Commission is concerned that people facing significant barriers, such as those with fetal alcohol spectrum disorder (FASD)<sup>83</sup> or Myalgic Encephalomyelitis /Chronic Fatigue Syndrome, are not eligible for disability support services,<sup>84</sup> whereas those with neurodevelopmental disorders such as autism spectrum disorder are covered.

#### Recommendations

- Commit to investing in a truly inclusive education system and provide comprehensive support options for disabled children to remain with family, in their local communities, with reasonable accommodation to learn in their local schools.
- Urgently seek to raise the living standards of disabled people, by:
  - significantly raising thresholds to support disability-related costs
  - increase the disability and child disability allowances and amend eligible costs to reflect a human rights-consistent social model of disability rather than the current medical model, and
  - substantially increasing the target for universally designed new build public housing to support affordable and accessible housing options.
- Extend eligibility for publicly-funded disability support services that responds to the barriers to participation people face rather than prescribed diagnostic categories. Prioritise people experiencing significant barriers, such as people affected by fetal alcohol spectrum disorder (FASD) and Myalgic Encephalomyelitis /Chronic Fatigue Syndrome.

# Asylum seekers and migrants

## Trafficking, modern slavery and labour exploitation

58. The Government has taken commendable steps to implement recommendations on eliminating trafficking and modern slavery.<sup>85</sup> In July 2023 the Government committed to introducing modern slavery legislation requiring businesses with more than \$20 million in revenue to outline actions they are taking to address exploitation risks in their operations and supply chains.
59. However, the Commission notes that human trafficking and slavery prosecutions are low, and that the legislative definition of child trafficking does not align with international definitions.<sup>86</sup>

## Migrant discrimination and exploitation

60. The Government has partially implemented recommendations to address discrimination against migrants.<sup>87</sup> The Commission's 2021 study on migrant discrimination found that migrants experience more discrimination than New Zealand-born people, and racism remains prevalent.<sup>88</sup>
61. In 2022, the Commission raised serious concerns about the treatment of temporary migrants from Pacific Island countries under the Recognised Seasonal Employer (RSE) Scheme, including restrictions on movement, cultural practices, poor-quality housing, and unreasonable wage deductions.<sup>89</sup>
62. The Commission is also concerned that the Accredited Employer Work Visa (AEWV) enables exploitation of migrants by tying workers to their employers, creating barriers to enforce their rights. The Government is currently reviewing the RSE and AEWV schemes.

## Asylum seekers

63. The Government has taken limited steps to implement recommendations to improve treatment of asylum seekers.<sup>90</sup> The Government provides some basic support to asylum seekers *after* their claim is approved, but very limited support *beforehand*. Asylum seekers rely heavily on non-governmental organisations for housing, information, advocacy, and food support while their refugee status claims are processed.
64. In September 2020, the Government stopped detaining asylum seekers in prisons. However, the 2023 Immigration (Mass Arrivals) Amendment Bill proposes to increase the detention time for any person who arrives by boat as part of a "mass group" (30+ people) from 4 days for up to 7 days, and for up to 28 days in some circumstances.

### Recommendations

- Introduce modern slavery legislation that applies to entities of all sizes with international supply chains in the public and private sector within one year.
- Urgently implement changes to the Recognised Seasonal Employer Scheme and Accredited Employer Work Visa to protect the rights of migrant workers, following active culturally-appropriate and accessible engagement with affected migrant workers.
- Provide targeted and accessible services to asylum seekers, including funding for short-term accommodation services, adequate resourcing of cross-cultural workers and community navigators to assist asylum seekers with access to entitled services, and specialist case workers at agencies who are trained in asylum seekers and refugee policies.
- Urgently withdraw the Immigration (Mass Arrivals) Amendment Bill which increases the detention time of asylum seekers who arrive in New Zealand as part of a mass group.

