

**63rd Session of the United Nations
Committee on Economic, Social and Cultural
Rights**



**Submission in relation to fourth periodic review of New Zealand under the
International Covenant on Economic, Social and Cultural Rights**

Inclusive NZ is a New Zealand based Non-Governmental Organisation. It is made up of 70 organisations that provide employment and community supports for over 8000 disabled people throughout Aotearoa/New Zealand. The majority of its members have government contracts with the Ministry of Social Development, as well as with the Ministry of Health, the Accident Compensation Corporation and the Ministry of Education.

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Introduction

1. Inclusive NZ welcomes the opportunity to provide this submission to Committee on Economic, Social and Cultural Rights (Committee) in relation to New Zealand's 4th Periodic Report under the International Covenant on Economic, Social and Cultural Rights (ICESCR).
2. Inclusive NZ works to achieve inclusive communities where discrimination and barriers to the full realisation of rights are reduced (and progressively eliminated). The realisation of economic, social and cultural rights are at the core of Inclusive NZ's vision.
3. New Zealand has a proud human rights record and most New Zealander's are able enjoy decent education and work, good health and adequate housing. However, there are some groups who continue to fall through the cracks and whose social and economic outcomes are disproportionately worse than the rest of the population.
4. This submission updates the Committee on what Inclusive NZ, and its members, see as key challenges in implementing the ICESCR and enabling all New Zealanders to fulfil their potential. It focuses on issues relating to employment, health and education. Inclusive NZ acknowledges that the realisation of the right to adequate housing is one of the biggest challenges currently facing New Zealand, and impacts on the realisation of other rights. It has however, not addressed this issue in this submission as it endorses the work – and associated recommendations – of the New Zealand Human Rights Commission in this regard.
5. A full list of Inclusive NZ's recommendations is attached as **Appendix 1**.

General matters of implementation

Monitoring and reporting framework

6. New Zealand has ratified 7 of the core international human rights instruments. This means that New Zealand has an almost continuous reporting schedule. Generally New Zealand has 1 review a year. However, this year there are 2 reviews and 2 other reporting processes commencing domestically. This places a significant burden on often under resourced civil society groups and organisations.

7. The potential impact of civil society not being involved in these processes is that recommendations become disconnected from the people whose rights are affected on the ground in Aotearoa, New Zealand. A more consistent reporting and monitoring framework would assist in mitigating this risk and enabling civil society to more easily and consistently engage in these processes.
8. Inclusive NZ is also concerned about the need to ensure consistency in recommendations across treaty bodies. More consistent recommendations would assist with follow up domestically.
9. New Zealand has endorsed the 2030 Agenda for Sustainable Development (SDG Agenda). The Goals set out in the SDG Agenda have a direct correlation to New Zealand's human rights obligations across all the treaties it has ratified. For example, in relation to ICESCR goals such as gender equality (Goal 5), ensuring decent work for all (Goal 8), and reducing inequalities (Goal 10) are particularly relevant.
10. New Zealand will be required to report against a series of indicators to assess its implementation of the SDG Agenda creating another human rights reporting and monitoring framework.
11. Inclusive NZ believes that these reporting and monitoring frameworks should be aligned and streamlined. This will create more consistent and accessible human rights monitoring overall, and enable civil society and affected people to more easily and routinely engage. Attached as **Appendix 2**, as an example, is a schematic representation of the right to work for disabled people, aligned to the SDG framework.

Data

12. There continues to be a lack of robust disaggregated data across a number of indicators. Limited disability data and data relating to the LGBTI community makes it difficult to assess the extent to which their rights are being realised, whether any progress has been made and what the continuing gaps/issues are. The Government needs to improve its data collection and ensure all data is appropriately disaggregated by sex, disability, race, sexual orientation and gender identity.

Accessibility Legislation

13. 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.
14. 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.
15. New Zealand law on accessibility is substantially less detailed and prescriptive than most other OECD countries. It is not as comprehensive in its cover, and is not as effectively enforced.
16. 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.¹ 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.²

Inclusive NZ recommends that the Committee urge the Government to commit to developing and implementing robust accessibility legislation in line with its binding international human rights obligations.

Implementation of the Covenant

Article 2(1) – Non Discrimination

Asylum Seekers

17. Asylum seekers are inherently vulnerable and often have underlying mental health issues. However, they continue to face significant barriers accessing health services, housing, employment and education. This can

¹ NZIER, Disability Law Reform (Paper for the Access Alliance), December 2017.

² NZIER, Valuing Access to Work (Paper for the Access Alliance), February 2017.

have a serious bearing on the refugee determination process as well as long term settlement outcomes.

