

## YEAR IN REVIEW 2017

### INTERNATIONAL HUMAN RIGHTS LAW

#### I INTRODUCTION

This note reviews New Zealand practice concerning international human rights law in 2017. New Zealand continued its engagement with UN treaty based bodies for the promotion and protection of human rights as a result of its commitments under various human rights treaties. Engaging in the process of “constructive dialogue” which characterizes the U.N. efforts to secure compliance with treaty obligations, this year New Zealand submitted its periodic report under the *International Covenant on Economic, Social and Cultural Rights* while the U.N. issued its concluding observations on New Zealand’s human rights practises under the International Covenant on Civil and Political Rights and the International Covenant on the Elimination of All forms of Racial Discrimination. This year also saw the U.N. Committee against Torture delivered a list of issues for New Zealand to consider in advance of its state report due in 2019 while the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment issued its observations and recommendations based upon its visit to New Zealand from 29 April to 8 May 2013. In addition, during 2017 the Human Rights Committee which oversees the *International Covenant on Civil and Political Rights* heard a number of individual communications involving New Zealand while the Committee Against Torture which oversees the implementation *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* also heard a complaint against New Zealand. On the domestic side, the New Zealand Human Rights Commission continued its work, supporting the UN and the reporting process as well as engaging in numerous campaigns promote and protect the human rights of individuals living in Aotearoa New Zealand.

#### II NEW ZEALAND AND UN HUMAN RIGHTS TREATY BODIES

##### A. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

In anticipation of New Zealand’s seventh periodic state report in 2019 under the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* [CAT Convention], the Committee against Torture [CAT Committee] delivered its *List of Issues Prior to Reporting*<sup>1</sup>. This list tasks New Zealand with a series of follow-up questions from its last periodic report under the treaty in 2013. It focuses on issues in relation to the substantive provisions of the treaty at articles 1-16 and principally notes that it considers that New Zealand has still not properly addressed issues relating to the Independent Police Conduct Authority and seclusion, solitary confinement and historic claims of abuse.<sup>2</sup> In addition, this year a number of civil society organization provided information to the CAT Committee in advance of New Zealand’s next state report in 2019 including: Intersex Trust Aotearoa New Zealand,

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<sup>1</sup> Committee against Torture, *List of issues prior to submission of the seventh periodic report of New Zealand*, UN Doc CAT/C/NZL/QPR/7

<sup>2</sup> *Id.* at para. 1.

StopIGM.org and Zwischengeschlecht.org. The information provided by these organizations focuses on issues related to premature surgery and other medical treatment to which intersex children are subjected.

Further, in 2017 in accordance with its mandate under the Optional Protocol to the CAT Convention [OpCAT], the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment [Subcommittee] issued its observations and recommendations<sup>3</sup> based upon its visit to New Zealand from 29 April to 8 May 2013. During this time the Subcommittee visited 35 places of deprivation of liberty, including police stations, district court cells, prisons, Defence Force facilities, youth justice residences and immigration facilities in Wellington, Auckland, Christchurch, Nelson, Blenheim, Rotorua, Hastings and a number of rural locations.<sup>4</sup> The report deals with a broad range of overarching and cross-cutting issues including those related to fundamental safeguards as well as issues facing Māori, youth and those with mental health issues. More broadly, it considers the situation of persons deprived of their liberty and offers recommendations centred on the following themes: police detention, court cells, penitentiary issues, institutions for children and adolescents, military institution, centre for the accommodation of refugees and asylum seekers, border facilities and the transportation of detainees. Of note, regarding penitentiary issues the Subcommittee recommends that the authorities improve the detention regime, in particular regarding out-of-cell time offering that New Zealand should ensure the consistent application of rules on exercise and outdoor activities and allow adequate time for such activities for all prisoners.<sup>5</sup> Regarding institutions for the detention of children and adolescents, the Subcommittee recommends that New Zealand consider developing specific Māori literacy programmes in youth justice residences, in addition to the mandatory general curriculum<sup>6</sup> and that authorities ensure that children and young people are made aware of the disciplinary regulations and that proportionate, tailored measures be applied rather than collective responses.<sup>7</sup>