# Endnotes

- <sup>1</sup> United Nations Human Rights Council, Report of the Working Group on the Universal Periodic Review, New Zealand, Third Cycle, UN Doc. A/HRC/41/4 (1 April 2019). The Government supported recommendations to adopt the **Optional Protocol to the Convention on the Rights of the Child on a communication procedure**: Recommendations 122.20 (Slovakia); 122.21 (Paraguay); 122.22 (Montenegro) (El Salvador) 122.18 (Ukraine); 122.19 (Georgia).
- <sup>2</sup> **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**. The Government noted recommendation 122.27 (Denmark).
- <sup>3</sup> The Government noted recommendations to strengthen human rights protections: Recommendations 122.29 (Portugal); 122.35 (Germany); 122.33 (Bolivarian Republic of Venezuela).
- <sup>4</sup> The Government noted the recommendation to develop a written constitution and ensure constitutional or legislative recognition of the Treaty of Waitangi: Recommendation 122.32 (Russian Federation). The Government supported a raft of recommendations to protect and promote the rights of Māori: Recommendations 122.168 (Egypt); 122.169 (Estonia); 122.175 (Myanmar); 122.167 (Mongolia); 122.178 (Bangladesh); 122.179 (China); 122.176 (Indonesia); 122.177 (Cuba); 122.80 (Sri Lanka); 122.164 (Senegal); 122.181 (Syrian Arab Republic); 122.166 (Russian Federation); 122.183 (Bahamas); 122.182 (United Kingdom of Great Britain and Northern Ireland).
- <sup>5</sup> Te Kāhui Tika Tangata | Human Rights Commission, *Maranga Mai! The dynamic and impacts of white supremacy, racism, and colonisation upon tangata whenua in Aotearoa New Zealand* (November 2022) <https://tikatangata.org.nz/our-work/maranga-mai>; Te Kāhui Tika Tangata | Human Rights Commission, *Ki te whaiao, ki te ao Mārama Community Engagement Report for developing a National Action Plan Against Racism* (November 2022) available at <https://tikatangata.org.nz/cms/assets/Documents/Ki-te-whaiao-ki-te-ao-Marama-Full-Report-PDF.pdf>.
- <sup>6</sup> See Constitutional Advisory Panel, *New Zealand's Constitution: A Report on a Conversation He Kōtuinga Kōrero mō Te Kaupapa Ture o Aotearoa* (November 2013) available at <https://www.justice.govt.nz/assets/Constitutional-Advisory-Panel-Full-Report-2013.pdf>; Report of Matika Mai Aotearoa – The Independent Working Group on Constitutional Transformation available at <https://nwo.org.nz/resources/report-of-matike-mai-aotearoa-the-independent-working-group-on-constitutional-transformation/>. These calls have been reinforced domestically with the Waitangi Tribunal's recent recommendation that a constitutional conversation should be had between the Crown and Māori to determine the appropriate constitutional processes and institutions to recognise, respect and give effect to Te Tiriti o Waitangi. See Waitangi Tribunal *Tino Rangatiratanga me te Kāwanatanga: The Report on Stage 2 of the Te Paparahi o Te Raki Inquiry* (Wai 1040, 2022) available at <https://www.waitangitribunal.govt.nz/news/tribunal-releases-report-on-te-paparahi-o-te-raki-inquiry/>.
- <sup>7</sup> Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Claims Settlement Act 2022.
- <sup>8</sup> Waitangi Tribunal Memorandum following Supreme Court decision, 12 December 2022. See Section 27 (3) of the NZ Bill of Rights Act 1990 which recognises people's right to bring civil proceedings against the Crown and to have these proceedings heard according to law; and articles 2(3)(a), 14(1) and 26 of the International Covenant on Civil and Political Rights.
- <sup>9</sup> The Government supported recommendations 122.170 Peru; 122.174 El Salvador; 122.167 Mongolia; 122.171 (Bolivarian Republic of Venezuela); 122.173 (Canada); 122.172 Mexico. See also Expert Mechanism on the Rights of Indigenous Peoples "Country Engagement Mission (8-13 April 2019) New Zealand, Advisory Note" (14 July 2019).
- <sup>10</sup> Annex 2, p. 34.
- <sup>11</sup> Report of *Matike Mai Aotearoa* - The Independent Working Group on Constitutional Transformation available at <https://nwo.org.nz/resources/report-of-matike-mai-aotearoa-the-independent-working-group-on-constitutional-transformation/>.
- <sup>12</sup> *Ibid.* at [12].
- <sup>13</sup> The Government supported recommendations 122.54 (Maldives); 122.56 (Fiji); and 122.55 (Lao People's Democratic Republic).
- <sup>14</sup> Te Kāhui Tika Tangata | Human Rights Commission, "Commission's visit to cyclone-affected areas highlights human rights challenges" (3 August 2023) available at <https://tikatangata.org.nz/news/commissions-visit-to-cyclone-affected-areas-highlights-human-rights-challenges>.