18. A 2017 Human Rights Commission discussion paper concluded:³

Perhaps the biggest issue that came through during our discussions was the fact that despite there being services available, and information on these being provided by Immigration New Zealand on its website and in hard copy to claimants, this information remains largely unknown. Even where it is known, we heard stories of Government agencies not understanding their obligations to asylum claimants resulting in delays and/or inability to access services. Community groups such as the Asylum Seeker Support Trust and the Refugee Council of New Zealand have a significant impact facilitating access to the system and navigating the sometimes confusing processes.....

....The adequacy and availability of mental health services and housing remains a concern. While available in theory, in practice there is no systemic framework to ensure that this is achieved. Systematic screening and treatment of asylum claimants by RASNZ or a similar qualified organisation as well as prioritised social housing would go a significant way to improving the situation.

Inclusive NZ endorses the Commission's conclusions and recommends that the Committee consider urging the New Zealand Government to commit to providing all asylum seekers and people from refugee backgrounds access to adequate and appropriate services and supports to facilitate the full realisation of their rights to education, employment, health and housing.

Article 6 - Right to Work

19. Inclusive NZ's members continue to raise concerns about Māori and Pacific people, people in rural areas and disabled people being excluded from work.

Disabled people

20. 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

³ https://www.hrc.co.nz/files/5715/0060/6797/ESC_Rights_Discussion_ONLINE.pdf

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.⁴

21. 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.
22. Ministry of Social Development contracts *Business Enterprises* to provide employment supports to people with Disabilities. In addition *Business Enterprises* directly employ disabled people in their organisations. Minimum Wage Exemption Permits (MWEPE) enable employers to pay a disabled employee less than the minimum wage in certain circumstances. MWEPEs are used by most but not all *Business Enterprises*. They last for two years and are issued by the Ministry of Business, Innovation and Employment. It is common for employees to turn down wage increases if they will impact on their benefit abatement levels making them worse off overall.
23. People with learning disabilities do not have equitable access to 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.
24. Organisations are concerned about their capacity to respond to Government procurement processes, which are expensive and time consuming and favour large and for-profit providers. Organisations require support to build their capability to respond to Government policy changes and the needs of their communities.

Māori and Pacific peoples

25. Overall labour market outcomes for Māori and Pacific peoples continue to lag behind the general population:

⁴ http://m.stats.govt.nz/browse_for_stats/income-and-work/employment_and_unemployment/LabourMarketStatisticsDisability_HOTPJun17qtr.aspx

- the Māori unemployment rate (11%) at September 2016 was twice the national rate.⁵ Labour market participation was also slightly lower (at 66.8% compared to the national rate of 69.2%).⁶
- as at September 2016, the rate of Māori young people not engaged in employment, education or training (“NEET”) was around double that of Europeans (19.5% for Māori and 9.2% for Europeans).⁷
- unemployment rates of Pacific peoples are disproportionately high – 11.1% in 2016 compared to the national rate of 5.7%.⁸

Inclusive NZ recommends that the Committee consider urging the New Zealand Government to:

- Set targets to increase the participation of Māori, Pacific People and Disabled people in the labour market, including in corporate governance and senior management.**
- Commit to investing in post-school learning opportunities for people with learning disabilities which are linked to practical experiences.**
- 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.**
- Implement alternatives to the Minimum Wage Exemption Permit framework to ensure disabled people are able to work on an equal basis with others.**
- Ensure people on the *Supported Living Payment* have the appropriate support to transition into employment.**
- Review the *Supported Living Payment* to remove barriers to reapplying should employment cease.**
- Commit to investing in sector capability and provide community support organisations with the necessary resources.**

Article 12 – Right to Health

26. Despite gradual improvements, Māori and Pacific peoples continue to have poorer health outcomes than the general population:

⁵ <http://www.mbie.govt.nz/info-services/employment-skills/labour-market-reports/maori-labour-market/maori-in-the-labour-market-report/maori-in-the-labour-market-2011-2016>

⁶ Ibid.

⁷ Ibid.

⁸ <http://www.mbie.govt.nz/about/whats-happening/news/2016/latest-labour-market-factsheets-for-Māori-and-pacific-peoples-released-may-2016>

- Māori have higher rates than non-Māori for many health conditions and chronic diseases, including cancer, diabetes, cardiovascular disease and asthma;⁹
- Māori experience higher disability rates;¹⁰
- Pacific people experience higher levels of unmet primary health care needs;
- Pacific people have higher rates of infectious diseases than other New Zealanders.¹¹

27. Poverty, material deprivation and poor quality housing have a direct impact on health outcomes for Māori and Pacific peoples.

Inclusive NZ recommends that the Committee urge the New Zealand Government to work in partnership with Māori and Pacific communities to increase the provision of adequate and appropriate health services with a particular focus on socially disadvantaged and rural communities.

Articles 13 and 14 – Education

Disabled people

28. Education is vital to disabled people being able to realise their other rights, fully participate in the community, and exercise full citizenship. However, significant barriers to inclusion remain and disabled people continue to lag behind across all indicators.