Responding to the Subcommittee's request, New Zealand offered comprehensive reply<sup>8</sup> in relation to each of the cross-cutting and thematic issues raised in the report. For instance as regarding recommendations concerning outdoor time in relation to penitentiary issues, New Zealand responded that The Corrections Act 2004 provides that every prisoner may, on a daily basis, take at least one hour of physical exercise, which may be taken in the open air if the weather permits. However, corrections accept that the amount of exercise time that prisoners receive above this minimum entitlement can vary according to a prisoner's risk profile.<sup>9</sup> Further New Zealand responded that the quality of exercise facilities and extent of natural light inevitably varies across New Zealand's prison system, reflecting the age and design of individual prisons and that at present there is a comprehensive programme of capital

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<sup>3</sup> Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Visit to New Zealand undertaken from 29 April to 8 May 2013: observations and recommendations addressed to the State party, Report of the Subcommittee*, UN Doc. CAT/OP/NZL/1

<sup>4</sup> *Id.* At para. 4.

<sup>5</sup> *Id.* at para. 84.

<sup>6</sup> *Id.* at para. 95

<sup>7</sup> *Id.* at para. 97

<sup>8</sup> Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Visit to New Zealand undertaken from 29 April to 8 May 2013: observations and recommendations addressed to the State party, Report of the Subcommittee, Addendum, Replies of New Zealand*, UN Doc.

CAT/OP/NZL/1/Add.1

<sup>9</sup> *Id.* at para. 102

improvement across the entire prison estate and improvements being made to older facilities.<sup>10</sup> In response to the Subcommittee's recommendations regarding institutions for the detention of children and adolescents, New Zealand reported back that it has addressed concerns related to Māori literacy programmes in Youth Justice residences. Specifically, the Youth Justice residential schools adhere to Te reo Māori, which has a special place in the New Zealand Curriculum. Eight curriculum principles underpin curriculum decision making in New Zealand, and one of these principles is headed "Treaty of Waitangi". Te reo Māori is included in learning languages, which is one of the eight learning areas in the curriculum.<sup>11</sup>

## **B. International Covenant on Economic, Social and Cultural Rights**

Further, New Zealand submitted its periodic report as per its commitments under the *International Covenant on Economic, Social and Cultural Rights* [ICESCR].<sup>12</sup> This is the fourth periodic report that New Zealand has supplied to the Committee on Economic, Social and Cultural rights [ESCR Committee] and for the first time has been prepared under the simplified reporting procedures responding in sequential order to the ESCR Committee's list of issues prepared prior to the submission of the report.<sup>13</sup> It covers the period from January 2011 to May 2017. It take a thematic approach in its response to the list of issue focusing on implementation in eleven treaty areas including: the right to freely dispose of natural wealth and resources, the obligation to take steps to the maximum of available resources, non-discrimination, equal rights of men and women, the right to work, the right to just and favourable conditions of work, trade union rights, the right to social security, the right to an adequate standard of living, the right to physical and mental health and the right to education.

However, of specific note in the report are a number issues deemed of "particular relevance".<sup>14</sup> These issues broadly range from constitutional issues to issues concerning health, education and social services. As regards the former, New Zealand notes that the ICESCR has not been directly incorporated into domestic law. However, statutory powers have to be interpreted consistently with international obligations, adding where possible<sup>15</sup> and furthermore that there is a new mechanism in place to ensure the compatibility of laws with international standards which is to append disclosure statements to all Government Bills.<sup>16</sup> Notably, New Zealand's report the ESCR Committee details the work of the independent Constitutional Advisory Panel (the Panel) which was appointed in 2010 to consider constitutional issues, including the status of the New Zealand Bill of Rights Act 1990 (NZBORA). This report to the ESCR Committee highlights the Panel's report to New Zealand in December 2013 including some of its key findings.<sup>17</sup> A common theme throughout the Panel's report is that people need more information and need to be more involved in discussions about constitutional issues. Its key recommendation is for the Government [of New Zealand] to actively support a continuing conversation about the constitution.<sup>18</sup> As regards the NZBORA, the Panel found broad support

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<sup>10</sup> *Id.* at para. 104.

<sup>11</sup> *Id.* at para. 116

<sup>12</sup> Committee on Economic, Social and Cultural Rights, *Fourth periodic report submitted by New Zealand under articles 16 and 17 of the Covenant due in 2017*, U.N. Doc. E/C.12/NZL/4 (2017).

