

My name is Peter Hosking – I chair the Human Rights Foundation of Aotearoa New Zealand.

The HRF coordinated a group of stakeholders to develop both an HRF Coalition Report and an Over-arching Report with priorities from a number of other coalitions of NGOs. It was agreed that the HRF would include in its Coalition Report mainly human rights issues that weren't being addressed by other NGO groupings. The issues prioritised by the HRF Coalition are set out below (an asterisk\* indicates that the recommendation was made to New Zealand in 2009).

### **Scope of international obligations**

It is not accurate to claim, as New Zealand does, that existing domestic legislation is adequate to protect all human rights without ratification of certain treaties. For example, proposed amendments to labour legislation which further weaken the right to collective bargaining would come under more robust scrutiny were ILO Convention 87 to be ratified. In 2009, New Zealand accepted the recommendations to ratify CED and to accept the Article 14 complaint procedure under CERD, but has not done so.

#### Recommendation:

- Ratify the CMW\*, CED\*, ILO Convention 87\* and the UN Convention Against Corruption
- Ratify the OP-ICESCR\*, OP-CRC\*, OP-CRPD
- Make the optional declaration in Article 14 ICERD\*

### **New Zealand constitutional legislative framework**

New Zealand is currently undertaking a Constitutional Review, providing the opportunity to implement several Treaty Body recommendations made in recent years.

Although the courts have developed a remedy for breaches of the New Zealand Bill of Rights Act 1990 (the Bill of Rights), this has not extended to breaches of the Bill of Rights by the judicial branch.

Recommendations:

- Incorporate all rights enshrined in international human rights instruments to which New Zealand is a party into domestic law to ensure these rights are enforceable in New Zealand courts
- Establish the New Zealand Bill of Rights Act 1990 as over-riding ordinary statutes
- Procedurally entrench the Bill of Rights and the Human Rights Act 1993
- Amend the Bill of Rights to provide an explicit right to a remedy for breach of the Bill of Rights, including by the judiciary

### **Institutional and human rights infrastructure and policy measures**

Human Rights Commissioners in New Zealand are currently appointed by the Head of State on the recommendation of the Minister of Justice, in other words, entirely by the Executive. Recent appointments have been controversial, undermining both the ability of these Commissioners to fulfil their responsibilities and the credibility of the Commission itself. The appointment process for NHRIs like the Human Rights Commission should aim to appoint independent-minded Commissioners as the relevant international standards (the Paris Principles) make clear. The process should include the Parliamentary opposition.

In addition, New Zealand has no overarching cross government strategy to ensure that human rights are known, understood and taken into consideration by all policy makers.

In 2009, New Zealand accepted in part the recommendation to “consider adopting its National Plan of Action for Human Rights“, stating that “it considers that the most suitable approach is for government departments to consider the appropriateness of implementing the Plan’s priorities for action as part of normal business.” In fact, government departments have not done this and have no process for doing so. Since the Government declines to adopt or implement the NHRAP developed by the HRC, it should develop and implement it’s own NHRAP.

Recommendation:

- Establish a Human Rights Commissioner appointment process that provides for the involvement of Parliament, possibly as one responsibility of a Parliamentary Select Committee on Human Rights, or at least consultation with the Parliamentary Opposition
- Establish a Parliamentary Select Committee for Human Rights
- In cooperation with civil society, establish mechanisms, including a National Human Rights Action Plan developed by the Government (rather than the Human Rights Commission), to independently monitor, against robust human rights indicators, the government's implementation of ratified human rights treaties and UPR recommendations
- Develop, in consultation with civil society, agreed human rights indicators and an effective monitoring system
- Develop and implement a human rights education strategy as envisaged by the World Programme for Human Rights Education (2005), and as recommended in 2003 and 2011 by the Committee on the Rights of the Child, to ensure that young people and those responsible for supporting them, know their human rights, and that development of policy and legislation is informed by a human rights approach and decision making is consistent with New Zealand's human rights obligations

### **Administration of justice, including impunity, and the rule of law**

Prisoners in New Zealand cannot vote in elections regardless of the seriousness of their offending or the length of their imprisonment. This is in breach of New Zealand's domestic and international obligations and places New Zealand among the harshest countries on this issue in the OECD.

Recommendation:

- Amend the law to ensure that restrictions on prisoners' right to vote are reasonable and proportionate, consistent with New Zealand's international human rights obligations.