29. The Education Act 1989 (s.3) protects the equal right to education for all. However, there is no reference to require the incorporation of inclusive education principles. This has resulted in an ad hoc approach across the education sector with little real and consistent understanding of what inclusive education should look like. Schools either fail to provide the required supports or have resorted to separating/secluding disabled children.

⁹ Ministry of Health, (2015). *Tatau Kahukura: Māori Health Chart Book 2015 (3rd edition)*. Wellington: Ministry of Health. <http://www.health.govt.nz/publication/tatau-kahukura-Māori-health-chart-book-2015-3rd-edition>

¹⁰ Ibid.

¹¹ http://www.bpac.org.nz/BPJ/2010/November/docs/BPJ_32_infectious_pages_10-14.pdf

30. Most recently it has been revealed that some families are being forced to move substantial distances from their homes because there are no accessible education options for their disabled children where they live.¹²

Inclusive NZ recommends that the Committee urge the New Zealand Government to review without delay all education legislative and policy settings to ensure that schools provide accessible inclusive education options to disabled students throughout New Zealand.

Māori and Pacific Peoples

31. Despite efforts from successive governments and communities, current data shows a continuing gap between Māori and Pacific peoples and other ethnicities:

- 71.1% of 18 year old Māori have an NCEA Level 2 qualification or above compared with 87.3% for Europeans and 83.3% overall.¹³
- Schools continue to stand-down, suspend, and exclude more Māori students than any other ethnic group.¹⁴
- 77.6% of Pacific 18-year-olds had at least NCEA Level 2, compared with 87.3% of 18-year-olds of European descent, and the overall national rate of 83.3%.¹⁵

Inclusive NZ recommends that the Committee work with iwi and Pacific communities to develop cultural appropriate programmes (with associated targets) to accelerate reducing the gap in educational outcomes between Māori and Pacific peoples and other ethnicities.

¹² <https://www.radionz.co.nz/national/programmes/checkpoint/audio/2018631225/families-of-special-needs-children-feel-forced-out-of-wairarapa>

¹³ http://www.stats.govt.nz/browse_for_stats/snapshots-of-nz/nz-social-indicators/Home/Education/18-year-olds-with-higher-qualif.aspx

¹⁴ <http://www.educationcounts.govt.nz/statistics/indicators/main/student-engagement-participation/Stand-downs-suspensions-exclusions-expulsions>

¹⁵ Ibid.

Appendix 1 – Recommendations

Inclusive NZ recommends that the Committee urge the Government to:

- A. Commit to developing and implementing robust accessibility legislation in line with its binding international human rights obligations.
- B. Providing all asylum seekers and people from refugee backgrounds access to adequate and appropriate services and supports to facilitate the full realisation of their rights to education, employment, health and housing.
- C. Set targets to increase the participation of Māori, Pacific People and Disabled people in the labour market, including in corporate governance and senior management.
- D. Invest in post-school learning opportunities for people with learning disabilities which are linked to practical experiences.
- E. 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.
- F. Implement alternatives to the Minimum Wage Exemption Permit framework to ensure disabled people are able to work on an equal basis with others.
- G. Ensure people on the *Supported Living Payment* have the appropriate support to transition into employment.
- H. Review the *Supported Living Payment* to remove barriers to reapplying should employment cease.
- I. Invest in sector capability and provide community support organisations with the necessary resources.
- J. Work in partnership with Māori and Pacific communities to increase the provision of adequate and appropriate health services with a particular focus on socially disadvantaged and rural communities.

- K. Review without delay all education legislative and policy settings to ensure that schools provide accessible inclusive education options to disabled students throughout New Zealand.**

- L. Work with iwi and Pacific communities to develop cultural appropriate programmes (with associated targets) to accelerate reducing the gap in educational outcomes between Māori and Pacific peoples and other ethnicities.**

Appendix 2 – Right to Work for Disabled people

ICESCR ARTICLE 6

CRPD ARTICLE 25

SUSTAINABLE DEVELOPMENT GOAL 8 – DECENT WORK AND ECONOMIC GROWTH

Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all.

TARGET 8.5

By 2030, achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value

INDICATORS

- Average hourly earnings of female and male employees, by occupation, age and persons with disabilities
- Unemployment rate, by sex, age and persons with disabilities

CURRENT SITUATION

- Disabled people receive on average just over half the weekly wage of non-disabled people
- Employment rate for disabled people is 22.4% compared with 69.3% for non-disabled people
- Unemployment rate for disabled people is 11.4% compared with 4.5% for non-disabled people
- Some disabled people remain subject to Minimum Wage exemptions

TARGET 8.6

By 2020, substantially reduce the proportion of youth not in employment, education or training

INDICATORS

Proportion of youth (aged 15 -24 years) not in education, employment or training

CURRENT SITUATION

- 42.3% of disabled youth aged 15–24 years were not in employment, education, or training compared with 10% of non-disabled youth aged 15-24