

# **2023 Convention Against Torture examination**

## **New Zealand**

### **Opening Statement – 18 July**

Tēnā koutou katoa.

Ngā mihi nui, ngā mihi mahana ki a koutou.

Good morning and warm greetings to you all.

Mr Chair, members of the Committee and guests, it is my pleasure to be here on behalf of the New Zealand Government to present our 7<sup>th</sup> Periodic Report under the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*.

I would first like to take the opportunity to introduce the delegation from Aotearoa New Zealand present here today for this review.

My name is Andrew Kibblewhite and I am the Secretary for Justice and Chief Executive of the Ministry of Justice.

In addition, alongside me I have a number of colleagues from the Ministry of Justice and other agencies:

- Nathan Glassey, Acting Permanent Representative and
- Emma Hodder, First Secretary, both from the New Zealand Permanent Mission to the United Nations in Geneva
- Marcus Akuhata-Brown, is the Deputy Secretary Māori at the Ministry of Justice
- Leigh Marsh, is National Commissioner at the Department of Corrections
- Dr John Crawshaw, is the Director of Mental Health and Addiction at the Ministry of Health
- Rachel Leota, is Deputy Chief Executive Service Delivery at the Ministry for Children, Oranga Tamariki

- Oliver Sanders, is Manager Sentencing and Rehabilitation Policy, at the Ministry of Justice
- Mike Webb, is Chief Assurance Officer at New Zealand Police and
- Dr Ursula Kerpen, is Senior Advisor, Civil Law and Human Rights Policy, at the Ministry of Justice.

Thank you for having us.

I will begin today by providing the Committee with some context about Aotearoa New Zealand. Aotearoa is a word to refer to New Zealand in the Māori language, the language of the indigenous people of our country. We will generally just use New Zealand during this examination.

New Zealand is a democratic country in the South Pacific with a rich ethnic diversity. The Treaty of Waitangi or Te Tiriti o Waitangi is our founding document. It is the agreement signed in 1840 between Māori rangatira or chiefs and the British Crown which established a partnership and underpins our bicultural national identity.

Today, about 900,000 Māori live in New Zealand, which is about 17 percent of our country's overall population of just over five million. Many of our people also have a Pacific, European, Asian, or other ethnic background. We strongly value diversity and take pride in promoting human rights and equal treatment for all people.

Mr Chair, we recognise that there are always areas in which we can improve human rights protections.

We submitted our seventh Periodic Report under the Convention in September 2019.

The report outlines the significant legislative, judicial, administrative and other measures New Zealand has taken to give better effect to the provisions in the Convention. There have been significant events since our report, in particular the COVID-19 pandemic and a terrorist attack in 2019 against our Muslim communities in Christchurch, which have led to many adjustments to our work programme.

Earlier this year, a cyclone extensively damaged infrastructure, farms and homes. This also had an impact on our work programme.

In spite of this, there has been significant further action to strengthen protections against torture and ill-treatment.

Today, I will outline some of the key developments, as well as the challenges we continue to face.

## **COVID-19**

The COVID-19 pandemic required New Zealand, like all other countries, to take strong public health measures. These measures naturally imposed limitations on people's rights, for example through isolation and quarantine requirements, lockdowns, and vaccination mandates. People already in detention or custody experienced restrictions, with limitations on visitations and other social contacts.

In order to save lives, we also took the unprecedented step of mandating quarantine in 'Managed Isolation and Quarantine Facilities' for example for people with infections. We closed our borders for a time and also had a period of quarantine for people entering the country.

Overall, New Zealand made it through 2020 and 2021 with remarkably low numbers of infections and deaths.

Nevertheless, there was criticism of some public health measures

In December 2022, the Government set up an independent inquiry to review the management of the pandemic. This inquiry will help us to be better prepared for potential future pandemics.

### **Human rights framework**

Mr Chair, I will now turn to developments relating to New Zealand's domestic and international human rights framework.

New Zealand is proud to have joined the Optional Protocol to the Convention on the Rights of the Child on a Communication Procedure in 2022. This will strengthen children's complaint rights.

We acknowledge, that there are a number of treaties and optional protocols that we are not a State Party to yet. We also acknowledge that New Zealand maintains a number of reservations to treaties and we'll need to do further work before being able to remove these.

New Zealand has established a *National Mechanism on Reporting, Implementation and Follow up*.

