



Human Rights Commission
Te Kāhui Tika Tangata

Report to OHCHR on resolution 37/16 “Right to work” and young people’s rights

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Introduction

1. The New Zealand Human Rights Commission (“Commission”) is New Zealand’s national human rights institution (“NHRI”). It has ‘A’ status accreditation.
2. The Commission welcomes the opportunity to provide a briefing to the OHCHR regarding the right to work and the enjoyment of all human rights by young people, focusing on:
 - NEET statistics illustrating inequalities among young people
 - Some examples of good practice programmes that promote the inclusion of people in work and education
 - The challenge of safety for young people in hazardous work
 - The limits to New Zealand’s legislated protections for young people
 - Some examples of good practice steps towards improving working conditions

Challenge: inequality in participation – young people who are NEET

3. New Zealand’s most recent statistics for people who are not in employment, education, or training (NEET) show significant inequalities for particular groups.¹ Young Māori and Pacific people are significantly marginalised, and disabled people are most marginalised.
4. Data for the June quarter of 2018 shows that girls and women are more marginalised than boys and men in every ethnic group except for European. And in every ethnic group, 20-24 year-olds have significantly higher NEET rates than 15-19 year-olds.
5. Disabled young people are most marginalised. Only 13.9 percent of disabled 15–24 year-olds were employed in the June 2018 quarter, compared with 56.3 percent of non-disabled people the same age. The NEET rate for disabled young people was 43.3% – over four times the rate for the non-disabled population (9.7%).²
6. The Commission’s Tracking Equality at Work online tool analyses NEET data for 2017, combining ethnicity, sex and age data. It shows that young Māori women are the most marginalised, with one in three Māori women aged 20-24 NEET.³

Good practice recommendations: keeping young people in education and employment

7. There are a number of programmes in place to support young people to stay in education and move from education into employment without becoming NEET.

¹ Household Labour Force Survey, from the datasets “Youth Labour Force and Education Status by Total Resp Ethnic Group by Age Group” and “Youth Labour Force and Education Status by Total Resp Ethnic Group by Sex” at <http://stats.govt.nz/infoshare/>.

² Stats NZ “Labour market measures for disabled people” 20 August 2018 www.stats.govt.nz/reports/labour-market-measures-for-disabled-people#young.

³ Tracking Equality at Work: Indicator: NEET: <http://tracking-equality.hrc.co.nz/#/indicator/neet-rate-not-in-education-employment-or>.

In the Tracking Equality at Work 2016 and 2018 updates the Commission recommended that government “urgently addresses Māori and Pacific unemployment rates and NEET rates for 20-24 year-olds, by extending youth mentoring and assistance into this age group.” “Recommendations, Employment” Tracking Equality at Work, Human Rights Commission website <http://tracking-equality.hrc.co.nz/#/issue/employment>.

8. For example, the Youth Employability Programme (YEP),⁴ and the pilots of He Poutama Rangatahi announced in January 2018.⁵ The Ministry for Pacific Peoples runs the Pacific Employment Support Service,⁶ and funds Māori and Pasifika Trades Training (MPTT).⁷
9. These programmes are a great start but they involve relatively small numbers. For example, it would be useful to see more MPTT places offered and more emphasis on encouraging young women to enter trades training. The Commission recommends ongoing implementation of similar schemes to ensure all young people are supported into education and employment after high school. Schemes need to include disabled youth, who are most at risk of becoming NEET.
10. The government has also recognised that work needs to be completed to improve high schools' work to support educational achievement of Māori and Pacific students.⁸
11. A 2016 Salvation Army report focusing on employment needs of 15-24 year olds⁹ makes five key recommendations, many of which accord with Commission recommendations:
 - i. Address educational inequality, targeting young Māori and Pacific people.
 - ii. Connect school to work, with the expectation that all school leavers will have a job, further training or education to undertake when leaving school.
 - iii. More apprenticeships and younger apprentices.
 - iv. Explicit and public immigration policy settings.
 - v. Industry-specific workforce plans, with tangible efforts to recruit and train young New Zealanders for future labour and skills needs.¹⁰

Good practice: measures to include disabled people

12. There are some examples of good practice including initiatives for disabled people in employment. The State Services Commission developed the "Lead Toolkit for Employing Disabled People in the State Sector".¹¹ A tool-kit for employing disabled people was also

⁴ Comet Auckland website: Youth Employability: www.cometauckland.org.nz/wawcs0160400/Youth-Employability.html. Students take part in employment skills workshops, voluntary work and work experience, to earn a "licence to work" to show to prospective employers. The scheme is delivered by NGOs and has a steering group of employers and government.