<sup>13</sup> *Id.* Para. 2.

<sup>14</sup> *See id.* at paras. 4-85.

<sup>15</sup> *Id.* at para. 36

<sup>16</sup> *Id.* at para. 14.

<sup>17</sup> The report is available at: <http://www.ourconstitution.org.nz/The-Report>.

<sup>18</sup> *Id.* at paras. 4-5.

for exploring changes to the NZBORA and enhancing mechanisms for ensuring compliance with the standards set in the Act including adding economic, social and cultural rights, improving compliance by the Executive and Parliament with the standards in the Act, and giving the Judiciary powers to assess legislation for consistency with the Act.<sup>19</sup> However, New Zealand notes in its report here to the ESCR Committee that it has no plans to review the NZBORA at this stage but that the Panel’s recommendations will be a useful starting point if such a review takes place in the future. As regards the Treaty of Waitangi, the Panel stressed the need to continue the conversation about the place of the Treaty in the constitution. It recommended a Treaty education strategy be developed that includes the current role and status of the Treaty and the Treaty settlement process so people can inform themselves about the rights and obligations under the Treaty. New Zealand noted for the ESCR Committee that education about the Treaty is a formal part of the New Zealand Curriculum and the national conversation about its place in our constitutional arrangements is ongoing.<sup>20</sup> As regards the later issues of “particular relevance”, those of health, education and social services, New Zealand’s report to the ESCR Committee focuses on disparities in outcomes across these sectors for Māori, Pasifika and low income families and focuses on developments in each of these areas to combat these inequalities.

### C. International Covenant on Civil and Political Rights

In 2016 the Human Rights Committee [HRC] issued its *Concluding Observations on the Sixth Periodic Report of New Zealand*<sup>21</sup> which New Zealand supplied as per its commitments under ICCPR. Continuing its engagement in this process of constructive dialogue, in 2017 New Zealand issued further information in response to these observations. Responding to the HRC’s principal areas of concern in its *Concluding Observations*, the follow-up report issued by New Zealand this year centered on issues related to domestic and gender-based violence and child abuse.<sup>22</sup> As regards the later, New Zealand noted that as response to the Child Youth and Family (CYF) review, the Government agreed in 2016 to develop and implement a new operating model for care and protection in youth justice systems. The Ministry for Vulnerable Children, Oranga Tamariki (the new Ministry) was established as a new child-centered, stand-alone ministry and has been operational since 1 April 2017.<sup>23</sup> Concerning gender-based violence, New Zealand noted that it had “established the Ministerial Group on Family Violence and Sexual Violence with the objective of establishing a comprehensive response to family violence and sexual violence to stop perpetrators hurting their families, protect victims, and break the cycle of re-victimisation and re-offending.”<sup>24</sup> The result of this creation has been that the group has identified and developed critical projects to strengthen the foundations of the system to improve practice across all agencies and service types while building data and evidence to guide future investment over the medium-to-long term.<sup>25</sup> Where there was a clear

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<sup>19</sup> *Id.* at paras. 6-7.

<sup>20</sup> *Id.* at paras. 9-10.

<sup>21</sup> Human Rights Committee, *Concluding Observations on the Sixth Periodic Report of New Zealand*, U.N. Doc. CCPR/C/NZL/CO/6 (2016),

<sup>22</sup> Human Rights Committee, *Concluding observations on the sixth periodic report of New Zealand: Addendum Information received from New Zealand on follow-up to the concluding observations*, U.N. Doc. CCPR/C/NZL/CO/6/Add.1(2017)

<sup>23</sup> *Id.* at para. 23.

<sup>24</sup> *Id.* at para. 1.