- <sup>15</sup> See Ministry for the Environment, *Te kimi kāinga rua ā-hapori me te tahua urutau: Ngā take me ngā kōwhiringa Community-led retreat and adaption funding: Issues and options* (2023) available at <https://environment.govt.nz/publications/community-led-retreat-and-adaptation-funding-issues-and-options/>.
- <sup>16</sup> See Ministry for the Environment, *Climate change and disabled people* (2022) available at: <https://environment.govt.nz/publications/climate-change-and-disabled-people/>.
- <sup>17</sup> The Government supported recommendation 122.57 (Thailand) “Promote the role of its private sector by developing and adopting a national action plan to implement the United Nations Guiding Principles on Business and Human Rights”; and noted recommendation 122.58 (Spain) “Adopt appropriate regulations, including through a business and human rights plan, to ensure that the response of the private sector to eventual disasters, and especially that of insurance companies, is respectful of New Zealand’s human rights commitments.”
- <sup>18</sup> Annex 2, p. 5-8.
- <sup>19</sup> The Government supported recommendations 122.49 (Republic of Korea); 122.42 (Islamic Republic of Iran) 122.41 (Argentina); 122.48 (Pakistan); 122.45 (Madagascar); 122.43 (Rwanda); 122.44 (Tunisia); 122.46 (Togo); 122.47 (Pakistan).
- <sup>20</sup> Under its Terms of Reference, the RCOI was tasked with investigating three broad areas – the actions of the individual, the actions of relevant public sector agencies, and any changes that could prevent such terrorist attacks in the future.
- <sup>21</sup> The Government supported recommendations 122.48 (Pakistan), and 122.54: (Togo). The plan draws from research about racism, and insights from across communities and cultures. The Commission’s engagement with communities found that many people in New Zealand still experience racism as individuals and within their whānau (family) and communities. See Te Kāhui Tika Tangata | Human Rights Commission, *Ki te whaiāo, ki te ao Mārama Community Engagement Report for developing a National Action Plan Against Racism* (November 2022) available at [https://tikatangata.org.nz/cms/assets/Documents/Ki-te-whaiāo-ki-te-ao-Marama\\_Full-Report\\_PDF.pdf](https://tikatangata.org.nz/cms/assets/Documents/Ki-te-whaiāo-ki-te-ao-Marama_Full-Report_PDF.pdf)
- <sup>22</sup> See our mid-term report, Annex 2 at p 7, para 3.2.8. Te Kāhui Tika Tangata | Human Rights Commission, *Reflections on the Report of the Royal Commission of Inquiry into the terrorist attacks on Christchurch Masjidain on 15th March 2029: Human rights of affected whānau, survivors and witnesses to accountability and remedies in the aftermath of the Report* (March 2021) available at <https://tikatangata.org.nz/our-work/reflections-on-the-report-of-the-royal-commission-of-inquiry-into-the-terrorist-attacks-on-christchurch-masjidain>
- <sup>23</sup> See Ministry of Justice Cabinet Paper, *Proposed changes to the incitement provisions of the Human Rights Act 1993* at [31] (2 December 2020) available at <https://www.justice.govt.nz/assets/Documents/Publications/Proactive-release-incitement-provisions.pdf>.
- <sup>24</sup> The Government supported recommendations 122.45 (Madagascar); 122.43 (Rwanda); 122.44 (Tunisia); 122.47 (Pakistan). The Government also accepted the recommendation by the Royal Commission of Inquiry, to amend the criminal hate speech provisions of the HRA: See Recommendation 40: “We recommend that the Government: Repeal section 131 of the Human Rights Act 1993 and insert a provision in the Crimes Act 1961 for an offence of inciting racial or religious disharmony, based on an intent to stir up, maintain or normalise hatred, through threatening, abusive or insulting communication with protected characteristics that include religious affiliation.”
- <sup>25</sup> New Zealand has civil and criminal laws that under the Human Rights Act 1993 prohibits the incitement of hatred of the basis colour, race, or ethnic or national origins.
- <sup>26</sup> The Law Commission is an independent Crown Entity that reviews New Zealand law and then makes recommendations to the Government to improve the law. See Te Aka Matua o te Ture – Law Commission, *Legal Responses to Hate* at <https://www.lawcom.govt.nz/our-projects/legal-responses-hate>.
- <sup>27</sup> Human Rights (Incitement on Ground of Religious Belief) Amendment Bill.
- <sup>28</sup> The Government supported recommendation 122.48 (Pakistan) to “[d]evelop and implement a national plan of action against racial discrimination, xenophobia and hate crime”.
- <sup>29</sup> The Government supported recommendations 122.60 (Qatar); 122.62 (Indonesia); 122.64 (Italy); 122.66 (Ireland); 122.65 (Bolivarian Republic of Venezuela) 122.67 (United States of America); 122.68 (Belarus); 122.61 (Peru); 122.62 (Togo). The Commission also notes that Corrections recently released its Disability Action Plan 2023 to 2027, which establishes priority action areas to reduce barriers to disabled people, including tāngata whaikaha Māori, in prison. See: Ara Poutama Aotearoa | Department of Corrections “Disability Action Plan 2023 – 2027” available at [https://www.corrections.govt.nz/resources/strategic\\_reports/disability\\_action\\_plan\\_2023\\_2027](https://www.corrections.govt.nz/resources/strategic_reports/disability_action_plan_2023_2027).

<sup>30</sup> Te Kāhui Tika Tangata | Human Rights Commission, *Maranga Mai! The dynamic and impacts of white supremacy, racism, and colonisation upon tangata whenua in Aotearoa New Zealand* (November 2022) available at <https://tikatangata.org.nz/our-work/maranga-mai>. Pages 85-92 detail the historic over policing of Māori as a racist extension of the early Sovereignty Wards in the 19th and early 20th century, “designed to break Māori resistance and communities and force them to accept the dominance of the settler-colonial government”. Page 90 details how racial profiling leads to more Māori than Pākehā being identified and treated by the police as suspects, leading to higher imprisonment rates. See also page 91-92: “In the year ending March 2021, the number of Māori imprisoned decreased, but the percentage of Māori in prison increased, 59.7 per cent of the total prison population was Māori, 2979 Māori men of a total of 4983 men. The number of Māori wāhine in prison was 327, which was 73.2 percent (327 wāhine of a total of 447 women). In the youth prison there were 42 Māori youth or 63.6 percent (Statistics NZ, 2022). In the year ending March 2021, the number of Māori imprisoned decreased, but the percentage of Māori in prison increased, 59.7 per cent of the total prison population was Māori, 2979 Māori men of a total of 4983 men. The number of Māori wāhine in prison was 327, which was 73.2 percent (327 wāhine of a total of 447 women). In the youth prison there were 42 Māori youth or 63.6 percent (Statistics NZ, 2022)... The racial inequities also play out in the court system where Māori are:

- 4-5 times more likely to be apprehended, prosecuted, and convicted.
- 7.5 times more likely to be given a custodial sentence.
- 11 times more likely to be remanded in custody awaiting trial.
- 3 times more likely to be apprehended for drug offences (especially cannabis-related).
- 6 times more likely to be arrested for violent offences.
- Māori are also significantly overrepresented in the remand population (Workman, 2011: 17).

<sup>31</sup> See <https://www.justice.govt.nz/justice-sector-policy/justice-system-kaupapa-inquiry/>.

<sup>32</sup> The Government supported recommendation 122.66 (Ireland) to “Continue to work to enhance the rights of Māori and other indigenous minority groups in New Zealand, and provide increased rehabilitative support for Māori prisoners

<sup>33</sup> The Government supported recommendation 122.65 (Bolivarian Republic of Venezuela) to put an end to discrimination against Māori and ensure that all prisoners receive equal treatment in accordance with minimum standards for humane treatment and that conditions in prisons and detention centres comply with international human rights standards, including the United Nations Standard Minimum Rules for the Treatment of Prisoners (Bolivarian Republic of Venezuela). For more information on the extent to which the Government has addressed these recommendations, see Te Kāhui Tika Tangata Human Rights Commission Submission on the Examination of Aotearoa New Zealand’s 7th Periodic Report under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 12 June 2023, paras 102-141 available at [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FIFN%2FNZL%2F53059&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FIFN%2FNZL%2F53059&Lang=en)

<sup>34</sup> Dr Sharon Shalev, *First, Do No Harm: segregation, restraint, and pepper spray use in women’s prisons in Aotearoa New Zealand* (2021) available at <https://tikatangata.org.nz/our-work/first-do-no-harm-segregation-restraint-and-pepper-spray-use-in-womens-prisons-in-new-zealand>.

<sup>35</sup> The Government supported recommendation 122.36 (Mexico).

<sup>36</sup> Disposal time has risen from an average of 389 days in 2017 to an average of 943 days in 2023, which is also up 57% from 2022.

<sup>37</sup> The Government supported recommendations 122.91 (Qatar); 122.92 (State of Palestine); 122.179 (China); 122.182 (United Kingdom of Great Britain and Northern Ireland).

<sup>38</sup> Annex 2, p. 29-31.

<sup>39</sup> In 2021, the Commission launched a national Inquiry into the right to a decent home in Aotearoa – the Housing Inquiry. Through partnership with the National Iwi Chairs Forum, Community Housing Aotearoa and Te Matapihi Māori Housing Network, we produced *Aratohu Tika Tangata ki te Whai Whare Rawaka i Aotearoa: Framework Guidelines on the Right to a Decent Home in Aotearoa*. The *Guidelines* introduce the right to a decent home shaped by and giving effect to te Tiriti o Waitangi and signal the different ways this human right can contribute to a fair housing system in this country. In addition to the *Guidelines*, the Housing Inquiry has released the following reports as stand-alone publications:

Te Kāhui Tika Tangata Human Rights Commission. *Strengthening Accountability and Participation in the Housing System*. Wellington: Human Rights Commission, 2021. <https://tikatangata.org.nz/cms/assets/Documents/Housing-Inquiry-Strengthening-Accountability-and-Participation.pdf>

