

# **Report of the Independent Monitoring Mechanism regarding the implementation of the UN Declaration on the Rights of Indigenous Peoples in Aotearoa New Zealand**

to the  
**UN Committee on the Elimination of Discrimination Against Women**  
Information for the Committee's 70th Session, July 2018  
Eighth Periodic Report of New Zealand

**June 2018**

## **Introduction**

This report is made by the Independent Monitoring Mechanism for the United Nations Declaration on the Rights of Indigenous Peoples in Aotearoa New Zealand (the Monitoring Mechanism).

The Monitoring Mechanism is a working group created by Māori in 2015 and is independent of government. Members of the Monitoring Mechanism have been selected by their iwi (tribal nation) and endorsed by the National Iwi Chairs Forum (the Forum)<sup>1</sup> to act as independent experts. The Monitoring Mechanism is supported in its work by technical advisers. The objective of the Monitoring Mechanism is to promote and monitor the implementation of the UN Declaration on the Rights of Indigenous Peoples (the Declaration) in Aotearoa/New Zealand.

Since its establishment, the Monitoring Mechanism has reported annually to the United Nations Expert Mechanism on the Rights of Indigenous Peoples (EMRIP). Its 2018 report is currently in development. The Monitoring Mechanism has framed its most recent reports around six priority areas. The priorities are:

- A. An overarching priority of constitutional transformation
- B. Self-determination, underpinned by participation in decision-making and free, prior and informed consent
- C. Lands, territories and resources
- D. Cultural rights
- E. Equality and non-discrimination
- F. Practical implementation of the Declaration and technical assistance.

Together with Te Tiriti o Waitangi<sup>2</sup>, the Declaration provides a framework for advancing the rights of Māori women. The Monitoring Mechanism considers that action is required in all these priority areas if real progress is to be made in addressing the disparities experienced by Māori women, including in health, education, employment and justice.

---

<sup>1</sup> The Iwi Chairs Forum is the national collective of iwi chairpersons who represent hapū (groupings of extended families) and iwi. It functions in accordance with tikanga (Māori law) and on the basis of He Whakaputanga o te Rangatiratanga o Nu Tireni (He Whakaputanga), Te Tiriti o Waitangi (Te Tiriti) and the Declaration. It meets regularly to discuss and act collectively on issues ranging from constitutional transformation, resource protection and recovery and economic development. The Iwi Chairs Forum also addresses government policy and practice as it impacts on iwi and hapū and engages in regular dialogue with government representatives on priorities, issues and projects.

<sup>2</sup> Te Tiriti o Waitangi is the treaty, signed between Māori leaders and representatives of the British Crown in 1840, and which guaranteed (among other things) self-determination (rangatiratanga) and equal rights for Māori.

## Constitutional Transformation

The Monitoring Mechanism has identified constitutional transformation as an overarching priority and a key mechanism for achieving greater realisation of indigenous rights. This is because the fundamental constitutional structures of the country have such an impact on every aspect of peoples' lives, yet the promises of Te Tiriti are not reflected in our current constitutional system. Getting those constitutional foundations right is critical to making any meaningful improvements in the enjoyment of Māori rights – including addressing the severe, ongoing disparities that Māori – and particularly Māori women and children – continue to experience.

The 2016 *Matike Mai Aotearoa* report released by a working group of the Iwi Chairs Forum,<sup>3</sup> proposed models for an inclusive constitution, based on Te Tiriti o Waitangi and which have a focus on improved relationships that reflect self-determination, partnership and equality. The report recommended further dialogue over the next five years – amongst Māori and with other groups and the government – to develop, agree and implement an inclusive, Treaty-based constitution.

In the past year, two United Nations Committees have recommended that the government take action to progress constitutional discussions.<sup>4</sup> Most recently, the UN Committee on Economic, Social and Cultural Rights (CESCR) has urged the Government to:<sup>5</sup>

Take immediate steps, in partnership with Māori representative institutions, to implement the recommendations of the Constitutional Advisory Panel regarding the role of the Treaty of Waitangi within its constitutional arrangements together with the proposals put forward in the (2016) *Matike Mai Aotearoa* report.

The Committee may wish to reiterate this recommendation and seek a commitment from government to its implementation.

### Recommendation:

**In accordance with recent UN recommendations, that the government work with the Monitoring Mechanism to progress constitutional transformation discussions and to implement the recommendations of the 2016 *Matike Mai Aotearoa* report.**

---

<sup>3</sup> *He Whakaaro Here Whakaumu mō Aotearoa: Report of the Independent Constitutional Transformation Working Group* (2016). Accessible at: <http://www.converge.org.nz/pma/MatikeMaiAotearoaReport.pdf>

<sup>4</sup> UN Committee for the Elimination of Racial Discrimination, (2017), *Concluding Observations: New Zealand*, CERD/C/NZL/CO/21-22, at para 13(a).