<sup>25</sup> *Id.* at para. 4

need for immediate action and a solid evidence base, the Government has already put in place better services, pilots and other improvements. These include:

- (a) National Home Safety Service (to keep victims safe in their own home without having to rely on alternative, safe accommodation);
- (b) Developing the Risk Assessment and Management Framework (RAMF), which aims to develop a common approach to consistently and effectively identify, assess and manage the risks of family violence;
- (c) Developing the Workforce Capability Framework, co-designed with a sector-led Expert Design Group, which identifies the knowledge, skills and behaviours needed for a safe and competent workforce;
- (d) Four community pilots that work with gang-connected populations and their communities to build safer communities, support adult victims, address perpetrator behaviour and reduce the effects of multi-generational gang involvement;
- (e) Expanding the Family Start intensive home visiting service for high-risk families with children;
- (f) Launching the ‘Danger Signs’ public awareness campaign in late 2016 as part of the ‘It’s Not OK’ campaign. This highlights the signs that a woman is in danger from a partner and where to get help;
- (g) Extending E Tū Whānau (a community based violence prevention programme) into hard to reach communities, particularly those belonging to gangs and refugee and migrant communities;
- (h) Expanding the bail information pilot from two to eight locations to give judges making bail decisions more information about a defendant’s previous family violence history to help support informed bail decision;
- (i) The \$503 million Safer Communities package to substantially increase police staff and resources across the country, and which includes new capability particularly relevant to family and sexual violence, such as:
  - 140 additional specialist investigators for child protection, sexual assault, family violence and other serious crimes;
  - 20 additional ethnic liaison officers to support Chinese, Indian and other ethnic communities.<sup>26</sup>

#### **D. International Covenant on the Elimination of All forms of Racial Discrimination**

Following New Zealand 2016 submissions of its periodic reports as per its commitments under the *International Convention on the Elimination of All Forms of Racial Discrimination* [ICERD],<sup>27</sup> in 2017 numerous civil society organizations took the opportunity to file Shadow Reports to be considered in conjunction with New Zealand’s state report. A Shadow Report is a report from a source other than the government in an effort to fill in the gaps of the “not so good” which might be minimized or overlooked by the government in its report.<sup>28</sup> Considering

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<sup>26</sup> *Id.*

<sup>27</sup> Committee on the Elimination of Racial Discrimination, *Consideration of Reports submitted by States Parties under Article 9 of the Convention. Twenty-first and twenty-second Periodic Reports of States parties due in 2015: New Zealand*, U.N. Doc. CERD/C/NZL/21-22 (2016).

<sup>28</sup> See Dr. Tony Ellis, *In the Matter of New Zealand’s 6<sup>th</sup> Periodic Report: Alternative Shadow Report Filed by Dr. Tony Ellis*, (2016) available at [http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/NZL/INT\\_CCPR\\_CSS\\_NZL\\_23261\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/NZL/INT_CCPR_CSS_NZL_23261_E.pdf)

all of this information, the Committee on the Elimination of Racial Discrimination [CERD Committee] issued its concluding observations in September 2017.<sup>29</sup> The CERD Committee open with praise for New Zealand on a number of different matters noting:

The Committee commends the State party for:

- (a) Acknowledging that social inequities exist today between racial groups and the acceptance by the State party of responsibility to correct them;
- (b) Adopting the Te Awa Tupua (Whanganui River Claims Settlement) Act 2017.

The Committee also welcomes the State party's recent efforts to establish policies, programmes and administrative measures to further ensure the protection of human rights and the implementation of the Convention, including:

- (a) The second national plan of action on human rights, for the period 2015-2019;
- (b) Various educational and linguistic strategies and measures targeting Maori and Pasifika, including the Maori Language Act of 2016;
- (c) He Kai Kei Aku Ringa (the Maori economic development strategy and action plan);
- (d) English as a second language support for students of migrant and refugee backgrounds in schools;
- (e) 'Ala Mo'ui: Pathways to Pacific Health and Wellbeing 2014-2018;
- (f) The Whenua Maori Fund to improve the productivity of Maori land;
- (g) The Whanau Ora development strategy;
- (h) The Youth Crime Action Plan 2013-2023;
- (i) He Korowai Oranga (the Maori health strategy) and the Healthy Families NZ initiative;
- (j) The Pacific Economic Strategy 2015-2021;
- (k) The \$10 million fund to address Maori overrepresentation in the criminal justice system.