The Mechanism improves the coordination of reporting activities across all treaties and agencies, and also aims for better implementation of treaties and recommendations.

It includes a Governance Group which is developing a new online monitoring tool to track the implementation of recommendations, and guidelines for all Government agencies.

The Governance Group will report annually to an oversight group of relevant ministers.

In the context of domestic human rights protections, New Zealand adopted legislation which provides for a process to consider judicial declarations that a piece of legislation is inconsistent with the New Zealand Bill of Rights Act 1990.

The Bill of Rights Act includes the right to be free from torture and ill-treatment. This new process involves consideration of the declaration by both the executive and Parliament.

## **OPCAT**

I will now discuss our National Preventive Mechanism and some recent changes.

Our Optional Protocol, or OPCAT, system continues to work well with good collaboration and cooperation within our multi-body National Preventive Mechanism.

The monitoring agencies have continued their work, with obvious public health limitations, throughout the pandemic. This has included assessing our managed isolation and quarantine facilities.

Since 2019, the Government has twice made changes to the designations of National Preventive Mechanism entities.

These focussed on strengthening the monitoring of children in detention.

Further, the National Preventive Mechanism entities have continued implementing the important 2018 changes, especially those to include private aged-care facilities in the monitoring.

## **Conditions in places of detention**

We value the work of our National Preventive Mechanisms which are aiming for continuous improvements of conditions in all places of detention.

They provide specific human-rights-focussed recommendations to detaining agencies and Government.

Many of these recommendations led to tangible improvements for those in detention.

For example, Police are continuing with a national Police cell remediation programme which addresses repair and design issues, including suicide prevention. A work programme is being developed to upgrade cells across the country.

The Department of Corrections has recently launched a programme called *Te Mana Wāhine* aimed at better outcomes for female Māori prisoners, who make up two-thirds of the female prison population.

Changes have also been made to prison regulations.

For example, the Department has started trialling full body scanners as an alternative to strip searches for concealed items.

## **Criminal justice reforms**

Mr Chair, we acknowledge that one of the biggest challenges in our country continues to be the over-representation of Māori in the criminal justice system, both as offenders and as victims.

Though Māori make up only 17 percent of our population, they constitute more than half the prison population.

Work to address criminal justice issues remains a priority.

We acknowledge there have been concerning increases in pre-trial detention recently.

Following a large programme of public consultation in 2018 and 2019, work is happening across the criminal justice system, and includes extensive collaboration with Māori tribes and other organisations.

For example, we have repealed the so-called three strikes law which required courts to impose the maximum sentence for a crime upon the third relevant offence.

Police continue to develop a range of resolution options that hold offenders to account, address the underlying causes of offending, and, where appropriate, keep people out of the Courts and prison system.

This includes Police's new programme called ReFrame, a transformation programme to ensure Police frontline services keep up with increased demand and complexity.

New Zealand established a judicially-led programme called *Te Ao Mārama - enhancing justice for all*. It aims to ensure all people who come to court to seek justice will be seen, heard, understood, and able to meaningfully participate.

The Department of Corrections is also implementing a strategy called Hōkai Rangi (or 'towards the sky') which aims to significantly lower the disproportionate representation of Māori in the prison system.

It seeks to achieve better outcomes for Māori, with Māori, by prioritising the wellbeing of offenders and their extended families.



## **Family and gender based violence**

Mr Chair, New Zealand still faces significant issues of family and gender based violence.

This has been exacerbated by the COVID-19 pandemic. Women are more likely than men to suffer abuse from a partner and are more likely to suffer sexual violence.

The impacts of violence are serious and long-lasting. In 2022, the Government brought all relevant agencies together and established a new entity called *Te Puna Aonui* to coordinate the cross-agency work to address and prevent family and sexual violence.

In 2021, a new national Strategy and Action Plan was developed with input from Māori, communities and specialists.

A focus of our work to address domestic and gender-based violence is on strengthening victims' rights and support. A wide range of services are available with many of them specifically for vulnerable groups, for example children.

The Government has made significant further investments in this area of NZD 73.5 million in the latest Budget, approved in May 2023

## **Children in state care including historic abuse**

I will now update you on the work of the Royal Commission of Inquiry into historic abuse in state and faith-based care.

This Inquiry was established in 2018, and has already published a number of interim reports, including one with recommendations on redress.

