

ADL's comment on the Fifth Periodic Report under the International Covenant for Economic, Social and Cultural Rights

The report does not sufficiently summarise all of the important issues relevant to economic, social and cultural rights in New Zealand. Whilst the government has committed itself to improving outcomes for many via such initiatives as the Plan Against Forced Labour, the Migrant Settlement and Integration Strategy and the Worker Protection Act, there are no specific initiatives to address these issues for Deaf and disabled people.

Also, there are no strategic initiatives for the protection and advancement of New Zealand Sign Language or any initiatives which relate to educating people on Deaf and Disabled Awareness, nor are there any specific initiatives which address outcomes for Deaf and Hard of Hearing in modern society.

In relation to specific areas:

Article 2- Progressive enjoyment of economic, social and cultural rights

The report accurately outlines initiatives that the legislation underwent which do comply with the international covenants, such as those mentioned above and the National Action Plan Against Racism - however, the only initiatives undertaken for the advancement of the rights of Deaf and disabled people are the establishment of Whaikaha, recommendations for the HRA and various alterations to the government's internal administration and agency processes. There is no mention of any specific work done to better advance the rights of Deaf and disabled people. Reference is made to the HRA already allowing for "reasonable accommodation" as well as the Education and Training Act ("the Act") which allows for Deaf and disabled students to have "the same rights to enrol, attend and receive" education as those who are not, however the report excludes the glaring fact of there being not enough specific legislation addressing the overall issue, as well as the effectiveness of the provisions in those acts. At [Paragraph 83], s 34 of the Act is referred to- which provides that students with special educational needs are entitled to the same rights of attendance as other students. Feedback from the Deaf and disabled community has established that students with special educational needs do not have equal access, and are frequently denied the right to attend school fulltime, often as a result of inadequate resources for schools. At [Paragraph 84], it is noted that despite the changes to disability funding, there



will not be a trickle-down effect where resources for disabled people and their carers are limited or affected. Evidence suggests otherwise, as autistic people who were and are diagnosed by Telehealth are no longer eligible for NASC funding. Further, Deaf and disabled people have reported their support packages (allocated by the NASC) have been cut. Further to the above, whilst there is a National Action Plan Against Racism, no initiative to fight against Audism or Ableism has been established or referred to in the report.

Article 6- Right to work

The report outlines several processes and initiatives established for disabled people including Oranga Mahi, the Mainstream Employment Programme and the Specialist Employment process- but the report does not outline the success of these programmes nor the quality of jobs which these programmes are designed to allow disabled people to be employed by. The report does not also address the barriers to entry which Deaf and disabled people face in obtaining skilled or white-collar employment within the mainstream working world as well as any initiatives created to allow for entry into skilled professions and bias that may be faced in industries such as teaching, law, nursing or accounting.

Article 7- Right to just and favourable conditions of work

There is no mention within this section of the Report as to initiatives undertaken to allow for just and favourable conditions of work, including a safe psychological work environment for Deaf and disabled, work environments where Deaf and disabled are given subsidised access to aids to help with typing, communication or other methods in which they are allowed to be on an equal playing field. ADL has previously submitted (in their response to the 2018 Report) that there is no explicit duty to provide reasonable accommodation under the Human Rights Act 1993 which has resulted in limited understanding of legal obligations for employers and a lack of enforceability of the provision. ADL refers the government to its previous recommendation in that submission, in which it was recommended that a clear definition (per article 2 of the UNCRPD) be included in other legislation including the Employment Relations Act and the Education Act.

At [Paragraph 131], the Report refers to the commercial view that the minimum wage exemption permits are an incentive for employment of disabled people- however there has been no consultation with the disabled community on this issue, which means that the Report lacks a balanced perspective. ADL has previously submitted, in their 2018 Feedback submission on the Government's Draft Report to the Monitoring committee United Nations Convention on the Rights of Persons with Disabilities (2018) (UNCRPD) that alternatives for the Exemption Permits were desirable, the permits needed to be phased out and protections needed to be put in place to protect job opportunities. ADL also suggested several alternatives in that submission- of which no reference was made to in this Report.



There is also no reference to any initiatives for Deaf and disabled people which would allow for them to have access to complaints services in the event of workplace discrimination, bullying, harassment or abuse.

Article 9- Right to social security

There is no reference within the Report as to how the “traffic light system” may or could disproportionately and negatively affect Deaf and disabled people.

Article 10- Protection of family life

Reference is made to an “All About Me” plan in relation to vulnerable children- with the purpose of support for the child’s culture, belonging, identity and family. No detail is provided as to how this plan may or could be used to provide vulnerable Deaf children with the tools necessary to preserve their connections with Deaf identity and Deaf culture as well as how this plan could be used to ensure that the people surrounding those children have an appropriate level of Deaf and cultural awareness.

Article 11- Right to housing and adequate standard of living

The report refers to Maihi Ka Ora- a plan which sets out a vision for Māori housing, yet there is no plan or initiative which prioritises Deaf and disabled access to affordable and safe housing. There is also no reference to any strategies which would relieve Deaf and disabled of barriers in the housing market, including communication barriers and education on bank lending.

The report also outlines strategies for consistency with the right to housing, however no mention is made about the discrimination that Deaf and disabled face when it comes to tenancy applications via the use of credit checks, referencing via phone calls and language barriers when it comes to communicating with property managers and landlords. ADL further submits that the process for Tenancy Tribunal applications and orders for the benefit of tenants is limited in the sense that many Deaf and disabled people face a language barrier, having limited legal access and understanding of legal language and their rights under the Residential Tenancies Act.

The Report also does not adequately address any consequences to Deaf and disabled arising out of the Residential Tenancies Amendment Bill, which allows for landlords to terminate tenants on a “no cause basis”.



In relation to what New Zealand has done well:

Many advancements have been made in relation to the advancement of Māori and other minorities' cultural and economic rights, however the legislation and initiatives in place to address gaps for Deaf and disabled people are incredibly vague and there is little to support that there has been much improvement. In addition to the above, the New Zealand Government's public consultation, submission, and processing procedures are not accessible to the Deaf and disabled community. Deaf and disabled people face language, communication and practical barriers – the process for select committee submissions is not widely known or part of mainstream education. By law, the government is required to consult the Deaf community on matters relating to NZSL (New Zealand Sign Language Act 2006) Principles to guide government departments. Nos 9 Principles. (see appendix A). However, this consultation requirement has scarcely been met and opportunities for consultation, submission or open discussion have not been provided. If this were followed, it is likely that many of the above unaddressed issues would be somewhat resolved.



Appendix A

Part 2 New Zealand Sign Language Act 2006

<https://www.legislation.govt.nz/act/public/2006/0018/latest/whole.html>

Principles to guide government departments

9 Principles

(1) A government department should, when exercising its functions and powers, be guided, so far as reasonably practicable, by the following principles:

(a) the Deaf community should be consulted on matters relating to NZSL (including, for example, the promotion of the use of NZSL):

(b) NZSL should be used in the promotion to the public of government services and in the provision of information to the public:

(c) government services and information should be made accessible to the Deaf community through the use of appropriate means (including the use of NZSL).

(2) Consultation carried out by a government department under subsection (1)(a) is to be effected by the chief executive of the government department consulting, to the extent that is reasonably practicable, with the persons or organisations that the chief executive considers to be representative of the interests of the members of the Deaf community relating to NZSL.

(3) The purpose of the principles in subsection (1) is to promote access to government information and services for the Deaf community, but nothing in subsection (1) is to be read as conferring on the Deaf community advantages not enjoyed by other persons.