Te Kāhui Tika Tangata | Human Rights Commission. *Discussion Paper: Understanding Accountability for Māori* (2022) <https://tikatangata.org.nz/our-work/discussion-paper-understanding-accountability-for-maori>

Te Kāhui Tika Tangata | Human Rights Commission. *Homelessness and Human Rights: A Review of the Emergency Housing System in Aotearoa New Zealand* (2022) available at <https://tikatangata.org.nz/our-work/homelessness-and-human-rights-a-review-of-the-emergency-housing-system-in-aotearoa-new-zealand>

Te Kāhui Tika Tangata | Human Rights Commission. *Implementing the Right to a Decent Home in Aotearoa: Fairness and Dignity for All* (2023) available at <https://tikatangata.org.nz/cms/assets/Documents/Housing-Inquiry-final-report-Implementing-the-right-to-a-decent-home-in-Aotearoa-Fairness-and-dignity-for-all.pdf>

<sup>40</sup> Ibid.

<sup>41</sup> See Aotearoa/New Zealand Homelessness Action Plan, Working together to prevent and reduce homelessness, Phase One 2020-2023: <https://www.hud.govt.nz/assets/Uploads/Documents/Homelessness-Action-Plan.pdf>

<sup>42</sup> The housing register provides the number of applicants assessed as eligible for social housing who are ready to be matched into a suitable property.

<sup>43</sup> The ongoing Wai 2760 Housing Kaupapa inquiry of the Waitangi Tribunal has most recently issued its Stage 1 report on Māori homelessness. This report found that the Crown had breached te Tiriti by failing to address Māori homelessness. See Waitangi Tribunal, *Kāinga Kore: The Stage One Report of the Housing Policy and Services Kaupapa Inquiry on Māori Homelessness* WAI 2750 (2023) available at [https://forms.justice.govt.nz/search/Documents/WT/wt\\_DOC\\_197630281/Kaing%20Kore%20W.pdf](https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_197630281/Kaing%20Kore%20W.pdf).

<sup>44</sup> The Government supported recommendation 122.159 (Belgium) “Strengthen efforts to combat marginalization and discrimination of children with disabilities, especially in their access to health, education, care and protection services.” And 122.178 (Bangladesh) “Address existing entrenched socioeconomic inequalities, including in the areas of health, employment and education, affecting indigenous people”; 122.179 (China) “Adopt effective measures to protect in a concrete manner the rights to health, education, employment and housing of the Māori and other indigenous peoples to eradicate discrimination against them.”

<sup>45</sup> The Government supported recommendations 122.100 (Sri Lanka); 122.94 (Brazil); and 122.162 (Portugal).

<sup>46</sup> 71% of trans and non-binary people in New Zealand report high or very high levels of psychological distress, compared to 8% in the general population; this is nine times higher. See: Counting Ourselves, p 45 available at [https://countingourselves.nz/wp-content/uploads/2022/09/Counting-Ourselves\\_Report-Dec-19-Online.pdf](https://countingourselves.nz/wp-content/uploads/2022/09/Counting-Ourselves_Report-Dec-19-Online.pdf)

<sup>47</sup> See [https://www.health.govt.nz/system/files/documents/information-release/cabinet\\_material\\_transforming\\_mental\\_health\\_law\\_black\\_box\\_watermarked\\_for\\_pr.pdf](https://www.health.govt.nz/system/files/documents/information-release/cabinet_material_transforming_mental_health_law_black_box_watermarked_for_pr.pdf).

<sup>48</sup> According to policy proposals. See <https://www.health.govt.nz/about-ministry/information-releases/release-ministerial-decision-making-documents/cabinet-material-policy-decisions-transforming-mental-health-law>

<sup>49</sup> The Government supported recommendations 122.89 (Greece); 122.90 (Botswana) 122.156 (Bulgaria); 122.157 (Philippines); 122.159 (Belgium); 122.160 (Portugal); 122.161 (France); 122.162 (Portugal).

<sup>50</sup> Annex 2, p. 10 – 28.

<sup>51</sup> Albeit – as we noted with concern, under urgency and without adequate consultation. See Te Kahui Tika Tangata | Human Rights Commission, *Submission on Inquiry into the regulation-making powers in the COVID-19 Response (Vaccinations) Legislation Act 2021 and the COVID-19 Public Health Response (Protection Framework) Order 2021*, 11 February 2022, available at: [https://www.parliament.nz/en/pb/sc/submissions-and-advice/document/53SCRR\\_EVI\\_118276\\_RR1583/human-rights-commission](https://www.parliament.nz/en/pb/sc/submissions-and-advice/document/53SCRR_EVI_118276_RR1583/human-rights-commission)

<sup>52</sup> Te Kāhui Tika Tangata | Human Rights Commission Inquiry into the Support of Disabled People and Whanau During Omicron (20 April 2022) available at [https://hrc-nz-resources.s3.ap-southeast-2.amazonaws.com/files/3216/5041/7529/Omicron\\_Inquiry\\_Report\\_20\\_April\\_2022.pdf](https://hrc-nz-resources.s3.ap-southeast-2.amazonaws.com/files/3216/5041/7529/Omicron_Inquiry_Report_20_April_2022.pdf)

<sup>53</sup> See: <https://www.covid19lessons.royalcommission.nz/>

<sup>54</sup> The Government supported recommendations 122.82 (Myanmar); 122.83 (Syrian Arab Republic); 122.84 (Croatia); 122.85 (Cuba); 122.86 (Oman); 122.87 (Singapore); 122.109 (Paraguay); 122.108 (Bahamas); 122.107 (Republic Moldova).

<sup>55</sup> The Inquiry received 1,163 submissions from Pacific workers and found that in 2021, Pacific men were paid just 81 cents and Pacific women only 75 cents when compared to Pakeha men. The report revealed that not only pervasive sexism, but also structural and direct racism were contributing to pay gaps. See Te Kāhui Tika Tangata | Human Rights Commission, Pacific Pay Gap Campaign Reports at <https://tikatangata.org.nz/our-work/inquiry-into-the-pacific-pay-gap>.

<sup>56</sup> The law will later apply to companies with 100+ workers.

<sup>57</sup> The Commission commissioned a nationwide survey of 2,512 workers in New Zealand from 19 May to 29 June, 2022, assessing for the first time, the prevalence and impact of violence in the workplace, based on gender, ethnicity, disability, age, sexual identity, industry, and period of settlement in the country. It is also the first research that measures how victims are able to access existing pathways for support, and shows

that very few people escalate their complaints and most of those who do are not satisfied with the outcomes. The Report also found that formal pathways for addressing harassment and bullying were uncommon and when accessed, often ineffective. Less than a quarter of workers raised a formal complaint, and almost a third of workers chose not to tell anyone about it. The most common forms of support/services that would have been useful to workers at the time are an independent review of workplace cultures/policies. See *Experiences of Workplace Bullying and Harassment in Aotearoa New Zealand: A Nationwide Survey for Te Kāhui Tika Tangata the Human Rights Commission* (August 2022) available at <https://tikatangata.org.nz/our-work/experiences-of-workplace-bullying-and-harassment-in-aotearoa-new-zealand>.

