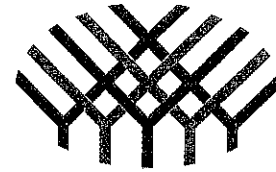


Human Rights Council
Expert Mechanism on the
Rights of Indigenous Peoples



Human Rights
Commission
Te Kāhui Tika Tangata

TENTH SESSION, 10-14 JULY 2017, GENEVA

Agenda item 8: Follow up to the Expert Mechanism's Study on the Right to Health and Indigenous People

Tēnā koutou rau rangatira mā. Huri noa te whare, tēnā tātou katoa.
[*Translation: Greetings to the many leaders. To everyone here, greetings to us all.*]

Thank you, Mr Chair for this opportunity to speak again as Commissioner representative of the New Zealand Human Rights Commission. I would like to update the Expert Mechanism on recent developments in New Zealand which link to the 2016 thematic study on the right to health and indigenous peoples, as well as the 2014 study on indigenous peoples' access to justice.

The Expert Mechanism's study on the right to health noted that "indigenous peoples continue to experience intergenerational trauma secondary to removal of children from families" and that "the health impacts of these practices are profound, including mental illness, physical and sexual abuse, self-harm and suicide, drug or alcohol addiction".¹ The Expert Mechanism's *Advice No. 9* urged States to address violence perpetrated by State representatives² and to investigate the "far-reaching health effects of intergenerational trauma attributable to [indigenous children's] removal from families and placement in residential schools and other facilities".³

Alongside these, the Expert Mechanism's 2014 study on access to justice highlighted the fact that:

The United Nations Declaration on the Rights of Indigenous Peoples should be the basis for all action... [for] the protection and promotion of indigenous peoples' right to access to justice. The implementation of the

¹ *Draft study of the Expert Mechanism on the Rights of Indigenous Peoples: The right to health and indigenous peoples, with a focus on children and youth*, A/HRC/EMRIP/2016/CRP.1, at para 51.

² *Expert Mechanism Advice No. 9 (2016): The right to health and indigenous peoples*, at para 9.

³ *Ibid.*, at para 20.

Declaration should be used as a framework for reconciliation and as a means of implementing indigenous peoples' access to justice.

Never Again – E Kore Anō is a campaign being led by the Commission, seeking justice for victims of historic abuse while in the care of the State.

Between the 1950s and 1980s more than 100,000 vulnerable children and adults were taken from their families and placed in children's homes and mental health institutions where many suffered sexual, physical and psychological abuse. The extent of abuse is unknown as the abuse has never been fully or publicly investigated.

More than half of these children were Māori, with some state homes reporting that upwards of 80 per cent of their residents were Māori. Some were put into care for minor transgressions such as truanting, others found themselves there after a family tragedy. We suspect that institutional abuse has had a disproportionately negative impact on Māori but are yet to establish this with certainty because of the difficulty of obtaining relevant data and information.

We do know that in 2017, over 60 per cent of children in state care are Māori, some the grandchildren of those who were put into institutions more than half a century before. More than half of our prison population are Māori: many of whom are former wards of the state. This over-representation has been an entrenched feature of our prisons for the past thirty years, reflecting systemic issues that continue to impede the realisation of indigenous rights in Aotearoa New Zealand.

In February, the Commission released an open letter signed by Iwi leaders, child advocates and disability sector representatives. Since then, more than 11,000 New Zealanders have signed the open letter calling for justice for survivors of state abuse. The letter urges the Government to initiate an independent inquiry; to apologise and provide redress to victims; and to take action to ensure this never happens again. On 6 July, the letter was presented to parliament, together with an independent petition calling for a public inquiry and apology.

We are disappointed that the Government has ruled out an inquiry. The pain and the shame of their shattered childhoods are being carried by many New Zealanders and to date there is no mana in the way they have been treated by their own Government. They deserve better and New Zealanders deserve to

know what happened to them and to know that our officials will learn from their suffering to ensure it never happens again. E kore anō.

As the EMRIP's studies and advice highlight, the Declaration (and in the New Zealand context, the Treaty of Waitangi) provides a "framework for reconciliation" and should be the basis of all actions to ensure access to justice and that past mistakes are not repeated.

The Commission thanks the Expert Mechanism for the guidance and advice provided in its thematic studies, which we will continue to use in our advocacy on these issues.

The Commission calls on the New Zealand Government to:

- Initiate an independent inquiry into the abuse of people held in State care in order to identify the systemic issues that permitted this to occur and the broader impact of these events on our communities;
- Publicly apologise to those who were affected, including those who were abused, their families and whānau.
- take other appropriate steps to acknowledge the harm that has been caused to the victims and to provide them with appropriate redress and rehabilitation; and
- Take action to ensure this never happens again.

Nō reira, tēnā koutou, tēnā koutou, tēnā koutou katoa. [and finally, greetings to you all]

Karen Johansen, Indigenous Rights Commissioner
New Zealand Human Rights Commission
July 2017