



Human Rights Commission  
Te Kāhui Tika Tangata

# Submission To The Human Rights Council Pursuant to Resolution 32/31 on Civil Society Space

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- 1 The New Zealand Human Rights Commission (the Commission) welcomes the opportunity to contribute to the report of the Office of the High Commissioner for Human Rights (OHCHR) pursuant to Human Rights Council resolution 32/31 on civil society space.
- 2 The Commission is New Zealand's National Human Rights Institution and is accredited "A" status by GANHRI and the UHCHR. The Commission was established in 1977 and is an independent statutory body with mandated responsibilities under New Zealand's Human Rights Act 1993. The Commission's purpose is to promote and protect the human rights of all people in Aotearoa New Zealand. It works for a free, fair, safe and just New Zealand, where diversity is valued and human dignity and rights are respected. The Commission is a founding member of the Asia Pacific Forum of national human rights institutions (APF).
- 3 This submission reports on:
  - the Commission's approaches in respect of civil society involvement, including challenges and best practices;
  - the contribution of civil society to the Commission's work

## **Introduction**

- 4 Although definitions of civil society vary, and are changing, it is generally agreed that this sector is comprised of groups or organisations working in the interest of citizens and operating outside of the public (government) and private (business) sectors. In New Zealand, organisations and institutions that make up civil society include, tangata whenua (indigenous) organisations, coalitions and networks, labor unions, social movements, non-profit organisations and service agencies, media, community-based groups, residents' associations, churches and professional associations.
- 5 For this submission, we use the OHCHR definition of civil society space - the place civil society actors occupy within society; the environment and framework in which civil society operates; and the relationships among civil society actors, the State, private sector, and the general public.<sup>1</sup>
- 6 The Commission recognises the importance of authentic and effective engagement with civil society and reflects this in its work programme, priorities and resourcing.

## **Procedures and best practice approaches to civil society engagement**

### *Human Rights Approach*

- 7 The Commission has adapted a principles-based human rights approach to guide its engagement with civil society<sup>2</sup>. This six-step approach involves:
  - (i) linking decision-making at every level to human rights standards set out in the relevant human rights covenants and conventions

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<sup>1</sup> OHCHR (Oct 2014). Civil Society Space and the United Nations Human Rights System - Practical Guide for Civil Society. p5 [http://www.ohchr.org/Documents/AboutUs/CivilSociety/CS\\_space\\_UNHRSysSystem\\_Guide.pdf](http://www.ohchr.org/Documents/AboutUs/CivilSociety/CS_space_UNHRSysSystem_Guide.pdf)

<sup>2</sup> The New Zealand Human Rights Commission, Human Rights Approach (including plain language version). [https://www.hrc.co.nz/files/4814/2408/5448/Human\\_Rights\\_Approach\\_Poster.pdf](https://www.hrc.co.nz/files/4814/2408/5448/Human_Rights_Approach_Poster.pdf)

- (ii) ensuring non-discrimination among individuals and groups through equal enjoyment of rights and obligations by all
- (iii) identifying all relevant human rights involved, and balancing rights, where necessary, prioritising those of the most vulnerable people, to maximise respect for all rights and rights-holders
- (iv) facilitating individuals and groups to use their rights as leverage for action and to legitimise their voice in decision-making
- (v) emphasising the participation of individuals and groups in decision-making that affects them
- (vi) ensuring accountability for actions and decisions enabling individuals and groups to complain about decisions adversely affecting them.

### *Multi-method approach*<sup>3</sup>

8 The Commission has also developed a practice-based approach that, in conjunction with the human rights approach, informs the tools and methods the Commission may use at any one time. The Multi-Method for external engagement recognises the role of, and obligation on, national human rights institutions to:

- strengthen the ability of rights holders to understand and claim their rights
- educate business and other organisations on their human rights responsibilities (e.g. Business on their responsibilities under the UNGPs)
- educate duty bearers about human rights issues and their obligations to respect, protect and fulfil human rights. (e.g. government agencies on the New Zealand States human rights obligations)

9 This approach is based on the key human rights considerations of non-discrimination, participation, accountability and empowerment, and encourages the practitioner to match an engagement method to the civil society individual /group, as well as to the context and the purpose of the engagement. While the categories below are presented as distinct, they are most often used in combinations.

- *Information sharing - passing on human rights information:* Involves giving out information about human rights to individuals, groups and communities of focus, as well as informing the NHRI about human rights matters affecting individuals, groups and communities of focus. The Commission has a “communication” strategy and has invested significantly in it over the last five years. Today there are five times the number of communications staff than there were five years ago. This enables the Commission to have greater reach and relevance.
- *Training - imparting human rights skills and knowledge:* Focuses on ensuring that people are able to reiterate human rights information and demonstrate how to act in a human rights “manner”. It is based on a prescribed set of learning outcomes. The Commission has a “train the trainer” role, developing appropriate methods and experiences that most

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<sup>3</sup> Also described in the Asia Pacific Forum *Human Rights Education Manual for NHRIs* written by Dr Jillian Crisp, NZ Human Rights Commission (Ch 5)

[http://www.asiapacificforum.net/media/resource file/Human Rights Education Manual for NHRIs ej mumah.pdf](http://www.asiapacificforum.net/media/resource_file/Human_Rights_Education_Manual_for_NHRIs_ej mumah.pdf)

effectively teach people to access and learn about human rights content and skills. The Commission utilizes online tools to assist in this regard.

- *Facilitation - strengthening and supporting others to take action to improve human rights conditions:* Aims at encouraging people to evaluate their own experiences and, through personal and group empowerment, contribute to the realisation of human rights in their worlds. The Commission has a “facilitator” role, developing processes and communicating to key stakeholders, and the decision makers and influencers in them, that enable stakeholders to identify human rights issues that impact on them and on others, and to find ways of addressing those issues.
- *Relationship management - working with stakeholders toward shared human rights outcomes:* Involves creating authentic and results-focused partnerships with those people, groups or sectors most able to impact on human rights situations. The relationship can involve one or multiple parties and has mutual benefit to all. The Commission has a “networker” role and an engagement strategy that requires it to identify key decision makers and influenced in civil society organisations, business and government so that the Commission to promote action to address an identified human rights situation. A
- *Advocacy for human rights - promoting the role and value of human rights and encouraging people to act:* The Commission has a “promoter” role, working with organisations, supporting those most disadvantaged to use human rights and human rights tools to take action to realise these rights and calling on those in power to respect, protect and fulfil these rights.

## Tools for engagement

10 The Commission uses various formal and informal tools for engaging with civil society. Depending on the outcomes sought, some of these also involve engagement with decision-makers/duty bearers.

### *Independent monitoring mechanisms*

11 **An independent monitoring mechanism** is a body made up of a group of non-government agencies established to **monitor** and report on the Government's performance.

EXAMPLE: The New Zealand Independent Monitoring Mechanism for the Convention on the Rights of Persons with Disabilities (IMM) was formally established by the Minister for Disability Issues in 2011. Its purpose is to “promote, protect and monitor implementation of the CRPD, in order to help make disability rights real for the people of Aotearoa/New Zealand”. Membership includes the Human Rights Commission, the Article 33 New Zealand Convention Coalition Monitoring Group (made up of a number disabled people’s organisations) and the Office of the Ombudsman. Decisions are made by consensus and

the Commission and the Office of the Ombudsman share the cost of meetings. <sup>4</sup>

Other IMM arrangements involving the Commission include:

- The National Preventive Mechanism for the Optional Protocol on the Convention Against Torture which is a formal arrangement independent of government, and of the agencies that they monitor.<sup>5</sup>
- The UN Convention on the Rights of the Child Monitoring Group which is an informal group coordinated by the Office of the Children's Commissioner. Other members include Action for Children and Youth Aotearoa (a coalition of civil society organisations), UNICEF New Zealand and Save the Children Fund NZ.
- An informal agreement based on a Memorandum of Agreement with the Iwi Chairs Forum<sup>6</sup> to monitor New Zealand's progress against the Universal Declaration on the Rights of Indigenous Peoples.

### *Advisory Groups / Roundtables*

- 12 The Commission uses advisory groups to i) bring unique knowledge and experience to a piece of work and ii) to strengthen impact through collaboration across organisations. The most effective advisory groups have been those representative of multiple sectors, such as collective impact groups.
- 13 EXAMPLE: The Bullying Prevention Advisory Group (BPAG) is a collaboration of organisations, with representatives from education, health, justice and social sectors, internet safety and human rights advocacy groups. BPAG was established to reduce the impact of bullying on the wellbeing and learning of children and young people by supporting schools to create safe and positive environments. As a multi-sector advisory group, it brings a range of perspectives to the issue. A sub-group has been established to focus on online safety and cyberbullying and is responsible for developing an annual strategic plan and monitoring its implementation and outcomes.<sup>7</sup>

Other advisory groups include:

- Disability experts and researchers who came together in national roundtables to inform the work of the *Never Again project/campaign* seeking an inquiry into historic abuse at the hands of the State
- Collaboration of organisations across civil society and government who came together in national multi-sector roundtables to address New Zealand's current practice of genital normalisation on intersex children.

