

Questionnaire to National Human Rights Institutions – Response from New Zealand Human Rights Commission

1. Recommendations of the UN Permanent Forum on Indigenous Issues

At its 2016 session, the Permanent Forum recognized “*the contributions of national human rights institutions in the promotion and protection of human rights, including the rights of indigenous peoples, and welcomed their participation in future sessions of the Forum*”.¹

- a) The theme of the 2016 session was “*Indigenous peoples: conflict, peace and resolution*” (paragraphs 49-64). Please provide information on how your Human Rights Institution is working on issues related to conflict, peace and resolution for indigenous peoples. Where possible, please include information on the situation of indigenous women in your responses.

N/A

- b) The 2017 session will include a focus on indigenous human rights defenders. Please provide information on the work of your commission/institution in relation to indigenous human rights defenders?

N/A

2. Promoting and protecting indigenous peoples’ rights

The UN Declaration on the Rights of Indigenous Peoples was adopted in 2007. To mark the tenth anniversary, and assess gains and achievements, please provide further information on the following:

- a) **What are the main activities carried out by your institution/commission at the national and/or regional level to implement the UN Declaration on the Rights of Indigenous Peoples?**

In Aotearoa New Zealand, alongside the Declaration of Independence, the Treaty of Waitangi frames how indigenous rights are to be given effect. The New Zealand Human Rights Commission (NZHRC) has a specific statutory mandate to “promote – through research, education and discussion – a better understanding of the human rights dimensions of the Treaty of Waitangi¹ and their relationship with domestic and international human rights law”. This function has primarily been undertaken through the Commission’s *Te Mana i Waitangi* programme of work.

In 2010 the NZHRC launched a Treaty framework as an online resource to assist communities, groups and individuals to understand the human rights dimensions of the Treaty. The framework was the result of over 400 community dialogue sessions and 30 regional symposia to identify key issues, followed by approximately 40 workshops to develop the framework. The *Te Mana i Waitangi* resource is a tool to assist people to understand the human rights dimensions of the Treaty. It guides readers/participants through the texts of the Treaty and examines the rights and responsibilities that were exchanged. It highlights links to international human rights standards and includes examples of how these rights and responsibilities can be expressed in practice.

The NZHRC continues to provide, on request, education workshops with public agencies, local authorities and community groups. The workshop and resources are currently being reviewed and adapted specifically for use with public sector policy analysts.

From 2011 to 2014 the NZHRC delivered *Tūhonohono*, a bi-lingual human rights community development programme based on Māori values and principles. It focused on

¹ The 1840 treaty between Māori leaders and the British Crown

the Treaty of Waitangi and international human rights standards such as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

Currently, the NZHRC is undertaking a project to promote UNDRIP, through a series of activities and events leading up to the tenth anniversary. The *Indigenous Rights Information Series* began with a speakers' forum to mark the anniversary of the adoption of UNDRIP. Other activities to date include:

- a workshop with Māori young people to provide information on UNDRIP and support them to produce videos giving their perspective on key themes
- A public workshop on indigenous rights and the international human rights system

Other planned activities include further speakers' forum events on: indigenous rights and the environment; culture and language; indigenous women; equality and non-discrimination; and further events on indigenous rights and the international system. Presentations from these events are also filmed and posted online.

The NZHRC regularly makes statements and shares information on its website and social media pages in relation to indigenous rights issues and events. Through strategic advocacy work it develops key Māori partnerships and messaging around UNDRIP as part of these relationships.

Information

The NZHRC has produced a range of information resources on UNDRIP. These include:

- Published booklets containing the full text of UNDRIP in both Māori (New Zealand's indigenous language) and English (2008) as well as a bilingual booklet (2012) containing both English and Māori versions of UNDRIP
- A 2-page summary of UNDRIP in English and Māori (2009)
- A poster (in Māori and English) promoting UNDRIP and its links with the Treaty of Waitangi (2013)
- A video resource, featuring iwi (tribal) leaders reciting articles of UNDRIP in both Māori and English (2015) <https://www.youtube.com/watch?v=AtRMfI6-3Po>
- An information booklet, 'The Rights of Indigenous Peoples: What you need to know' (2016), versions in English and Māori

Forthcoming resources, due to be released end 2016 / early 2017:

- Fact sheets on: UNDRIP (including its relationship to the Treaty of Waitangi), and its key themes, including: self-determination; participation (underpinned by free, prior and informed consent); equality and non-discrimination; culture; and land, territories and resources
- A series of short videos created by indigenous young people, presenting their perspectives on key themes of UNDRIP (self-determination, culture, non-discrimination, participation)

Expert Mechanism on the Rights of Indigenous Peoples

The Commission regularly engages with the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP), including by providing submissions to the Expert Mechanism's thematic studies, participating in annual sessions, and delivering interventions at those sessions.