The Committee notes with appreciation the active role of a vibrant civil society and of the national human rights institution, the Human Rights Commission, which was again assigned "A" status by the Global Alliance of National Human Rights Institutions in May 2016.<sup>30</sup>

However, a number of concerns remain; general concerns related to racist hate speech, hate crimes and acts of racial discrimination and specific concerns regarding the treatment of Māori. For instance, the CERD Committee is concerned by the apparent lack of progress in the implementation of the 2013 recommendations of the Constitutional Advisory Panel concerning the Treaty of Waitangi. It notes that an independent, Māori-led initiative, Matike Mai Aotearoa, has also undertaken wide-ranging consultation and issued its own report, in which it put forward other proposals for discussion on a range of constitutional models that also have not been taken up by New Zealand.<sup>31</sup> In particular, the observations note that the CERD Committee sees little progress has been made during the reporting period in securing Indigenous rights to self-determination under the Treaty or the power-sharing arrangement

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<sup>29</sup> Committee on the Elimination of Racial Discrimination, *Concluding observations on the combined twenty-first and twenty-second periodic reports of New Zealand*, U.N. Doc. CERD/C/NZL/CO/21-22 (2017).

<sup>30</sup> *Id.* at paras. 3-5.

<sup>31</sup> *Id.* at para. 12.

between hapu and New Zealand as required by the Treaty.<sup>32</sup> Similarly, the CERD Committee remains concerned about the lack of progress in implementing the recommendations contained in the Waitangi Tribunal's 2011 Wai 262 report regarding, among other issues, Māori intellectual and cultural property rights and Māori treasured possessions, including language, culture and knowledge<sup>33</sup> Further, the CERD Committee remains concerned about the application of the Marine and Coastal Area (Takutai Moana) Act of 2011 on Māori land and resource rights, and by reports that the State party has not attempted to review the Act in accordance with the relevant recommendation contained in the previous concluding observations.<sup>34</sup> The CERD Committee also notes with concern that there continue to be poorer outcomes for Māori and Pasifika in health, employment and education with Māori and Pasifika children remaining the most vulnerable.<sup>35</sup>

### III INTERNATIONAL HUMAN RIGHTS LAW JURISPRUDENCE: UN CASES CONCERNING NEW ZEALAND

2017 saw consideration of a number of communications concerning New Zealand before UN treaty committees the HRC and the CAT.

In March 2017, the HRC issued its decision concerning the communication of *M.B. v. New Zealand*.<sup>36</sup> M.B., a national of New Zealand, claimed that the State violated his rights under articles 14 (1), (2), (3) and (5) and 17 of the ICCPR which relate to the fairness of criminal proceedings arising from his conviction for accessing a computer system without claim of right and for dishonest purpose in order to obtain a pecuniary advantage contrary to article 249 (1) (a) of the Crimes Act 1961. Specifically, the author argued his article 14 (1) and (3) of the Covenant were violated as his trial counsel was permitted to disregard his defence instructions. Further, the author claimed that his rights under article 14 (3) of the Covenant were also violated as there was an undue delay in the proceedings against him. Moreover, the author also claims that his rights under article 14 (2) were violated as the appellate courts did not adequately review the safety of the conviction. In addition, the author also claims that his rights under article 14 (5) were violated because of a systemic defect in the laws of New Zealand regarding the right to appeal in criminal cases, as the appellate courts attach inadequate importance as to whether the instructions of the defendant have been followed by trial counsel. Finally, the author claimed that his rights under article 17 were violated as the failure by the trial counsel to follow his instructions breached his right of autonomy. Ultimately, the HRC found the entire matter inadmissible on the grounds under articles 2 and 5 (2) (b) of the Optional Protocol. As regards the latter, the HRC noted that the author did not provided any arguments to justify why he considers that no effective remedies are available in New Zealand for violation of Article 14(3) concerning the delay in proceedings. In these circumstances, and in

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<sup>32</sup> *Id.*

<sup>33</sup> *Id.* at para. 16.

<sup>34</sup> *Id.* at para. 20.

<sup>35</sup> *Id.* at paras. 24-38.

<sup>36</sup> Human Rights Committee, *Decision adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2934/2017*, UN. Doc. CCPR/C/119/D/2934/2017

the absence of any further information on file, the Committee declared this part of the communication inadmissible pursuant to article 5 (2) (b) of the Optional Protocol. As regards the former, the HRC noted in relation to the remaining claims that the author failed to substantiate, for purposes of admissibility, that the conduct of the national courts amounted to arbitrariness or a denial of justice and so found these claims inadmissible under article 2 of the Optional Protocol.