### **Rights of migrants, refugees and asylum seekers**

New Zealand recently passed the Immigration (Mass Arrivals) Amendment Act. The Act imposes upon a 30 people group mandatory detention, a restriction on judicial review and a limitation on family reunification rights, among other human rights breaches.

Recommendation:

- Repeal, the Immigration (Mass Arrivals) Amendment Act 2013

## Equality and non-discrimination

*“Operation 8” (discrimination against Māori and excessive use of police force)*

The Independent Police Conduct Authority (IPCA) investigated multiple complaints about the Police “Operation 8” between late 2005 and October 2007 in the heart of the indigenous Maori community.

The nature of complaints received by the IPCA ranged from the impact on the community of Armed Offender Squad officers at a road block to ill-treatment by Police during the execution of search warrants at properties. The IPCA investigated Police actions at 11 properties, found that Police actions were unlawful, unjustified and unreasonable and made a number of recommendations to the Police.

### Recommendations

- Ensure that the New Zealand Police accept and implement all the recommendations of the Independent Police Conduct Authority report on “Operation Eight”.
- Compensate adequately all those subjected to illegal conduct on the part of the Police during “Operation Eight”.

## *Domestic Violence*

Domestic violence remains a major impediment to women’s equality in New Zealand, the first country to give women the right to vote (1893). Policies to address the issue have been ineffectual and sometimes counter-productive.

An evidence-based approach is required. All government agencies need to be involved in a fully-funded and comprehensive strategy that is developed in collaboration with domestic and sexual violence service providers and users and recognises the gendered nature of domestic violence. It should also ensure that all those who work with abused women and children are required to complete a certificated national training programme.

### Recommendation:

- Develop, in collaboration with domestic and sexual violence service providers and users, an evidence-based Action Plan to end gender-based violence against women and children

## **Right to privacy, marriage and family life**

### a) Government Communication Security Bureau and Related Legislation Act/NZSIS

Under this new law, the GCSB has been given the authority to access the 'information infrastructures (eg IT systems) and intercept the private communications of both New Zealand citizens and permanent residents in potentially a wide range of circumstances. This is of real concern to civil society and the general public who fear that the Bill will breach New Zealanders' right to privacy and their right to be free from unnecessary surveillance.

#### Recommendation

- Implement a comprehensive, high-level, independent inquiry into the role, functions, powers, internal compliance procedures and effectiveness of external oversight mechanisms of all New Zealand intelligence agencies, in particular the GCSB and NZSIS
- Ensure that the GCSB is not authorised to spy on New Zealand citizens and permanent residents

### b) Parental Leave

New Zealand provides 14 weeks paid parental leave to eligible parents up to a maximum payment of NZD 488.17 (USD 400) per week, one of the least generous provisions in the OECD.

#### Recommendation

- Increase paid parental leave to eligible parents in accordance with the Paid Parental Leave Bill 2012 (26 weeks)

## **Right to development and environmental issues**

There is growing public concern that the state of the environment in New Zealand falls far short of national expectations and New Zealand's international reputation – this requires formal attention through a human rights based approach.

## Recommendations

- Legally recognise the right to a healthy environment, for example in the Bill of Rights
- Adopt a rights-based approach to climate change policy at home and abroad, including by reducing greenhouse gas emissions to safe levels that are consistent with the full enjoyment of human rights and setting a binding emissions reduction target
- Return New Zealand's emissions trading scheme to its previous "cap and trade" model
- Re-enter the Second Commitment Period of the Kyoto Protocol
- Eliminate fossil fuel subsidies within New Zealand
- Explore sustainable alternatives to oil and dirty fuel extraction
- Adopt the UN General Assembly statement on the human right to water
- Legally recognise the right to water as a human right and take action to protect it

Finally, I want to draw attention to our partners' stakeholders report on indigenous rights.

New Zealand's failure to meet its international obligations to Maori are detailed in the NGO submission on Indigenous Peoples' Rights and the Treaty of Waitangi, jointly submitted and supported by 24 NGOs and Maori organisations. New Zealand's ability to protect the human rights of Maori is seriously hampered by its constitutional and legal framework - while this lack of protection applies to everyone, it is a particular concern for Maori rights because hapu and iwi are minorities within a majoritarian political system.

New Zealand does not respect the right of free, prior and informed consent in relation to Maori rights and interests. Racially discriminatory legislation, policy and practice affecting Maori rights are regrettably frequent.

Our submissions are available at [www.nzupr.org](http://www.nzupr.org)