⁵ "He Poutama Rangatahi" on Ministry of Business, Innovation and Employment website

<https://www.mbie.govt.nz/info-services/employment-skills/he-poutama-rangatahi1/?searchterm=NEET%2A>.

⁶ "Pacific Employment Support Service", Ministry for Pacific Peoples, <http://www.mpp.govt.nz/employment-and-entrepreneurship/pacific-employment-support-services/>.

⁷ Trades training, mentoring, financial support and assistance into employment. See "Māori and Pasifika Trades Training (MPTT)" on Ministry for Pacific Peoples website <http://www.mpp.govt.nz/employment-and-entrepreneurship/pacific-employment-support-services/maori-and-pasifika-trades-training-mptt/>.

⁸ "Improve educational outcomes for Māori students by implementing Ka Hikitia – Accelerating Success 2013-2017", Government Action 93, National Plan of Action, Human Rights Commission, <https://npa.hrc.co.nz/actions/93>.

⁹ "What Next? Addressing New Zealand's Youth Unemployment", Johnson. A, Social Policy Analyst, The Salvation Army Social Policy and Parliamentary Unit, October 2016, www.salvationarmy.org.nz/sites/default/files/uploads/20161019TSA-Youth-Report-FINAL.pdf.

¹⁰ Page 3, "What Next? Addressing New Zealand's Youth Unemployment", above.

¹¹ State Services Commission "Lead Toolkit for Employing Disabled People in the State Sector"

<http://www.ssc.govt.nz/lead>. The Office for Disability Issues commissioned research on effective methods to

published by the Office for Disability Issues,¹² and a master class was held on paid internships. These are good first steps to increasing the employment of disabled people in the public sector.

13. The Office for Disability Issues has also set a milestone to work with the private sector to progress employment of disabled people.¹³

14. Again, these are promising starts, but the only real way that success can be measured is if unemployment of disabled people reduces. The Commission recommends the government introduce a programme specifically targeting young disabled people who are NEET.

Challenge: safety of children in hazardous work

15. The Commission remains concerned about the safety of children who work. There is no minimum age at which children can enter employment,¹⁴ no minimum wage for children under 16, and a lower minimum wage for children 16-19.¹⁵ Children under 16 are also not protected against age-based discrimination under anti-discrimination law. The lack of minimum employment protections for under 16s means they are a largely unregulated workforce, and can be outside the jurisdiction of protective mechanisms like the Labour Inspectorate.

16. The Committee on the Rights of the Child has repeatedly recommended New Zealand:¹⁶

- take legislative and other measures to ensure that no child is allowed to work in a dangerous workplace; and
- ratify the ILO's 1973 Minimum Age Convention (Convention 138).

17. New Zealand maintains a reservation to Convention on the Rights of the Child article 32(2):

"The Government of New Zealand considers that the rights of the child provided for in article 32(1) [the rights to "be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development."] are adequately protected by its existing law. It therefore reserves the right not to legislate further or to take additional measures as may be envisaged in article 32(2)."

increase disability confidence in employers. A Governance Group has been set up to examine opportunities to address issues raised in the research and encourage private sector employers to employ more disabled people.

¹² "Action - Increase employer confidence in employing disabled people", NZ Disability Strategy, Office for Disability Issues, <https://www.odi.govt.nz/nz-disability-strategy/employment-and-economic-security/action-increase-employer-confidence-in-employing-disabled-people/#progress>

¹³ "Action - Work with private sector partners to progress employment of disabled people", NZ Disability Strategy, Office for Disability Issues, Accessed on 18.9 2017 from <https://www.odi.govt.nz/nz-disability-strategy/employment-and-economic-security/action-increase-employer-confidence-in-employing-disabled-people/#progress>

¹⁴ Employing under 16s during school hours is prohibited, but 15 year-olds can apply for an exemption to leave school to enter employment or a training course.

¹⁵ "Young employees" Ministry of Business, Innovation and Employment www.employment.govt.nz/starting-employment/rights-and-responsibilities/young-employees/.

¹⁶ See its 2011 concluding observations [CRC/C/NZL/CO/3-4](https://www.ohchr.org/en/hrbodies/crc/crc-co/3-4) at paragraph 50, and its 2016 concluding observations [CRC/C/NZL/CO/5](https://www.ohchr.org/en/hrbodies/crc/crc-co/5) at paragraph 44.