The HRC also issued its views concerning *Communication No. 2502/2014* in November 2017.<sup>37</sup> The authors of the communication are Allan Brian Miller and Michael John Carroll, nationals of New Zealand. They claimed violations of their rights under articles 2, 9, 10 and 14 (1) of the ICCPR which pertain to arbitrary detention, conditions of imprisonment, the social rehabilitation aim of imprisonment and limited scope of judicial review arising from their imprisonment for sexual offences. The HRC found the authors' claims admissible concerning issues under articles 9(1) and (4); 10 (1) and (3); and 14(1) of the Covenant. Moving to the merits, the HRC found that the information before it disclosed violations by New Zealand of articles 9 (1) and (4) and article 10(3) of the Covenant with respect to each author. Specifically, the HRC found that the length of the authors' preventive detention, together with the State party's failure to appropriately alter the punitive nature of the detention conditions after the expiration of their period of non-eligibility for parole, constituted a violation of articles 9 (1) and 10(3) of the Covenant. Further, concerning the independence and impartiality of the parole board, the HRC also found that the State party failed to show that judicial review over the lawfulness of detention was available to the authors in order to challenge their continued detention pursuant to article 9 (4) of the Covenant.

Aside from the HRC, in December 2017 the CAT also issued a decision under article 22 of the Convention against Torture concerning communication No. 672/2015.<sup>38</sup> The decision concerns a complaint put forward by John Alfred Vogel, a national of New Zealand, who claims that the prolonged solitary confinement to which he was subjected and the denial of his right to adequate compensation constituted a violation by New Zealand of articles 14 and 16 of the Convention which respectively pertain to the right to fair and adequate compensation and cruel, inhuman or degrading treatment or punishment. Finding the communication admissible, the CAT found a violation by the State of Article 16. Specifically, the confinement imposed on the complainant for 21 days amounted to cruel, inhuman or degrading treatment or punishment in violation of article 16 of the Convention. However, the CAT did not find a violation of article 14 compensation rights from the State's requirement that the complainant exhaust the avenues for complaint provided for in the Prisoners' and Victims' Claims Act.

#### **IV HUMAN RIGHTS IN THE DOMESTIC CONTEXT: THE ACTIVITIES OF THE NEW ZEALAND HUMANS RIGHTS COMMISSION**

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<sup>37</sup> Human Rights Committee, *Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2502/2014*, UN Doc. CCPR/C/121/D/2502/2014

<sup>38</sup> Committee against Torture, *Decision adopted by the Committee under article 22 of the Convention, concerning communication No. 672/2015*, UN Doc. CAT/C/62/D/672/2015

Deriving its statutory mandate from the *Human Rights Act 1993* ('HRA') as set out in ss 5(1)–(2), the New Zealand Human Rights Commission ('Commission') is Aotearoa New Zealand's National Human Rights Institution ('NHRI'). It is an independent Crown entity responsible for promoting and encouraging the protection of human rights and harmonious relations between all people in New Zealand.<sup>39</sup> During the year the Commission prepared over 30 submissions to select committees, government departments and other agencies in relation to key human rights issues. These submissions included:

- a submission to the Law Commission on its review of the Search and Surveillance Act 2012
- a submission to the Foreign Affairs and Trade Select Committee on the Security Intelligence Bill
- a submission to the Māori Affairs Select Committee on the Te Ture Whenua Bill
- a submission to the Education and Science Committee on the Education (Update) Amendment Bill 2016
- input and guidance to the Ministry of Business, Innovation and Employment (MBIE) on embedding human rights into procurement processes
- a submission on the Children, Young Persons and their families, Oranga Tamariki Bill
- various submissions in relation to proposed pieces of legislation relating to family violence.<sup>40</sup>

Furthermore the Commission received 5,453 new human rights enquiries and complaints in 2016/17, an increase of 117 over the previous year. This total is made up of:

- 3,716 complaints about a human rights issue of which 1,211 were complaints about unlawful discrimination
- 1,501 requests for other assistance including enquiries about human rights training, advice or resources, legal intervention or advocacy (there were 224 enquiries for the Commission's publications)
- 236 registrations of concern (this does not include concern expressed over the Commission's social media sites, but concerns specifically sent to the Commission).<sup>41</sup>

Aside from these domestic activities, the Commission remained involved at home and abroad with the UN as it is accredited as an 'A' status NHRI with the Global Alliance of National Human Rights institutions ('GANHRI'). Operating in accordance with the *Principles Relating to the Status of National Institutions* ('Paris Principles'), this status is the highest recognition of independence that a national human rights institution can achieve and provides the Commission with speaking rights at relevant UN Human Rights Council [the principal UN Charter-based mechanism for the protection of human rights] and human rights treaty committee sessions. In 2017, the Commission submitted several comprehensive shadow reports<sup>42</sup> including reports to the CAT Committee, the CERD Committee and the Committee on the Elimination of Discrimination against Women [CEDAW] to help with the development of the list of issues prior to New Zealand's next state report under each of these treaties. Moreover, this year the Commission continued to work with Treasury and the Ministry of

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<sup>39</sup> New Zealand Human Rights Commission, *New Zealand Human Rights Commission Annual Report* (HRC, Wellington, 2017) [hereinafter 'Annual Report'].

<sup>40</sup> Annual Report, 20.

<sup>41</sup> *Id.* at 23.

<sup>42</sup> See *supra* n. 28 and accompanying text [discussing shadow reports].

Foreign Affairs and Trade (MFAT) to progress and publicise the UN's Sustainable Development Goals (SDGs) in the state sector.<sup>43</sup> In addition the Commission, along with IHC<sup>44</sup>, hosted and supported the visit of Ms. Catalina Devandas, UN Special Rapporteur on the Rights of Persons with Disabilities with key stakeholders including government agencies and the recently elected member of the UN Convention on the Rights of Persons with Disabilities, and held a community event at Te Papa.<sup>45</sup> With the funding from the UN, in 2017 the Commission released *Thinking Outside the Box? A Review of New Zealand's Seclusion and Restraint practices* which examined these practices across different detention contexts in New Zealand.<sup>46</sup> Furthermore, the Commission continued with its mission to support the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) holding eight Indigenous Rights Information forums across Aotearoa New Zealand to promote awareness about the UNDRIP and to highlight its relevance and application to a range of issues including the right to language, health, environment, indigenous women's leadership, equality and non-discrimination, and indigenous rights.<sup>47</sup>

At home in Aotearoa New Zealand, in 2017 the Commission also engaged in a number of different campaigns. For instance, the Commission's *That's Us* campaign was New Zealand's first anti-racism campaign to ask New Zealanders to share personal stories about racism, intolerance and hatred, as well as their hopes for the future. It garnered a lot traction on social media in New Zealand and reached over 3 million people online via video and website content. A second campaign, *Give Nothing to Racism*, was launched which challenged New Zealanders to confront and eliminate casual racism. Of particular note the campaign featured "40 high-profile and influential Kiwis who generously gave their time, reputation and support."<sup>48</sup> The Commission notes that its core object with these campaigns is to create a culture in which racist, discriminatory attitudes and behaviours are considered unacceptable by most New Zealanders, and in which diversity is accepted and welcomed.<sup>49</sup> In addition, the Commission launched the *Never Again E Kore Ano* campaign in February which called for (i) an independent inquiry into the abuse of people held in state care, (ii) a public apology to those who were affected, (iii) appropriate steps to be taken to acknowledge the harm that has been caused to the victims and to provide appropriate redress and rehabilitation; and iv) action to be taken to ensure this never happens again. This campaign also garnered extensive media coverage.<sup>50</sup> Finally, the Commission continued its work in addressing and raising awareness of bullying in schools through participation on the Bullying Prevention Advisory Group. The Commission continues to advocate for the Ministry of Education to develop a comprehensive, evidence-based anti-bullying programme for New Zealand schools, which includes all the

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<sup>43</sup> Annual Report, 16.

<sup>44</sup> See <https://ihc.org.nz/>

<sup>45</sup> Annual Report, 19.

<sup>46</sup> Annual Report, 13.

<sup>47</sup> Annual Report, 18.

<sup>48</sup> Annual Report, 12.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

identifications used by bullies in school: race, disability, gender, economic status, family status and GLBTI.<sup>51</sup>

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<sup>51</sup> *Id.* at 19.