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<sup>4</sup> Information about the *New Zealand Independent Monitoring Mechanism for the Convention on the Rights of Persons with Disabilities* is available at <https://www.hrc.co.nz/your-rights/people-disabilities/our-work/making-disability-rights-real/>

<sup>5</sup> Information about the *National Preventive Mechanism for the Optional Protocol on the Convention Against Torture* can be found at <https://www.hrc.co.nz/your-rights/human-rights/our-work/opcat/>

<sup>6</sup> Iwi Chair Forum is made up of New Zealand's indigenous leaders

<sup>7</sup> Information about the Bullying Prevention Advisory Group can be found at <https://www.bullyingfree.nz/about-bullying-free-nz/bpag-who-are-we/> and about the sub-group Netsafe here: <https://www.netsafe.org.nz/>

### *Project partners*

- 14 The Commission draws on both formal and informal partnerships with civil society groups to strength the effectiveness of its projects. Partners are usually those who are most directly affected by (or who have a vested interest in) the outcomes of the project, and/or have a mandate and ability to ensure the project meets its outcomes successfully.
- 15 EXAMPLE: The Commission released [Staying in the Red Zones: Monitoring Human Rights in the Canterbury Earthquake Recovery](#); a significant piece of research about the people living or owning vacant land in the areas that were 'red zoned' after the Canterbury earthquakes. This is the second of two monitoring reports from the Commission. The report provides detailed analysis and information about the impact on the affected individuals and the consequences of decisions made by various public-sector agencies. Key recommendations include improved protection of property rights in the New Zealand Bill of Rights Act and advocacy of a human rights approach to future disaster recovery frameworks to ensure they comply with international standards and emphasise non-discrimination, participation and accountability. The report also includes a Human Rights [Checklist](#) for disaster preparedness, prevention and recovery responses.
- 16 Complaints received from civil society provided the impetus for this research and directly informed its thematic focus. The report focussed on the three systemic areas of most concern to people who were affected by the earthquakes and the subsequent red zoning. A survey and in-depth interviews were used as the primary data gathering tools. The survey questions were designed in consultation with affected people and modified based on their feedback. The Commission partnered with the NZ Red Cross as part of a winter wellbeing door-knocking campaign to distribute the survey along with care packages for people living in affected areas. In depth [interviews](#) with fourteen participants were included in excerpts throughout the report and were published separately in extended form on the Commission's website. Participants were given the opportunity to withdraw or amend their transcripts and to review photographs that were included of them. All of the public-sector agencies mentioned in the report were given the opportunity to respond to any adverse comments made about them by civil society, and although many of the comments were highly critical, agencies unanimously accepted it was important that the voices of affected people were heard, regardless of whether or not they agreed with the criticisms. The Commission launched the report in the area impacted by the earthquakes and invited civil society representatives to [speak](#) at the launch event. Feedback from participants was that the report helped them to explain to others, including their extended families, why they had made the decision to remain in the largely abandoned red zoned areas in defence of their property rights.

### *International monitoring*

- 17 The Commission plays a specific role in raising awareness and bridging the gap between Government, business and civil society through its international reporting and monitoring work. The Commission's role in this regard is ongoing and multifaceted. In broad terms, the Commission adopts a combination of the following approaches in its monitoring and reporting activities:

- Awareness raising and education on opportunities for business and civil society to engage in UN human rights mechanisms and of the reports of UN mechanisms - social Media, online education, embedding monitoring and reporting across all Commission engagements with communities, organisations, seminars and workshops.
- Consultation - ongoing Commission consultations with civil society and business and joint consultations with Government agencies to identify issues and jointly consider solutions.
- Facilitation of engagement in international processes - provision of templates and resources and interactive workshops.