18. The Commission understands the importance of work to many young New Zealanders, but considers that protections for children in hazardous work can be enhanced. We understand policy work is currently underway to better recognise the evidence about young people’s mental and physical development, and to identify implications for the risks posed to young people doing hazardous work.¹⁷ The Commission recommends that limits on hazardous work currently applying until age 15 should apply to children under 18.¹⁸

Good practice example: policy development tool

19. The government’s Child Impact Assessment Tool supports policy makers to assess how policy proposals will affect children and young people’s wellbeing. It can be used to support assessments of how children will be affected by employment and education policy.¹⁹

Challenges: throughout the New Zealand workforce, including precarious work

20. Issues experienced by adult New Zealand workers that can also affect young people include:

- The gender pay gap, which is compounded for disabled, Māori and Pacific women;²⁰
- Trafficking of women and young people for exploitation;²¹
- Exploitation of migrant workers, especially in the horticulture, construction, dairy and hospitality industries;²² and
- Precarious employment.

21. Young people are among those particularly affected by insecure work.²³ The main recommendations of the Council of Trade Unions (NZCTU) 2013 research into insecure work were stronger legal protections to prevent insecure work, improved income support for insecure workers, support for the Living Wage with greater security of hours, government procurement to promote decent work, and union bargaining to support secure work.²⁴

22. After the CTU’s report, law was amended to make it more difficult for employers to use “zero-hours” contracts. Young people and their union supporters campaigned for this change because of the effect of zero hours contracts on young people.

¹⁷ “Development of regulations to support the new Health and Safety at Work Act” on Ministry of Business, Innovation and Employment website <https://www.mbie.govt.nz/info-services/employment-skills/workplace-health-and-safety-reform/development-of-regulations-to-support-the-new-health-and-safety-at-work-act>

¹⁸ Limits described on web page above, “Young employees” Ministry of Business, Innovation and Employment.

¹⁹ Ministry of Social Development Child Impact Assessment Tool www.msd.govt.nz/about-msd-and-our-work/publications-resources/resources/child-impact-assessment.html.

²⁰ See Human Rights Commission Tracking Equality at Work indicator “Pay”: <http://tracking-equality.hrc.co.nz/#/issue/pay>.

²¹ See for example page 18, “Worker Exploitation in New Zealand: A troubling landscape” by Dr C. Stringer for The Human Trafficking Research Coalition, December 2016.

²² Pg v & vi, “Worker Exploitation in New Zealand: A troubling landscape”, above.

²³ P2, “Under Pressure: A Detailed Report into Insecure Work in New Zealand”, New Zealand Council of Trade Unions, October 2013, <http://www.union.org.nz/wp-content/uploads/2016/12/CTU-Under-Pressure-Detailed-Report-2.pdf>

²⁴ P1, “Under Pressure: A Detailed Report into Insecure Work in New Zealand”, above.

23. New employment law came into effect on 1 April 2016.²⁵ This does not introduce minimum hours of work but does mean that workers do not have to be constantly available for work that may not be offered to them. The amendments to the law did not attempt to change the status quo by prohibiting casual employment, of which “zero-hours contracts” are just one form. Improvement of employment standards and conditions through a more rigorous statutory scheme is essential if the entrenched disparities and inequalities that currently exist in New Zealand’s labour market are to be adequately addressed.

Good practice: living wage employment

24. Some public and private employers are committed to paying all staff a “living wage”.²⁶ Young people benefit when they or their parents are paid a living wage. As mentioned, the Council for Trade Unions recommends the living wage be paired with security of hours.²⁷

Recommendations

25. Some groups of New Zealanders remain significantly marginalised from education and work in New Zealand, and underpaid with relatively poor conditions when they are in work. For young people to fully enjoy their human rights, the Commission recommends further work by the New Zealand Government in the following areas related to the right to work:

- Connect school to work, with the expectation that all school leavers will have a job, further training or education to undertake when leaving school;
- Increase the number of places in work and trades programmes targeting young Māori and Pacific people;
- Introduce specific education and employment programmes for young disabled people who are NEET;
- Introduce specific programmes targeting young women who are NEET, especially in Māori and Pacific communities;
- Undertake more work with Māori learners to lift levels of high school achievement;
- Accelerate the pace of work to increase employment of disabled people in government and the private sector;
- Ratify ILO Minimum Age Convention (Convention 138);
- Remove reservation to article 32(2) of the Convention on the Rights of the Child;
- Increase to 18 the age at which children may be employed in hazardous work;
- Expand the Labour Inspectorate’s jurisdiction to include a general function to inspect and regulate (and sanction for breach) workplaces in which under 16-year-olds work;
- Strengthen legal protections to prevent precarious employment.

²⁵ “Hours of work law changes 2016” on Ministry of Business, Innovation and Employment website: www.employment.govt.nz/about/employment-law/employment-law-changes/hours-of-work-law-changes-2016/.

²⁶ Living Wage Aotearoa New Zealand <https://www.livingwage.org.nz/the-2018-rate-it-s-20-55>.

²⁷ P1, Under Pressure: A Detailed Report into Insecure Work in New Zealand”, above.