- <sup>58</sup> The Government supported recommendations 122.109 (Paraguay); 122.10 (Afghanistan); 122.139 (Brazil); 122.138 (Seychelles); 122.120 (Republic of Moldova); 122.123 (Islamic Republic of Iran); 122.124 (Slovenia); 122.130 (Rwanda); 122.125 (Netherlands); 122.122 (Belgium); 122.129 (Argentina); 122.131 (Iceland); 122.119 (Viet Nam); 122.126 (Ireland); 122.127 (Pakistan); 122.141 (Singapore); 122.116 (Tunisia); 122.133 (Barbados); 122.135 (Croatia); 122.138 (Hungary); 122.115 (Estonia); 122.118 (Kyrgyzstan); 122.140 (Canada); 122.121 (Bahamas); 122.134 (Myanmar); 122.132 (Ukraine); 122.114 (Chile); 122.117 (Philippines); 122.136 (Iraq); 122.137 (Algeria); 122.142 (China); 122.143 (Qatar); 122.111 (Armenia); 122.112 (Bolivarian Republic of Venezuela).
- <sup>59</sup> Domestic Violence Victims Protection Act 2018, Family Violence Act 2018, Sexual Violence Act 2021.
- <sup>60</sup> See speech by Justice Minister Andrew Little: <https://www.beehive.govt.nz/speech/andrew-little-speech-united-nations-human-rights-council-third-universal-periodic-review>
- <sup>61</sup> Te Kāhui Tika Tangata | Human Rights Commission, Submission to the Special Rapporteur on women's rights (June 2020) available at [https://hrc-nz-resources.s3.ap-southeast-2.amazonaws.com/files/5515/9468/2462/FINAL\\_HRC\\_Submission\\_to\\_the\\_Special\\_Rapporteur\\_on\\_womens\\_rights.pdf](https://hrc-nz-resources.s3.ap-southeast-2.amazonaws.com/files/5515/9468/2462/FINAL_HRC_Submission_to_the_Special_Rapporteur_on_womens_rights.pdf) Evidence and recommendations (December 2021) available at [https://hrc-nz-resources.s3.ap-southeast-2.amazonaws.com/files/9316/3822/4755/Acting\\_now\\_for\\_a\\_violence\\_and\\_abuse\\_free\\_future\\_FINAL.pdf](https://hrc-nz-resources.s3.ap-southeast-2.amazonaws.com/files/9316/3822/4755/Acting_now_for_a_violence_and_abuse_free_future_FINAL.pdf).
- <sup>62</sup> Te Kāhui Tika Tangata | Human Rights Commission, *Whakamanahia Te Tiriti, Honour the Person Protect the Treaty Whakahaumarutia te Tangata | Violence and abuse of tāngata whaikaha Māori in Aotearoa New Zealand*, , *Evidence and Recommendations* (December 2021) available at [https://hrc-nz-resources.s3.ap-southeast-2.amazonaws.com/files/6016/3822/4741/Honour\\_the\\_Treaty\\_Protect\\_the\\_person\\_Violence\\_and\\_abuse\\_of\\_tangata\\_whaikaha\\_Maori\\_FINAL\\_English.pdf](https://hrc-nz-resources.s3.ap-southeast-2.amazonaws.com/files/6016/3822/4741/Honour_the_Treaty_Protect_the_person_Violence_and_abuse_of_tangata_whaikaha_Maori_FINAL_English.pdf) and Te Kāhui Tika Tangata | Human Rights Commission, *Whakamahia te tūkinō kore ināianei, ā muri ake nei | Violence and abuse of disabled people in Aotearoa New Zealand, Acting Now for a Violence Free Future Evidence and recommendations* (December 2021) available at [https://hrc-nz-resources.s3.ap-southeast-2.amazonaws.com/files/9316/3822/4755/Acting\\_now\\_for\\_a\\_violence\\_and\\_abuse\\_free\\_future\\_FINAL.pdf](https://hrc-nz-resources.s3.ap-southeast-2.amazonaws.com/files/9316/3822/4755/Acting_now_for_a_violence_and_abuse_free_future_FINAL.pdf).
- <sup>63</sup> The Government supported recommendations 122.147 (Bulgaria); 122.155 (Syrian Arab Republic); 122.154 (Maldives); 122.144 (Mongolia); 122.146 (Georgia); 122.145 (France); 122.150 (Hungary); 122.149 (Bangladesh); 122.151 (Sri Lanka); 122.148 (Algeria); 122.69 (Serbia); 122.70 (Montenegro).
- <sup>64</sup> The Government supported recommendations 122.142 (China); 122.153 (Slovenia); 122.152 (Mexico); 122.150 (Hungary); 122.149 (Bangladesh); 122.151 (Sri Lanka).
- <sup>65</sup> Ram Raid Offending and Related Measures Amendment Bill 2023 available at <https://www.legislation.govt.nz/bill/government/2023/0283/latest/LMS883032.html>.
- <sup>66</sup> Attorney-General Hon David Parker *Report of the Attorney-General under the New Zealand Bill of Rights Act on the Ram Raid Offending and Related Measures Amendment Bill* (Ministry of Justice, August 2023) available at <https://www.justice.govt.nz/assets/Documents/Publications/s-7-Report-Ram-Raid-Offending-and-Related-Measures-Bill.pdf>.
- <sup>67</sup> The Royal Commission is tasked with finding out what happened to children, young people, and vulnerable adults between 1950-1999. See: <https://www.abuseincare.org.nz/about-us/>.
- <sup>68</sup> Royal Commission of Inquiry into Abuse in Care, *Tāwharautia: Pūrongo o te Wā - Interim Report* available at <https://www.abuseincare.org.nz/our-progress/library/v/194/tawharautia-purongo-o-te-wa-interim-report>.
- <sup>69</sup> Royal Commission of Inquiry into Abuse in Care *He Purapura Ora, he Māra Tipu | From Redress to Pūretumu Torowhānui* available at: <https://www.abuseincare.org.nz/our-progress/reports/from-redress-to-puretumui/>.
- <sup>70</sup> Royal Commission of Inquiry into Abuse in Care, *Beautiful Children, Inquiry into the Lake Alice Child and Adolescent Unit* (December 2022) available at <https://www.abuseincare.org.nz/our-progress/reports/inquiry-into-the-lake-alice-child-and-adolescent-unit/>.
- <sup>71</sup> Royal Commission of Inquiry into Abuse in Care "Scope of investigation into Māori experiences of abuse in care" available at <https://www.abuseincare.org.nz/our-progress/library/v/129/scope-of-investigation-into-maori-experiences-of-abuse-in-care>.
- <sup>72</sup> See Crown Response to the Abuse in Care Inquiry: <https://www.abuseinquiryresponse.govt.nz/a-matou-mahi-our-work/#:~:text=The%20Redress%20Design%20Group%20follows,survivors%20of%20abuse%20in%20care>