We acknowledge the enormity of abuse and trauma that has occurred, and the vital importance of learning from past wrongs to make care safer for the future. The hurt and anguish that has been caused is inexcusable.

The Government has established a cross-agency unit to coordinate the work to respond to the findings and recommendations.

This work includes the development of a new Redress System for victims.

The Royal Commission will publish its final report in 2024 and may also make recommendations to prevent future abuse in care.

The Government has also recently changed the system of oversight of Oranga Tamariki, the Ministry in New Zealand responsible for children in state care or at-risk. The changes will further strengthen protections for children.

Changes included the establishment of the Independent Children's Monitor to continuously assess the system against prescribed standards.

The Ombudsman's Office is now responsible for dealing with complaints from children in state care.

A new Children and Young Persons Commission replaces the Children's Commissioner as the third element of this oversight system. The Commission's role focuses on advocacy, promoting and advancing children's rights and the existing National Preventive Mechanism functions.

I acknowledge that, very recently, serious allegations have surfaced relating to two of the Oranga Tamariki residences for children and young persons. The Government is very concerned about these allegations and

a fast, independent inquiry will provide findings and recommendations in August.

### **Mental health/wellbeing and seclusion/restraint**

Let me now turn to mental health and wellbeing.

Following an independent inquiry, work and substantial investment is underway to transform the approach to mental wellbeing.

For example, the Government established a Suicide Prevention Office in 2019 and the independent Mental Health and Wellbeing Commission in 2021. A number of steps have been taken to better enable the voice and leadership of Māori to be reflected. This includes the establishment of the Māori Health Authority, Te Aka Whai Ora.

Work is underway to replace the existing legislation that governs when a person may be subject to compulsory mental health care.

We continue our work to reduce and eventually eliminate seclusion and restraint in mental health services. Earlier this year, guidelines were published to shift practices towards a seclusion-free environment, grounded in human rights.

### **Christchurch Terrorist Attack**

In March 2019, as you are all no doubt aware, a terrorist killed 51 people, most of them Muslim New Zealanders, in two masjidain in Christchurch.

The victims, their families, and all impacted by the horrific events remain at the heart of work we are doing in response.

Shortly after the attack, the Government established a Royal Commission of Inquiry, which made 44 recommendations to Government in 2020.

They covered such issues as social cohesion, reducing hate-motivated crime, firearms, countering terrorism and violent extremism, and changes to the national security system.

All recommendations were accepted in-principle, and the Government agreed to a multi-year work programme to implement them and achieve the Government's vision of a diverse, inclusive, and safe New Zealand.

Some of these recommendations were implemented quickly, such as the establishment of a Ministry for Ethnic Communities, restricting access to semi-automatic weapons, and the establishment of a Police programme to identify, record, and manage hate crimes.

The New Zealand Law Commission is working on a review of hate speech and hate-motivated offending. The Ministry of Justice is leading work to ensure our counter-terrorism legislation is fit for purpose.

The Royal Commission made a series of recommendations relating to social cohesion, noting that this is critical to preventing the development of harmful radicalising ideologies and violent extremism.

New Zealand's *Social Cohesion Strategic Framework* (or *Te Korowai Whetū*), including tools and resources, was developed as a result. The Strategic Framework sets out a vision for a socially cohesive Aotearoa New Zealand.

Although not directly related to the Royal Commission's social cohesion recommendations, I would also like to note that New Zealand is working on our first National Action Plan against Racism to progressively eliminate racism in all forms.

Following comprehensive engagement and collaboration, our draft Action Plan is expected to be completed in 2024.

## **Conclusion**

Turning now to the shadow reports, we note that the Committee has received a substantial number of submissions from non-governmental organisations and individuals active in human rights in New Zealand as well as from our National Human Rights Institution and National Preventive Mechanism.

I would like to personally thank everybody for engaging with these processes, especially those who are here today. Their participation is valued and crucial in this conversation.

Mr Chair, members of the Committee, the Government is grateful that the Committee has examined our Report and agreed to engage in an open and frank discussion with our delegation. You can be assured we will do our best to answer any questions comprehensively.

We set ourselves high standards for human rights protections. We also know that no matter how many steps forward we take, we still have a distance to travel. We appreciate the Committee's support in this journey. I would like to conclude by assuring you that New Zealand will continue to strengthen protections against torture and ill-treatment.

Ngā mihi nui, thank you Mr Chair.