

Statement to New Zealand's UPR Pres-sessional

December 2018

Hutia te rito o te harakeke. Kei hea te komako, e ko? Ki mai ki ahau, he aha te mea nui o te ao? Maku e ki atu He tangata, he tangata, he tangata

Pluck the heart from the flax bush - where will the bellbird be? Ask me, what is the most important thing in the world? I will reply, it is people, it is people, it is people

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Kia ora tatou

This statement is made on behalf of 14 organisations. (Kapo Māori Aotearoa, the Blind Foundation, IHC Advocacy, CCS Disability Action, Coromandel Independent Living Trust, The Supported Life Style Hauraki Trust, Progress to Health, Inclusive NZ, Home and Community Health Association, Inclusive Education Advisory Group, Human Rights for All New Zealand, Education for All and Parents of Vision Impaired New Zealanders.)

The statement focuses solely on the realisation of rights for disabled people in Aotearoa New Zealand. It considers progress since the last UPR and then addresses the following issues:

- Accessibility Legislation
- Work
- Education
- Health

Background

One in 4 people in New Zealand have a disability. Women with disabilities face discrimination on multiple, intersecting grounds. For example, the continued lack of support and representation for disabled women to access their rights keeps women with disabilities in poverty and prevents them from accessing the supports and services they need to live full lives. The rights of children with disability tend to be overlooked in the disability sector and in the children's sector. Māori have

higher-than-average disability rates. Indigenous children with disabilities are particularly vulnerable to having their rights compromised or breached.

Progress since 2014

In 2014, 8 recommendations specifically relating to disability were made to New Zealand through its 2nd Universal Periodic Review (UPR). Sixty-two other recommendations were relevant to the realisation of rights for disabled people. New Zealand committed to 17 actions to address them. Eight of them have now been completed.

- New Zealand has ratified the Optional Protocol to the Convention on the Rights of Persons with Disabilities (CRPD).
- New Zealand updated its Disability Strategy in 2016 and is developing an outcomes reporting framework with disabled people.
- Work is underway to transform Disability Support Services to give disabled people more choice and control in line with its obligations under the CRPD.
- Amendments to the Oranga Tamariki Act 1989, which will come into effect in July 2019, incorporate the Convention on the Rights of the Child and on the Rights of Persons with Disabilities. As a result children within the care, protection and youth justice systems will have their convention rights protected by domestic legislation.
- The government's work programme also includes initiatives to address bullying and stigmatisation in schools, greater accessibility (physical and digital) across the public sector and inclusive employment practices.

Whilst these are significant steps forward, there is still a long way to go in terms of realising the rights of disabled people and fulfilling the recommendations and corresponding actions committed to in 2014. For example, concerns remain about ensuring that the disability systems transformation does not leave anyone behind – particularly those with high and complex needs who will need access to well developed and robust supportive decision-making frameworks to navigate the system.

Accessibility

Disabled people continue to report major areas of continued non-accessibility and uneven compliance with voluntary accessibility standards. This has a serious impact on social outcomes – educational attainment, workforce participation and income.

What has the New Zealand Government done to improve social outcomes for disabled people?

New Zealand has no formal mechanisms to specifically ensure that accessibility rights are implemented and enforced. The current human rights legislation does not give organisations clear and specific directions on what they must do to become fully accessible as employers and service providers.

New Zealand law on accessibility is substantially less detailed and prescriptive than most other OECD countries such as Canada, the Netherlands, and Israel. It is not as comprehensive in its cover, and is not as effectively enforced.

The improved accessibility of workplaces, the built environment, all goods and services, public infrastructure, and the digital environment will lead to increased workforce participation by people with disabilities.ⁱ In turn, the increase in workforce participation will lead to consequential reductions in the Government's future welfare liability and other positive economic benefits. It is estimated that this will add \$1.45 billion per year to gross domestic product and an annual reduction in fiscal cost to the Government of \$270 million.ⁱⁱ

It is recommended that the Government commit, as other countries have done, to developing and implementing robust accessibility legislation in line with its binding international human rights obligations.

Right to Work

Many disabled people experience significant barriers to accessing employment, and to fully participating in society. Disabled people are more likely to be unemployed and receive on average just over half the weekly wage of non-disabled people. In the quarter to June 2017, 42.3% of disabled youth aged 15–24 years were not in employment, education, or training. By contrast only 10% of non-disabled youth aged 15-24 were not in employment, education or training.ⁱⁱⁱ

Ministry of Social Development funded vocational services (employment and community supports) receive only contributory funding and have not had a funding increase for approximately 10 years.