18 Civil society engagement in monitoring and reporting processes is critical to the integrity of the Commission's work and the relevance of outcomes from international bodies. One key challenge that the Commission continues to face is the prospect of civil society fatigue with a large amount of reporting and monitoring required on an ongoing basis. For example, in 2018 New Zealand will be reviewed by the Committee on the Elimination of Discrimination against Women, the Committee on Economic, Social and Cultural Rights, and will be beginning the process in relation to its review before the Committee on the Rights of Persons with Disabilities and the 3<sup>rd</sup> cycle of the Universal Periodic Review (UPR). The Commission is continuously trying to streamline its process to provide a more coordinated approach to reporting and monitoring to limit the risk of civil society fatigue. For example, the Commission is moving away from treaty based consultations to focus on thematic issues that cut across multiple treaties.

19 Similarly, it is important for there to be a process of ongoing engagement between Government and civil society. Civil society risk losing interest in ongoing monitoring of human rights compliance if they are not involved in continuously identifying issues and progressively developing and implementing solutions. A defining feature of New Zealand's second UPR was the significant increase in civil society engagement. This was recognised and commended both domestically and internationally. It is important to build on this momentum for the third cycle. The Commission has an important role to play here.

20 *EXAMPLE: New Zealand's second Universal Periodic Review 2014.* NZ underwent its second Universal Periodic Review (UPR) before the Human Rights Council in January 2014. Prior to the review the Commission conducted extensive awareness raising and consultation meetings in New Zealand. Throughout 2013 the Commission:

- Partnered with academic institutions and NGOs to run seminars and interactive workshops across the country increase capacity for engaging with the UPR process. This included practical workshops being conducted and templates being developed and worked through with civil society groups throughout NZ and across a wide range of sectors.
- Partnered with the Ministry of Foreign Affairs and Trade and the Ministry of Justice to host consultation meetings.
- Facilitated a variety of thematic discussions OHCHR to discuss submissions received from New Zealand.

This resulted in 54 submissions being made to the UPR representing over 250 individuals and groups (an increase from the 14 submissions made in the first cycle). In November

2013, the Commission and five NZ organisations participated in UPR info's pre-sessional meeting in Geneva to brief Council members on key recommendations. The Commission also hosted a cocktail function to show a video from organisations that could not make it to Geneva for the pre-sessional. All recommendations presented at the pre-sessional were ultimately raised in the Review

- 21 Based on the UPR recommendations made to New-Zealand, the National Action Plan for the protection and promotion of Human Rights 2015 – 2019 (NAP) has been developed. The NAP is a monitoring and implementation tool which informs the Commission's awareness-raising and advocacy work. The objective of the NAP is to track the Government's progress implementing recommendations from New Zealand's second UPR. The NAP also aims to raise awareness on the key human rights issues facing New Zealand and provide civil society a platform to continue a constructive dialogue between affected people and the Government around the actions the government is taking and/or areas where no actions are yet being undertaken to realise rights for all New Zealanders. The NAP is a real-time tool that gives New Zealanders the opportunity to understand, examine and monitor on New Zealand's human rights progress.

#### *Human Rights Communications / Campaigns*

- 22 Over the past four years, the Commission has refocused its human rights communications activities and strengthened its outcomes. It has adopted a new Engagement and Communications Strategy. The aim was to increase the reach and relevance of the Commission. It significantly invested in the people and resources required to deliver it. The Commission has moved from viewing audiences as passive recipients to engaging people in active response. To do this, the Commission sought of the views of people about things that affected them in everyday lives, in words they use themselves. A social media presence was created, strategic relationships established, the website revised and the language was changed to be more accessible and less legal in nature.

- 23 Due to the success of these changes, particularly the number of people who began to engage, the Commission recognised that it could be a powerful advocate. Informed by its key stakeholders, including civil society, a shift was made to launch 'communication campaigns' aimed at:

- behaviour change – shifting habits and actions
- perception change – reframing issues to change public opinion, beliefs and narratives
- policy change – shaping political outcomes and decision-making processes
- infrastructure change – creating channels and processes that change how change happens.

- 24 EXAMPLE: The Commission launched the '*That's Us*' campaign<sup>8</sup> in September 2016. This highlights and addresses racism. The campaign attracted significant media interest and coverage with the Race Relations Commissioner's 'open letter' and interviews published across more than 20 media sources, including television, radio and national and provincial

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<sup>8</sup> That's Us Campaign <http://www.thatsus.co.nz/>



dailies. It 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.