Independent Monitoring Mechanism

The NZHRC welcomed the establishment by the National Iwi Chairs Forum of an independent monitoring mechanism for UNDRIP. The Commission continues to support the Mechanism through the provision of secretariat and technical assistance.

Organisational capability

The NZHRC has been undertaking an organisational development programme to build capability in Māori language, customs and engagement with Māori communities, and to develop the NZHRC as a 'Treaty-based organisation'

b) What are the main constitutional, legislative and/or administrative developments taken or planned to promote and/or implement the UN Declaration on the Rights of Indigenous Peoples in your country? Has your institution/commission been involved in these processes, and if so how?

The NZHRC regularly makes submissions on policy and legislation, many of which impact on indigenous peoples. Of particular significance recently have been:

- A reform of legislation governing Māori land, *Te Ture Whenua Māori Bill 2016*
- Amendments to legislation concerning the Māori language, *Māori Language Act 2016*

The NZHRC made a major submission to the 2013 constitutional conversation conducted by the government-appointed Constitutional Advisory Panel. The submission advocated the position that:

- the Treaty of Waitangi is the founding document of the New Zealand state
- New Zealand's constitutional arrangements – its values, rules, institutions and practices – should flow from the Treaty of Waitangi. This means giving substantive effect to the Treaty partnership between the State and Māori in every aspect of the way in which New Zealand is governed.
- The Treaty of Waitangi provides for *co-existing* systems of governance and law in Aotearoa New Zealand in order to give effect to the right to self-determination for both indigenous and non-indigenous New Zealanders
- the Commission's aspiration for the future of Aotearoa New Zealand is that human rights protections will be strengthened and the Treaty of Waitangi will be increasingly recognised as the founding document of this country in a substantive way.

c) Has your institution/commission been engaged in the process for the Universal Periodic Review, and the work of the special procedures and treaty bodies? If so, did this include specific reference to indigenous peoples?

The NZHRC regularly engages with these processes, and uses them to highlight key human rights issues for indigenous people.

Following New Zealand's second UPR in 2014, the Commission developed a National Plan of Action². This is an online tool that monitors implementation of government actions. The Commission is currently developing an UNDRIPsearch category which will link the articles of UNDRIP with the Treaty of Waitangi, UPR and other Treaty recommendations.

The NZHRC's current UNDRIP promotion project includes activities aimed at promoting Māori participation in the international human rights system.

d) Please provide information on any activities and programmes that your institution/commission carries out or plans to that are specific to indigenous peoples.

Current programmes are:

² Accessible at: <http://npa.hrc.co.nz/#/>

- Te Mana i Waitangi – resources and education to promote understanding of the human rights dimensions of the Treaty of Waitangi
- Promoting the Declaration through a series of events, activities and information resources

e) Has your institution/commission been engaged in protecting the rights of indigenous peoples, with particular reference to their lands, territories and resources?

In 2016, the NZHRC made a submission on the *Ture Whenua Māori (Māori Land Law) Bill*, highlighting the provisions of the Declaration relating to land and to participation in decision-making.

3. Follow up to the World Conference on Indigenous Peoples

The UN organized the first World Conference on Indigenous Peoples in September 2014. At the World Conference, Member States made a number of commitments that are of relevance to human rights institutions. Please provide information on measures taken or planned by your institution to support the following:

a) To develop and implement national action plans, strategies or other measures, where relevant, to achieve the ends of the Declaration, in cooperation with indigenous peoples, through their own representative institutions

The NZHRC has advocated on the need for a national strategy to implement UNDRIP.

We have developed a National Action Plan based around the recommendations of New Zealand's 2014 UPR, and plan to incorporate actions relating to UNDRIP to this in the coming months.

Recently discussions have taken place with a view to working with government and with the independent monitoring mechanism for UNDRIP, to develop a national implementation plan for UNDRIP

b) To intensify efforts, in cooperation with indigenous peoples, to prevent and eliminate all forms of violence and discrimination against indigenous peoples and individuals, in particular women, children, youth, older persons and persons with disabilities, by strengthening legal, policy and institutional frameworks

The NZHRC regularly makes statements and submissions relating to the prevention of violence against women, and which highlight the disproportionate rate of violence experienced by Māori women and children.

c) To establish at the national level, in conjunction with the indigenous peoples concerned, fair, independent, impartial, open and transparent processes to acknowledge, advance and adjudicate the rights of indigenous peoples pertaining to lands, territories and resources.

From time to time the NZHRC is approached by Māori groups who have concerns about the Government process for negotiated settlement of Treaty of Waitangi claims. That process which is known as the Large Natural Grouping policy, focuses on larger groups. This can leave some smaller groups (hapū) with concerns about participation and representation, as well as the impact on the distinct cultural identity of those groups and their potential ability to directly access to the practical benefits of the treaty settlement negotiated. In response to one situation, the New Zealand Human Rights Commission has met with the group concerned and with the government agency responsible for negotiations, and has encouraged continued dialogue to seek pragmatic solutions in the interests of achieving fair and lasting settlements.