What has the New Zealand Government done to increase access to employment for disabled people?

People with learning disabilities do not have equitable access to careers advice or post-school learning opportunities. Post-school learning opportunities for people with learning disabilities are most successful when they are linked to practical experiences. The Government should learn from programmes that have worked overseas, such as LEAD Scotland and Project Search.

It is recommended that the New Zealand Government:

- a. Set targets to increase the participation of Māori, Pacific People and Disabled people in the labour market, including in corporate governance and senior management.**
- b. Commit to investing in careers advice and post-school learning opportunities for people with learning disabilities which are linked to practical experiences.**
- c. Increase funding for employment and community support services so that infrastructure is not lost and disabled people continue to have access to effective and responsive supports.**
- d. Implement alternatives to the Minimum Wage Exemption Permit framework to ensure disabled people are able to work on an equal basis with others.**
- e. Ensure people on the *Supported Living Payment* have the appropriate support to transition into employment.**

- f. **Review the *Supported Living Payment* to remove barriers to reapplying should employment cease.**
- g. **Commit to investing in sector capability and provide community support organisations with the necessary resources.**

Education

Education is vital to disabled people being able to realise their other rights, fully participate in the community, and exercise full citizenship.

The Education Act 1989 (s.3) protects the equal right to education for students with disabilities. However, there is no reference in the legislation to inclusive education or reasonable accommodation. This has resulted in disabled students having barriers in access and enjoyment of their rights to, through and from education. Schools struggle with an inadequate policy framework and under-resourcing in dollar and teacher capacity terms.

What has the New Zealand Government done to improve access to inclusive education for disabled people?

New Zealand's dual systems of special and regular education perpetuate outdated beliefs and attitudes which are inconsistent with human rights obligations and inclusive education principles.^{iv}

It is recommended that the New Zealand Government commit to review without delay all education legislative and policy settings to ensure that schools provide accessible inclusive education for all students throughout New Zealand. This will require:

1. **Well-adjusted students, schools and communities.**
2. **Confident and capable education settings.**
3. **Strong leadership for inclusive education.**
4. **Accountability, monitoring and enforcement.**

Right to Health

Significant gaps remain in health outcomes, with Māori and Pasifika communities, persons with disabilities and socio-economically disadvantaged groups generally experiencing worse health outcomes than other groups.

Compared to the general population people with intellectual disabilities have a significantly lower life expectancy, and higher rates of: potential preventable deaths; mental health conditions; polypharmacy; and aging and age-related problems occurring earlier. Men and women with intellectual disability live, respectively, 18 and 23 years fewer than the general population.

People with intellectual disability are less likely to be included in public health initiatives and routine screening such as women having mammograms and pap smears. Too often health issues, including mental health issues, are either under recognised or inadequately managed.

People with high and complex health needs find it hard to get the specialist care needed when they move from paediatric to adult services. Disadvantage is compounded when discrimination is experienced and if people are members of already marginalised groups such as those living in poverty.

It is recommended that the New Zealand Government

- a) work in partnership with Māori, Pacific, Refugee and Disabled communities to increase the provision of adequate and appropriate health services with a particular focus on socially disadvantaged and rural communities.**
- b) commit to reviewing the current health settings to ensure that intellectually disabled people are included in their development, implementation and delivery of health services.**

*Unuhia, unuhia
Unuhia ki te uru tapu nui
Kia wātea, kia māmā, te ngākau, te tinana, te wairua i te ara takatā
Koia rā e Rongo, whakairia ake ki runga
Kia tina! TINA! Hui e! TĀIKI E!*

ⁱ NZIER, Disability Law Reform (Paper for the Access Alliance), December 2017.

ⁱⁱ NZIER, Valuing Access to Work (Paper for the Access Alliance), February 2017.

ⁱⁱⁱ http://m.stats.govt.nz/browse_for_stats/income-and-work/employment_and_unemployment/LabourMarketStatisticsDisability_HOTPJun17qtr.aspx

^{iv} CRC/C/NZL/CO/5, paragraph 30(c). Committee on the Rights of Persons with Disabilities. General comment No.4(2016) on the right to inclusive education.