A second campaign challenging New Zealanders to confront and eliminate casual racism in society was launched in June 2017. The '*Give Nothing to Racism*' campaign<sup>9</sup> features videos of high profile and influential Kiwis who generously gave their time, reputations and support. The objective of this ongoing, nationwide anti-racism campaign is to create a culture in which racist, discriminatory attitudes and behaviours are considered unacceptable by a majority of New Zealanders, and in which diversity is accepted and welcomed.

These campaigns have reached almost five million people and have inspired the involvement of many others who are owning and contributing to the messages through their own videos and other activities.

### *Facilitating Engagement Between Civil Society and Decisionmakers*

- 25 A fundamental role of the Commission, as a national human rights institute and independent of both government and non-government, is to facilitate effective engagement between those people most affected by human rights and the decision-makers who can most directly bring about change.
- 26 EXAMPLE: Concerns have been raised in New Zealand regarding practices in the care of intersex children, with calls for recognition of bodily integrity and an end to treatments aimed solely at assigning gender. The Commission worked alongside project partners, the Intersex Trust Aotearoa New Zealand, Tiwhanawhana (Indigenous LGBTI) Trust and medical practitioners to understand and address New Zealand's current practice of genital normalisation on intersex children.

The Commission facilitated the coming together of multiple sectors (civil society and government) in two national roundtables including recommending the establishment of a national multi-sector expert advisory body to coordinate a strategy across New Zealand that was centrally informed by the experience of intersex people and their families. This recommendation was included in the Commission's submission to the United Nations Committee on the Rights of the Child (CRC) as part of New Zealand's review by the CRC. As a result, the Government received four concluding observations relating to intersex children.

Continued external engagement, including with intersex partners, civil society, the Ministry of Health (MoH) and members of the medical profession has resulted in an agreement to establish a multi-sector national intersex reference group. This will be funded by the MoH, and launched in early 2018.

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<sup>9</sup> Give Nothing to Racism Campaign <https://giveness.co.nz/>

## Summary: Challenges and contributions

27 The Commission values the mandate it has to engage with civil society and the benefits the relationship brings. However, there can be challenges, some of which are identified below.

- *Time-intense*: Effective relationships take effort to develop and suspicion and distrust can develop quickly, particularly if there is concern about the authenticity of the relationship or the potential mutuality of benefit. Personnel and leadership changes in CSOs and within the Commission can disrupt these relationships.
- *Costly*: Ensuring appropriate voices are heard, and breaking down communication barriers can mean travelling to where people are and funding the costs of the engagement.
- *Civil society capture*: It is not always clear who the most appropriate civil society stakeholders are. Those who are more able to make themselves heard or who claim representation of a particular issue or sector, may dominate the civil society space.
- *Diverse viewpoints / lack of civil society coordination*: Civil society organisations and leaders often, and understandably, differ in their viewpoints and positions issues.
- *Over-engagement*: Civil society, particularly sectors targeted at any one time, can become resistant to constant demands for time and input. This is particularly so when the benefit to the civil society individual/group is not apparent, or when there is no return accountability.

28 Despite these challenges the contribution of civil society to the Commission's work cannot be overestimated. It is for those most vulnerable to human rights violations that the Commission exists, and these individuals and groups reside almost entirely within the civil society space. Specific examples of the contribution of civil society to the Commission's work are noted above.

29 Civil society also acts a *watchdog* to the Commission (holding the organisation to account), *advocate* (raising awareness of issues), *service provider* (delivering services to meet need), *expert* (bringing unique knowledge and experience to shape strategy and solutions), *representative* (giving voice of the marginalised or under-represented), *citizenship champion* (encouraging citizen engagement and supporting the rights of citizens) and *solidarity supporter* (promoting fundamental and universal values).<sup>10</sup>

30 Engagement with civil society has enabled the Commission to:

- Broaden its reach, strengthen its impact and improve outcomes
- Shape its strategies by highlighting priority issues
- Develop sustainable interventions
- Increase its leverage and authenticity with decision-makers
- Mobilise people to give voice to their issues
- Provide channels for communication about human rights
- Be effective and efficient through partnering and ownership of work, with comparative advantages in terms of cost, timeliness, flexibility, and insider knowledge and proximity.

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<sup>10</sup> World Economic Forum (2013) *Future Role of Civil Society* (p9). Available at [http://www3.weforum.org/docs/WEF\\_FutureRoleCivilSociety\\_Report\\_2013.pdf](http://www3.weforum.org/docs/WEF_FutureRoleCivilSociety_Report_2013.pdf)