

## **I. INTRODUCTION**

1. The following report is a joint submission of the above mentioned organizations. Taking note of the significant advances achieved by New Zealand to improve the citizens' quality of life and guarantee the full enjoyment of their rights, this report focuses on major issues affecting the rights of the Child and Indigenous Peoples, especially the impact of poverty on children and the incarceration rates for Māori children in New Zealand.

2. This report is a result of research and consultation process that took place over several years with workers in the field, Māori peoples themselves and academic researchers. Employing a methodology of empirical investigation, the data and information reflect the field experience of Māori elders and leaders, lawyers and para-legal workers, educators, community development workers, juvenile justice workers and youth workers, who are involved in the administration and care of children in conflict with the law, and formal and informal education of children (in the age range of 4-18 years), as well as the input of young people themselves. Information provided by children's families was also taken into account.

3. Edmund Rice International (ERI) is a faith-based NGO promoting and protecting human rights in 34 countries. Established in 2007, ERI is primarily concerned with the Rights of the Child, the Universal Right to Education, and Ecological Sustainability.

## **II. THE FIRST UPR of NEW ZEALAND**

8. Edmund Rice International (ERI) welcomes the constructive participation of New Zealand in the first cycle of the Universal Periodic Review (UPR). The present submission follows on the ten UPR recommendations accepted by New Zealand in 2009 regarding the rights of Māori as the Indigenous People of New Zealand (1) and the five UPR recommendations (2) accepted by New Zealand regarding the rights of the Child.

## **III. THE RIGHTS OF INDIGENOUS PEOPLES**

9. In the first cycle of the UPR in 2009, New Zealand accepted ten recommendations relating to Māori rights and partially supported another six. ERI welcomes New Zealand's signing of the United Nations Declaration of the Rights of Indigenous Peoples, though some senior politicians have played this down in public (see below). ERI urges to New Zealand to ratify ILO Convention No. 169, a recommendation it specifically rejected in 2009.

10. Relative to their numbers in the general population Māori are over-represented at every stage of the criminal justice process and are also much more likely to be victims of crime. (3) Though forming just 12.5% of the general population aged 15 and over, 42% of all criminal apprehensions involve a person identifying as Māori, as do 50% of all persons in prison.(4) This is caused by a number of complex intersecting and reinforcing factors including dispossession of land, structural disadvantage, intergenerational poverty, poor educational outcomes and a criminal justice system that poorly serves and reflects Māori interests.

11. The government has recognised this issue and has incorporated targets and commitments into a number of government strategies.(5) However, the implementation of these policies could be greatly improved.

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(1) Recommendations 24, 26, 28, 30, 31, 32, 33, 58, 59, 61 (A/HRC/12/8).

(2) Recommendations 3, 46, 50, 51, 56 (A/HRC/12/8).

12. In particular ERI and Edmund Rice Justice Aotearoa (ERJA) are concerned that:

The Criminal Justice system does not adequately represent the commitment made to Māori by the Crown under the Treaty of Waitangi. (6)

Māori have poor relationships with key stakeholders in the criminal justice system, particularly police, characterised by both perceived and real discrimination.(7)

The government does not sufficiently resource Māori programmes and providers to deliver services targeted at Māori.(8)

## **RECOMMENDATIONS**

13. ERI recommends that the Government of New Zealand:-

**1 Ensure that the principle of self-determination guaranteed to Māori under UNDRIP(9) is promoted by ensuring that Māori contribute to and develop policies in the Criminal Justice System in meaningful ways.**

**2 Ensure that when introducing any new policy or legislation the government expressly considers the impact of the policy on Māori through disparate impact statements.(10)**

**3 Implement Justice Reinvestment strategies (11) that include therapeutic jurisprudence approaches, such as the expansion of specialised courts(12), and the increased use of restorative justice processes that promote community empowerment(13) and the role of elders (kaumatua) in the criminal justice system, such as the Rangatahi Courts.(14)**

**4 Increase the use of non-custodial sentencing options (such as community based orders, community work orders, diversionary programs, cautioning and home detention).**

**5 Resource Māori specific programmes.(15)**

## **IV. THE RIGHTS OF THE CHILD**

14. ERI recognises and commends the government of New Zealand for a recent lowering in the rate of children and young people being charged in court. In 2012, it was the lowest in 20 years.(16) However, ERI has two major areas of concern:

The Rates of Youth Offending for Māori: Over half (54%) of children and young people charged in court are Māori.(17)

Statistics around child poverty: Youth offending is caused by a number of complex intersecting factors. Key amongst these is poverty which in turn is a cause of family dysfunction, and poor educational and health outcomes. ERI and ERJA are concerned that the government is not doing enough to combat the “serious problem of poverty in New Zealand.”(18)

## **RECOMMENDATIONS**

15. ERI recommends that the Government of New Zealand:-

**6. Improve relationships between key stakeholder in the justice system and Māori youth,(19) communities and iwi.**

- 7. Develop initiatives that allow Māori to exercise greater rangatiratanga over their youth. In particular, the development of Rangatahi Courts should be encouraged. (20)**
- 8. Adopt a preventative and rehabilitative approach to offending caused by drug use through the expansion of the Youth Drug Court model.(21)**
- 9. Increase the use of education/ rehabilitation(22) as an order in the youth court. This will need to be coupled with new and innovative ways of providing education for youth who are excluded from education.**
- 10. Adopt recommendations made by the Office of the Commissioner for Children, Child Poverty Action Group and UNICEF and develop a National Plan for ending child poverty that is resourced so as to be effective and expedient.(23)**