- <sup>73</sup> People whose sexual orientation, gender identity and expression, and sex characteristics differ from majority, binary norms.
- <sup>74</sup> The Government supported recommendation 122.50 (Madagascar).
- <sup>75</sup> See: <https://rainbowpathnz.com/2023/03/26/rainbow-paths-speech-for-the-trans-solidarity-protest-in-tamaki-makaurau/>
- <sup>76</sup> The Government supported recommendations 122.51 (Iceland); 122.52 (Australia).
- <sup>77</sup> The Government supported recommendation 122.102: (Chile). These steps include the formation of the Intersex Clinical Reference Group which ran from 2018-2020 and steps taken by that Group to improve health practices, systems, and approaches for intersex children. See Te Kāhui Tika Tangata | Human Rights Commission, *PRISM: Human Rights issues relating to Sexual Orientation, Gender Identity and Expression, and Sex Characteristics (SIGIESC) in Aotearoa New Zealand* (June 2020) available at <https://tikatangata.org.nz/our-work/prism-human-rights-issues-relating-to-sexual-orientation-gender-identity-and-expression-and-sex-characteristics-sogiesc-in-aotearoa-new-zealand>.
- <sup>78</sup> In Budget 2022, the Government allocated \$2.516m of funding over four years for:
- best practice guidelines for the provision of health care for children and young people with IVSC
  - training services and workforce development to support and upskill health professionals and the allied workforce to use and continuously improve the best practice guidelines
  - peer and psychosocial support services for children and young people with IVSC and their whānau provided by people with lived experience of IVSC
  - information resources that are age and culturally appropriate and accessible through various channels for children and young people with IVSC and their whānau to enable them to make informed decisions about their health care
- <sup>79</sup> The Government supported recommendation 122.101 (Uruguay) to “[c]ontinue efforts for the adoption of additional measures to address the disparities registered by the sexual orientation, gender identity and sex characteristics community with regard to access to services in the entire health system”.
- <sup>80</sup> See Human Rights Commission PRISM, above n 78 at p 35-46.
- <sup>81</sup> The Government supported recommendations 122.104 (Hungary) and 122.103 (State of Palestine). We note also that while the government accepted 51/60 of the CRPD Committee’s concluding observations, many of these are with accepted with modifications that could change the intent of the observations.
- <sup>82</sup> See Education Review Office Te Tari Arotake Mātauranga (in partnership with the Human Rights Commission and the Office for Disability Issues) “Thriving at school? Education for disabled learners in schools” 28 September 2022, available at: <https://ero.govt.nz/our-research/thriving-at-school-education-for-disabled-learners-in-schools>.
- <sup>83</sup> New Zealand lacks proper data on the national prevalence of FASD. However, evidence indicates that because Māori are disproportionately affected by alcohol harm, this would include FASD.
- <sup>84</sup> Each year, between 1500 and 3000 babies are born with FASD in Aotearoa New Zealand. See <https://www.ahw.org.nz/News-and-Events/ID/75/8-Sept-2023-Media--I-Wish-people-knew-Campaign-amplifying-the-voices-of-those-impacted-by-Fetal-Alcohol-Spectrum-Disorder>.
- <sup>85</sup> The Government supported recommendation 122.76 (United Kingdom of Great Britain and Northern Ireland); 122.71 (Nigeria); 122.78 (Belarus); 122.75 (Belarus); 122.73 (Serbia); 122.79 (Oman).
- <sup>86</sup> The Government supported recommendations 122.72 (Botswana) 122.77; (United States of America); 122.74 (China).
- <sup>87</sup> The Government supported recommendations 122.188 (Vietnam); 122.184 (Nigeria); 122.185 (Thailand); 122.186 (Philippines).
- <sup>88</sup> Te Kāhui Tika Tangata | Human Rights Commission and Malatest International, *Ngā take o nga wheako o te kaikiri ki ngā manene o Aotearoa Drivers of migrant New Zealanders’ experiences of racism* (March 2021) available at <https://tikatangata.org.nz/our-work/drivers-of-migrant-new-zealanders-experiences-of-racism>.
- <sup>89</sup> Te Kāhui Tika Tangata | Human Rights Commission, *The RSE Scheme in Aotearoa New Zealand: A Human Rights Review* (December 2022) available at <https://tikatangata.org.nz/our-work/the-rse-scheme-in-aotearoa-new-zealand-a-human-rights-review>.
- <sup>90</sup> The Government supported recommendation 122.192 (Bangladesh); 122.191 (Portugal); 122.190 (Mexico); 122.189 (Afghanistan); 122.187 (Iraq); 122.193 (Germany); 122.194 (Germany).





Te Kāhui Tika Tangata  
Human Rights Commission



[facebook.com/NZHumanRightsCommission](https://facebook.com/NZHumanRightsCommission)



[New Zealand Human Rights Commission](https://www.linkedin.com/company/new-zealand-human-rights-commission)