

***Mana ki te Tangata***

***The New Zealand Action Plan  
for Human Rights***



***Priorities for Action:  
2005-2010***

In the strategic framework *Opportunities for All New Zealanders*, the Government has identified family violence and the abuse and neglect of children and older persons as a critical issue to be addressed through improved inter-agency collaboration, building on existing work and developing new ways to work together. Existing Government strategies and work programmes include *Te Rito – New Zealand Family Violence Prevention Strategy*, and the *Action Plan for Community and Sexual Violence*, which includes a proposed nationwide public education programme. The Government's *Elder Abuse and Neglect Prevention Programme* was reviewed in 2004 and recommendations were made to strengthen it. There is an urgent need to progress implementation of these strategies and programmes.

Priorities for action:

- Prevent family violence and abuse by expanding community-based initiatives that demonstrate best practice and promote and protect human rights
- Strengthen programmes to prevent abuse and neglect of disabled and older people
- Incorporate a human rights approach into the development of a nationwide public education programme to reduce violence
- Take action to reduce deliberate harassment of ethnic and religious groups and gay, lesbian and transgender people, including stronger enforcement of criminal sanctions, public education, and closer police liaison with communities
- Promote respect for human rights through human rights education for police management, staff, and anyone acting on behalf of the NZ Police.

## **5.5 Justice / Te tika o te ture**

*Outcome: All people in New Zealand have equal access to justice.*

*Human Rights in New Zealand Today / Ngā Tika Tangata O Te Motu* highlighted that people often experience barriers to equal participation in the justice system. These barriers include processes that are costly and difficult for many people on low incomes. The recent Law Commission report *Delivering Justice for All: A Vision for New Zealand Courts and Tribunals*, published in March 2004, noted that access to justice results from the satisfactory balance of a number of contributing factors, including legal information and advice, representation, cost, and acknowledgement of diversity.

Restorative justice has the potential to address a wide range of the issues identified in the status report, including access to justice, victims' rights and their involvement in justice processes, high rates of re-offending and dislocation of offenders from their communities and families. The Ministry of Justice and community restorative justice providers are working collaboratively towards the continued development of restorative justice in New Zealand.

Priorities for action:

- Reduce civil court fees
- Improve access (including the removal of physical, cultural, behavioural and electronic barriers) to courts, the justice sector and legal information
- Ensure that victims of crime have the opportunity to be heard and that due weight is given to their views in court proceedings
- Extend the availability of restorative justice in its various forms
- Evaluate the use of family group conferencing in youth justice.

## 5.6 Places of detention / Ngā whare herehere

*Outcome: Where people are lawfully detained, they are safe and their human rights are respected.*

Detention raises fundamental human rights issues. *Human Rights in New Zealand Today / Ngā Tika Tangata O Te Motu* emphasised the importance of independent review of the use of non-voluntary segregation and lock-down in particular, and the health and safety of prisoners more generally. The detention of asylum seekers was identified as an issue requiring particular attention. The status report also noted that there is currently no external monitoring of detention by the Defence Forces.

The New Zealand Government has signed the Optional Protocol to the Convention Against Torture (OPCAT) and has taken steps to establish the Human Rights Commission as the central national preventive mechanism under the protocol, so that the OPCAT can then be ratified.

Priorities for action:

- Review the use of non-voluntary segregation, periods of lock-down and other health and safety issues in prisons, including the experiences of asylum seekers in prison
- Provide for external monitoring of detention in military facilities
- Promote respect for human rights through human rights education for management and staff of prisons and all other places of detention
- Implement the Optional Protocol to the Convention Against Torture (OPCAT).

## 5.7 Human rights and terrorism / Ngā tika tangata me mahi kōhuru whakatumatuma

*Outcome: Security protection measures are consistent with the principles of transparency, proportionality, and fundamental human rights.*

*Human Rights in New Zealand Today / Ngā Tika Tangata O Te Motu* identified the potential for subordinating human rights in the interests of national security as an area of concern. It is in the interests of national security to ensure that measures to prevent terrorism comply with New Zealand's human rights obligations. The Asia Pacific Forum of National Human Rights Institutions Advisory Council of Jurists made specific observations and recommendations on this subject in its 2004 Reference on

## **7. Getting the Framework Right Kia tika te hanga**

*It is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law.*

*Preamble, Universal Declaration of Human Rights*

### **7.1 Introduction / Timatatanga**

*Human Rights in New Zealand Today / Ngā Tika Tangata O Te Motu* showed that New Zealand has most of the elements essential for the effective promotion, protection and fulfilment of human rights. They are:

- ❖ democracy: democratic institutions and processes that enable participation
- ❖ the rule of law: including the incorporation of international human rights standards in the national constitution and laws
- ❖ an independent and corruption-free judiciary that applies international human rights standards and jurisprudence
- ❖ good governance: effective structures of government at central, regional and local levels that recognise, respect and apply human rights standards
- ❖ specialised human rights institutions and formal procedures for accountability
- ❖ human rights information and education
- ❖ an active civil society: citizens who engage, organise and participate
- ❖ a focus on the most vulnerable parts of the population.