<sup>5</sup> UN Committee on Economic, Social and Cultural Rights, (2018), *Concluding Observations on the fourth periodic report of New Zealand (Advanced Unedited Version)*, E/C.12/NZL/CO/4, at para 9(a).

## National Plan of Action

While there are a range of Government initiatives aimed at improving outcomes for Māori, there is still no coordinated, overarching plan or strategy for the Declaration's implementation, and so progress is ad hoc. In particular, there are major gaps in relation to the key rights of self-determination and participation. As well as being fundamental rights in themselves, self-determination and participation are critical to the realisation of other rights, and to ensuring that actions are effective for Māori.

As well as a National Plan identifying actions and indicators to implement and monitor the Declaration, there is a need for: comprehensive planning across government; reviewing legislation for consistency with the Declaration; clear responsibility for the Declaration within government, and targeted resources for its implementation.

### Recommendation

**That the Government work with the Monitoring Mechanism to develop and implement a National Plan of Action to implement the Declaration as a core means of advancing the rights of Māori women.**

## The rights of Māori women

Māori women continue to experience poor outcomes compared with other groups, particularly in employment, in the justice system, and in rates of violence. Māori women have higher unemployment; with an unemployment rate (at 11.1 percent) more than twice the national rate.<sup>6</sup> While there is a gender pay gap of 9.4 percent, the gap is even greater for Māori women when compared to European males (a gap of 25 percent) and European females (a 14 percent gap).<sup>7</sup> In the justice system, Māori women make up 61 percent of women in prison.<sup>8 9</sup> Māori are over-represented in family violence statistics: Māori are twice as likely experience violence from an intimate partner; and Māori women make up 29 percent of women using Refuge services.<sup>10</sup>

In recent years the Waitangi Tribunal has instigated thematic Kaupapa Inquiries to examine nationally significant and systemic issues.<sup>11</sup> A forthcoming Inquiry stemming from the Mana Wahine claim will examine issues relating to the mana (inherent dignity and rights) and rangatiratanga (self-determination) of Māori women. Originally filed in 1993 the claim alleges that the Crown's actions and policies since 1840 have systematically discriminated against Māori women, depriving them of their

---

<sup>6</sup> Statistics NZ, (2018), *Women in the workforce 2017*, accessible at: <https://www.stats.govt.nz/infographics/women-in-the-workforce-2017>.

<sup>7</sup> Statistics NZ, (2018), *Gender pay gap by age groups – Table*, accessible at: <http://nzdotstat.stats.govt.nz/wbos/Index.aspx?DataSetCode=TABLECODE7479>

<sup>8</sup> Statistics NZ, (2018), *Prison and Community Sentence Population – tables*, accessible at: <https://www.stats.govt.nz/information-releases/prison-and-community-sentence-population-statistics-june-2017-fiscal-year-nz-stat-tables>

<sup>9</sup> 'Why are more New Zealand women going to jail?', 26 February 2018, accessible at: <https://www.stuff.co.nz/national/101732572/editorial-why-are-more-new-zealand-women-going-to-jail>

<sup>10</sup> Te Puni Kōkiri, (2017), *Family Violence Infographic*, accessible at: <http://tpk.govt.nz/en/a-matou-mohiotanga/health/maori-family-violence-infographic>

<sup>11</sup> For further information see: <https://www.waitangitribunal.govt.nz/inquiries/kaupapa-inquiries/>

spiritual, cultural, social and economic well-being which is protected by Te Tiriti. Claimants argue that this lack of status has contributed to the high rates of abuse and violence against Maori women. The Tribunal's Kaupapa Inquiry will also look at issues for Māori men, Mana Tāne.<sup>12</sup>

### **Recommendation**

#### **That the Government:**

- a. Enable Māori women's participation and leadership in all efforts to address the discrimination and disparities experienced by Māori women; and**
- b. Recognise and uphold Mana Wahine, including by supporting the Waitangi Tribunal's Kaupapa Inquiry and committing to implement its recommendations.**

---

<sup>12</sup>[https://www.waateanews.com/waateanews/x\\_news/MTg2MzY/National%20News/Mana-Wahine-Claim-takes-attack-on-whakapapa](https://www.waateanews.com/waateanews/x_news/MTg2MzY/National%20News/Mana-Wahine-Claim-takes-attack-on-whakapapa)