However, some weaknesses in our human rights framework were identified, along with a limited number of specific areas for improvement. Some of these have been addressed in other sections of the Action Plan. For example, the section on civil and political rights addresses democracy and the justice system.

This section focuses on the remaining features of a robust human rights framework as they apply in the context of New Zealand, including the place of the Treaty of Waitangi; legal recognition and entrenchment of the full range of human rights; good governance through considering human rights in the legislative and policy development process; human rights education; and development of systems and frameworks to monitor the realisation of human rights in New Zealand.

### **7.2 The place of the Treaty of Waitangi / Te turanga o te Tiriti o Waitangi**

*Outcome: The significance and place of the Treaty of Waitangi in New Zealand is fully recognised.*

The place of the Treaty of Waitangi in New Zealand today has profound significance for human rights and for harmonious race relations. *Human Rights in New Zealand Today / Ngā Tika Tangata O Te Motu* reported insufficient public information, education and, most of all, dialogue and

- Promote discussion on the merits of entrenching fundamental human rights in New Zealand's constitutional framework
- Review the grounds on which discrimination is prohibited in the Human Rights Act 1993 and the exceptions in Part 2 of the Human Rights Act 1993.

#### **7.4 Good governance – applying human rights in the development of policy and legislation / Kāwanatanga pai – te hāngai ki ngā tika tangata i roto i ngā whakaritenga ture, kaupapa whakahaere**

*Outcome: There is a comprehensive process to ensure that legislation and policy are developed in accordance with all human rights standards, and that human rights are respected and protected in practice.*

*Human Rights in New Zealand Today / Ngā Tika Tangata O Te Motu* concluded that the relationship between New Zealand's international human rights obligations and the development of policy is not well understood. It noted that there is room for improvement in the ways in which government agencies incorporate human rights standards into daily practice.

Priorities for action:

- Adopt a key government goal that affirms the centrality of human rights to good governance
- Develop tools and processes for parliamentary and executive branches of government to achieve a stronger human rights framework for legislation and policy and practice, including strategic planning, policy development, and legislative scrutiny, for example:
  - Conducting practical case studies with central and local government applying a human rights approach to new and existing policies and legislation
  - Creating human rights analysis tools for the public sector to employ when developing policy, legislation, and/or practices
  - Including human rights statements in local government Long Term Council Community Plans and District Plans
  - Assessing how Select Committees can best take into account New Zealand's human rights obligations when considering legislation
  - Strengthening requirements for noting human rights compliance of papers for Cabinet Committees and of Bills by requiring reference to the full range of New Zealand's human rights obligations
  - Providing for periodic monitoring and evaluation of human rights scrutiny processes.

#### **7.5 Human rights education / Mātauranga tika tangata**

*Outcome: There is a nationally coordinated and effective strategic approach to human rights education in New Zealand.*

*Human Rights in New Zealand Today / Ngā Tika Tangata O Te Motu* noted that human rights education is a means to achieving the protection of human rights, as well as a right in itself. Human rights education is also an essential

tool for meeting the State's international obligation to recognise, protect, promote and fulfil human rights in this country. Current human rights education in New Zealand tends to be on an ad hoc basis in response to problems, rather than being based on a nationally coordinated and strategic approach. The report also found that there is limited evaluation of the impact of human rights education, especially the measurement of its long-term outcomes.

Priorities for action:

- Develop a nation-wide strategic approach to human rights education in collaboration with government and non-government agencies and organisations
- Develop a framework to assess human rights education best practice and outcomes.

## **7.6 Accountability – monitoring human rights / Whakataua tika – te rāangi, tātari i ngā tika tangata**

Reliable and robust information on the extent and nature of human rights problems is required to address them. Research, including data collection, is necessary to show what and where the problems are, to inform the development of effective solutions, and to measure progress. Regular reporting and independent monitoring is also essential, whether by international treaty bodies, national human rights institutions or non-governmental organisations. Effective data collection and use provide the basis for effective reporting.

*Outcome: Consistent, comprehensive data are collected and used for human rights reporting, problem identification, policy development and monitoring.*

New Zealand's periodic reports to the United Nations human rights treaty bodies are a useful mechanism for monitoring human rights. To be effective these require quality information and public awareness of the reporting process and its outcomes. The Committee on Economic, Social and Cultural Rights has requested that States establish indicators and benchmarks against which their performance on economic, social and cultural rights can be measured.

*Human Rights in New Zealand Today / Ngā Tika Tangata O Te Motu* was the first comprehensive attempt to measure the status of human rights in New Zealand. In the process, the report identified significant gaps and limitations in existing data collection by government agencies and other statutory bodies. Even where data is collected, it is not always used or made publicly available.

Priorities for action:

- Ensure that all government agencies gather, report and use human rights data, including data that can be disaggregated in accordance with the reporting requirements under international human rights obligations, by age, gender, disability, sexual orientation and ethnicity, in particular: