



# New Zealand Disabled Person's Organisations Report

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**To the**  
United Nations Committee on  
the Rights of Persons with Disabilities

**On**  
New Zealand's Implementation of the Convention  
on the Rights of Persons with Disabilities

31 July 2014



Karanga karanga karanga ra, karanga ki te ata hāpara e tohungia nei te rangi hou,

**As we direct our collective voices to call to the dawn, to signify the coming of a new day,**

tēnei te reo e karanga nei, tēnei te reo e mihi nei, tēnei te reo e kawea ra ngā wawata o tēnā o tēnā o tātou kua whetu rangitia.

heoi anō, moe mai rā i te rangimārie nōreira moe mai moe mai moe mai rā

**the voices who call, the voices who greet, the voices who carry the dreams of those who dwell in the heavens like the stars which decorate the night sky, we acknowledge your contribution, so in your memory we bid you eternal peace.**

Piki ake piki ake ko te reo pōwhiri ko te reo whakatau, ko te reo e kotahi ai ko kāpō, ko turi, ko hauā.

**We extend our voices of welcome and friendship using the united voice of the disabled community of Aotearoa New Zealand.**

He reo kōrero he reo wānanga he reo whakarite kia tū te ao e tūmanakohia ai.

**This voice which is speaking, this voice of collaboration, will create pathways to an accepting world.**

Nō reira ka tuku atu tēnei reo kia rere ai i ngā hau e whā, e rere e rere e rere rā!

**We send forth this voice to the four winds, to take flight and be heard!**

Ki mai koe ki ahau he aha te mea nui o te ao? Māku e ki atu, he tangata he tangata he tangata e!

**Ask me, “What is the greatest thing in the world?”**

**I will reply, “It is people, it is people, it is people!”**

## **Dedication**

This report is dedicated to the disabled people of Aotearoa New Zealand, past, present and future. Their strength of will and tender spirit adds more to our lives than our society has yet to appreciate.

We are committed to working collectively to enable a society that values all our contributions.

For the disabled people of Aotearoa, past, present and future, we work tirelessly to create a better world.

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# Who is this report from?

1 This report is from a coalition of seven Disabled People's Organisations (DPOs):

**Disabled Persons Assembly NZ Inc.**

**Association of Blind Citizens of New Zealand**

**Balance New Zealand**

**Deaf Aotearoa NZ Inc.**

**Deafblind NZ Inc.**

**Ngāti Kāpo o Aotearoa Inc.**

**People First NZ Inc., Ngā Tāngata Tuatahi**

2 These seven DPOs all meet the agreed roles and attributes that define a DPO in New Zealand. They are organisations that have all of the following:

- a a national structure and focus
- b organisational goals and objectives that reflect the Convention on the Rights of Persons with Disabilities (CRPD)
- c are governed by a majority of disabled people
- d the majority of members are disabled
- e a mandate or authority to speak on behalf of its members
- f engage with its members, including by sharing information.<sup>1</sup>

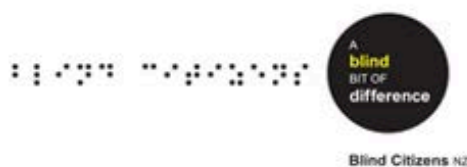
3 These DPOs have a mandate to represent the national voices of disabled people, deaf people, blind and vision impaired people, people with mood disorders, deafblind people, Māori blind and vision impaired people and people with learning/intellectual disabilities.

4 All seven DPOs work towards visions of full participation and full citizenship for disabled New Zealanders. All are driven by their disabled members and governing bodies and work to enable greater realisation of human rights for disabled people.

5 The DPOs have a point of difference with other organisations in the disability sector whose main purpose is to provide disability services and/or are mainly led by non-disabled people. Individual organisation descriptions for the seven DPOs are provided in Appendix A.



- 6 This report was led by the DPOs. It pulls together issues raised in reports written by the DPOs and other reports and issues that have been consistently raised by disabled people across New Zealand.
- 7 The first draft of this report was shared with the DPOs, which sought feedback from their governing boards and members. The DPOs then approved a further draft for public consultation.
- 8 The DPOs distributed the consultation draft widely throughout their disability sector networks to ensure it could include the voice of disabled people who may not be affiliated with a DPO.
- 9 Feedback was incorporated into the report, with the DPOs directing the final content and the DPOs' governing bodies providing the final sign-off.
- 10 This report records the collective voices of disabled people, as mandated through their representative organisations.
- 11 It is the DPO's intention that this report enables the voice of disabled New Zealanders to sit alongside the New Zealand Government information on the CRPD implementation in New Zealand.





## Executive Summary

- 12 New Zealand is good at defining aspirational goals having held a vision of a disability inclusive society since 2001.<sup>2</sup> While some good practice is occurring, New Zealand struggles to progress work towards achieving its aspirations and disabled people's experiences indicate that official policies often differ from actual practice.<sup>3</sup>
- 13 A 2010 report monitoring the human rights of disabled people noted that:

Social participation by disabled people emerged as the biggest single issue... Other major issues identified were negative experiences relating to health... lack of employment... access to disability related services and supports... barriers to making complaints, and a general lack of awareness and responsiveness about disability issues.<sup>4</sup>
- 14 Some of the most glaring inequalities can be seen in the areas of full protection of rights and equal treatment by the law, the right to inclusive education, a lack of long-term planning for disability services and support, and monitoring.
- 15 Legislative inequalities include discriminatory provisions around family carers for adult disabled people and the removal of the right to complain about these policies. Substitute decision-making occurs, for example in relation to treatment of people with mental illness and learning/intellectually disabled people. Compliance with Articles 5, 12 and 13 of the CRPD requires significant work.
- 16 Access to education is a fundamental human right. A specific and enforceable right to inclusive education is not provided in New Zealand. Learning outcomes and achievement levels for disabled children are not assessed and do not allow for comparison with non-disabled students. And discrimination of disabled people in employment has not improved in the period 1996-2006.
- 17 There is a wide-ranging lack of monitoring of disability issues, evident in the alarming lack of disability data/information in central and local government. Government pilot programmes to improve disability services and support are progressing slowly on a small-scale, and lack planning for long-term, nation-wide improvements.
- 18 These inequalities call into question the Government's accountability to its obligations under the CRPD.
- 19 If the Government is serious about implementing the CRPD and making meaningful change to disabled people's lives, it must actively translate the CRPD into binding obligations and hold central and local government to account for faster progress towards achieving equal rights and citizenship for disabled people.

## Article 4 General obligations

- 20 The New Zealand Government has made noteworthy efforts to consult and work in partnership with disabled people.
- 21 In 2001 the Government worked closely with disabled people to develop the Government's first New Zealand Disability Strategy. Then between 2004 and 2006 the Government ensured disabled people were present and influencing New Zealand's contribution to the drafting of the CRPD.
- 22 In 2009 the Government established the Ministerial Committee on Disability Issues to provide better coordination across agencies in advancing the implementation of the CRPD.<sup>5</sup> It meets three times per year and provides policy direction and leadership on priority disability issues. This Ministerial Committee is supported by the Chief Executives Group on Disability Issues, tasked with leading implementation of the priorities.
- 23 In 2014 the Government released its new Disability Action Plan, listing priorities for the next four years. Although this is the fourth Disability Action Plan since 2010, it is the first time the DPOs have been strategically involved in developing it. As a result, priorities are better aligned to disabled people's priorities and the plan supports the shift towards a more 'person-directed' approach. However, much of the Plan outlines more reviews, stocktakes and consideration of possible options for change, and commits to minimal meaningful improvements to the everyday lives of disabled people over the next four years. Implementation processes for this Disability Action Plan are still being developed and DPOs need to maintain a strong leadership role in this work going forward.
- 24 This kind of engagement between the Government and DPOs around the current Disability Action Plan is a step in the right direction. But, most often engagements between government agencies and DPOs or disabled people is ad hoc, inconsistent, lacking in transparency or non-existent.
- 25 DPOs and disabled leaders report considerable disparities in the way different government agencies engage with disabled people and enable their participation in decision-making.<sup>6</sup> This led to the DPOs and the Independent Monitoring Mechanism to call for significant improvement in this area in 2011.<sup>7</sup>
- 26 In 2013 the Government and DPOs agreed on five principles to underpin how DPOs and the Government engage and work together. These principles are:
- a Government will engage with DPOs as representatives of disabled people
  - b We involve the right people, at the right time, in the right work
  - c We value the contribution of each party and make it easy to engage

- d We will be open, honest, transparent and creative in our engagements
- e We jointly learn, and review, how to engage with each other, reviewing our work and sharing good practice.<sup>8</sup>

27 These principles present an opportunity to develop robust processes to implement and monitor the engagement between government agencies and DPOs. They could ensure leadership on disability issues comes from disabled people themselves. Discussions around DPOs engaging with government have raised the need to address DPOs' capacity and capability issues so DPOs can sustain themselves into the future<sup>9</sup> and to ensure leadership from disabled people themselves.

## Recommendations **Article 4**

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- 1 That the Government works with DPOs to implement and monitor the engagement principles across all government agencies to ensure disabled people through the DPOs are actively involved in decisions that affect them
- 2 That the Government commits funding and support to enhance DPOs' capacity and capability to sustain them into the future, enable them to maintain effective connections with disabled people and be effective representatives of disabled people as they work with government.

## **Article 5 Equality and non-discrimination**

### **Discriminatory amendment to the Public Health and Disability Act**

- 28 In 2012 the Court of Appeal affirmed that the policy of not paying family carers to provide disability support services to adult disabled family members constituted unjustifiable discrimination on the basis of family status.
- 29 In direct response to this decision the Government passed the New Zealand Public Health and Disability Amendment Act under urgency<sup>10</sup> in May 2013. This amendment limits the circumstances in which family members can be paid, the category of family members that can be paid (eg, parents but not spouses) and imposes a payment system with a lesser pay rate for family than is offered to non-family members. Furthermore, the Act closed off further legal action on this issue by declaring that no further complaints can be made regarding the payment, or otherwise, of family members as caregivers.<sup>11</sup> This removes the Human Rights Commission's jurisdiction and any potential domestic remedy for unlawful discrimination relating to government family care policy.<sup>12</sup>

- 30 The Act was passed under urgency in one day, despite the Attorney-General reporting it was inconsistent with the right to judicial review and potentially inconsistent with the right to freedom from discrimination.<sup>13</sup>
- 31 The New Zealand Law Society has stated the use of urgency should not be used where a Bill raises human rights matters.<sup>14</sup> No reasons were given for the use of urgency for this Bill.<sup>15</sup>
- 32 The passing of this Act was greeted with widespread criticism by disabled people, other leaders and lawyers.<sup>16</sup> The New Zealand Law Society criticised the Act and the manner in which it was passed.<sup>17</sup> During New Zealand's second Universal Periodic Review it was recommended that New Zealand "address the controversial issues around the Public Health and Disability [Amendment] Act" to ensure that governmental programmes were beneficial to all without discrimination".<sup>18</sup>
- 33 This issue is of a particular concern for Māori disabled people who, for cultural reasons, may want their whānau (family members) to be their paid carers.
- 34 The Independent Monitoring Mechanism (established under Article 33) recommended urgent reconsideration of this Act and to repeal those sections that limit further legal action and limit the circumstances in which family members can be paid and the categories of family members that can be paid.<sup>19</sup>

## Reasonable accommodation

- 35 The Human Rights Act does not provide a clear definition of "reasonable accommodation" and this has been problematic to the detriment of disabled people. The Human Rights Commission commented that:
- "... the interests of disabled people would be better served if the HRA [Human Rights Act] contained a general obligation to accommodate disability and a definition of reasonable accommodation".<sup>20</sup>
- 36 The Independent Monitoring Mechanism (established under Article 33) highlighted that reasonable accommodation requirements are not well understood or properly applied.<sup>21</sup> It recommended in 2012 and 2014 that guidance on the requirements and application of reasonable accommodation be developed.<sup>22</sup> And, the Convention Coalition monitoring group (made up of DPOs) recommended that reasonable accommodations, including in employment, need monitoring and reviewing.<sup>23</sup>
- 37 The New Zealand Government report on implementing the CRPD (March 2011) said the Ministry of Justice is "currently developing guidance on reasonable accommodation for public activities".<sup>24</sup> However, three years on the DPOs are

not aware of any progress on this and the Government's new Disability Action Plan refers only to developing reasonable accommodation guidelines in employment.

## Gaps in human rights protections

- 38 It appears that the Human Rights Act 1993 does not give disabled people the same human rights protections as non-disabled people. Examples include:
- a The prohibited grounds of discrimination in the Human Rights Act do not include 'language', which has been criticised by the United Nations Covenant on Civil and Political Rights Committee.<sup>25</sup> This exclusion means that Deaf people may only claim discrimination under 'disability' yet there are times when Deaf people experience discrimination on the basis of their language: New Zealand Sign Language (NZSL).
  - b The Human Rights Act<sup>26</sup> includes protections from other forms of discrimination, including sexual harassment and victimisation.<sup>27</sup> It provides that it is unlawful to publish material that is abusive or insulting if it is likely to excite hostility against a group of people by reasons of their colour, race or national or ethnic origin. This limitation on publishing abusive material applies only to racial or ethnic groups and not to disabled people.

Recently, a high profile public figure published abusive and insulting material against disabled people, including statements that it would be a "fantastic achievement" if Down syndrome was "eradicated". A similar statement about eradicating New Zealand Māori or Asian people could have been the subject of a formal complaint under the Human Rights Act. Disabled people should have equal protections against such abuse.

## Recommendations **Article 5**

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- 3 That the Government urgently reconsiders the New Zealand Public Health and Disability Amendment Act and repeal those sections that limit further legal action and limit the circumstances in which family members can be paid and the categories of family members that can be paid
- 4 That the Government prioritises work to develop guidance on the requirements and application of reasonable accommodations under the Bill of Rights Act and Human Rights Act.
- 5 That the Government reviews the Human Rights Act to ensure it provides disabled people with human rights protections equal to non-disabled people and that any necessary amendments to the Human Rights Act are made.



## Article 6 Women with disabilities

- 39 Disabled women are disproportionately represented among those who lack qualifications, those who do not work and those living on low incomes.<sup>28</sup> There is also evidence that disabled women experience much higher rates of abuse and sexual violence.<sup>29</sup>
- 40 During New Zealand's second Universal Periodic Review in January 2014 the Human Rights Council Working Group recommended that New Zealand "develop, in partnership with civil society, a national action plan for women with defined targets, to address issues such as violence against women, pay inequality, the situation of Māori and Pasifika women, and women with disabilities".<sup>30</sup>

### Recommendations Article 6

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- 6 That the Government develops a national action plan for disabled women, in partnership with DPOs and disabled women, with defined targets to address issues such as violence against women, pay inequality, health inequalities, educational inequalities and health and wellbeing for disabled women.

## Article 7 Children with disabilities

- 41 In 2013 there were an estimated 95,000 children under 15 years of age who had a disability.<sup>31</sup> This amounts to 11 percent of all children under age 15. The 2006 data revealed that nearly one-third (31 percent) of all disabled children are Māori, this compares with 14.6 percent of New Zealand's whole population being Māori.<sup>32</sup>
- 42 Disabled children are over represented in child poverty statistics with 37 percent of the children receiving the Government's Child Disability Allowance living in benefit dependent homes.<sup>33</sup> Disabled children are also more likely to be living in one-parent households.<sup>34</sup> Disabled children are three to four times more likely to be abused or neglected than their non-disabled peers.<sup>35</sup> Almost half of disabled children (46 percent) had special education needs.
- 43 Disability advocates have called for the repeal of sections in the Children, Young Persons, and Their Families Act 1989 because they unnecessarily provide for less favourable treatment of disabled children than non-disabled children.<sup>36</sup>



- 44 The Act provides extended care agreements that are used when a family cannot provide the day-to-day care their child requires due to their disability. For mentally and physically disabled children, extended care agreements may be extended indefinitely when the child is placed in an approved organisation.
- 45 There are reports of disabled children in permanent residential care when another family is able and willing to care for the child in their home.<sup>37</sup> These provisions afford disabled children lesser protections and fewer rights to family life than non-disabled children and appear inconsistent with the CRPD Articles 23.3 and 23.4.
- 46 The Government's new Disability Action Plan 2014 - 2018<sup>38</sup> commits to a review to identify any changes needed in this area. Going forward, this work will require the close involvement of, and monitoring by, the DPOs.
- 47 In New Zealand there is no requirement to collect and report on disaggregated statistical information on abuse of disabled children. For example, the Ministry of Social Development's statistical report includes information on reports of concern about children but does not identify the number of disabled children within this group.
- 48 International evidence<sup>39</sup> suggests that disabled children are some of the most vulnerable members of society, yet the Government's Children's Action Plan 2012 contains no mention of disabled children.<sup>40</sup>
- 49 During New Zealand's second Universal Periodic Review in January 2014 it was recommended that the New Zealand Government combat child poverty, particularly for Māori children, Pasifika children and disabled children.<sup>41</sup>

## Recommendations **Article 7**

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- 7 That the Government urgently develops an action plan for disabled children, in consultation with DPOs and parent groups. The plan should include increasing the data on disabled children, research into the number, circumstances and needs of disabled children and the abuse of disabled children. The Government must commit resources to implement such an action plan
- 8 That the Government works closely with DPOs to progress the review<sup>42</sup> of the current care and support processes for disabled children to ensure compliance with the CRPD.

## Article 8 Awareness raising

- 50 Disabled people report that their participation in society is often limited by people's negative or uneducated attitudes and have thus called for a national awareness campaign that targets all sectors of society.<sup>43</sup>
- 51 Currently, the Government has a community-based "Think Differently" campaign, aimed at improving attitudes and behaviour towards disabled people. However, DPOs have expressed concern that this work is not complying with the new Government/DPO engagement principles<sup>44</sup> and as a result, some decisions have been made that appear to be inconsistent with the CRPD.

## Recommendations Article 8

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- 9 That the Government's Think Differently campaign engages with the DPOs, using the new engagement principles<sup>45</sup>, to ensure that DPOs can provide meaningful input and leadership on changing attitudes and behaviours towards disabled people
- 10 That the Government commits to a national disability awareness-raising campaign and to plan and progress this in partnership with DPOs.

## Article 9 Accessibility

### The built environment

- 52 Accessible building standards and compliance and monitoring of those standards need reviewing and upgrading to improve the accessibility of the built environment in New Zealand.<sup>46</sup>
- 53 Current building accessibility standards are not mandatory and were last reviewed more than a decade ago.<sup>47</sup> In response to ongoing pressure from the disability sector, the Government announced in December 2013 that it will conduct a review of the current building regulatory system.<sup>48</sup> This review aims to gain a better understanding of how building access requirements are being implemented and the extent to which the requirements provide for access to buildings for disabled people. Recommendations from the review are due mid-2014. The involvement of DPOs in this review is weak and should be guided by the new engagement principles.

## Housing

- 54 Research has shown that disabled people's housing needs are not being met by New Zealand's current housing stock.<sup>49</sup> Research also reported that government funding for housing modifications is primarily for basic needs and does not consider the disabled person's independence and autonomy or the overall welfare of the family. For example, non-disabled family members and housemates are expected to undertake all the cooking for a disabled person because the presence of other adults in the household is interpreted as making accessible kitchen modifications unnecessary. There are further reports of disabled people fearing for their safety in the event of a fire because only one accessible exit is seen as necessary.<sup>50</sup>
- 55 Some groups of disabled people are particularly vulnerable to poor housing options including young people in transition to adult life;<sup>51</sup> people with mental illness, people dependent on funding through the health sector; people who are renting; people without supportive families; and people whose families have low incomes.

## Transport

- 56 There have been some initiatives and improvements in providing accessible transport for disabled people. However, the development of national accessibility standards for all public land transport (recommended in a 2005 report of the Human Rights Commission) has not progressed,<sup>52</sup> and disabled people have reported ongoing problems in implementing transport statutes.<sup>53</sup>
- 57 Disabled people have called for amendments to the Public Transport Management Act 2008 and the Land Transport Management Act 2003 to include disabled people, to clarify accessibility provisions and for better implementation.<sup>54</sup>
- 58 The Government provides some mobility assistance to disabled people, such as the 'Total Mobility' scheme that includes a subsidised taxi service. Disabled people report that this scheme is under-funded and inadequately implemented and there is no consistency in reporting and monitoring of problems. There have been calls for the Scheme to be made nationally consistent and equitable.<sup>55</sup> There are also reports of ongoing problems with non-disabled people using disability parking spaces.<sup>56</sup>
- 59 There is insufficient data collection and monitoring of transport accessibility and use by disabled people, making it difficult to plan for improvements.

## Information and services

- 60 Access to government services and information in New Zealand remains a significant and worrying barrier to disabled people's participation in society. Problems in accessing information and services are reported by disabled people and evident in complaints to the Human Rights Commission and the Office of the Ombudsman.<sup>57</sup> For example, disabled people have reported government information, correspondence and forms are often inaccessible and this includes high-risk information, such as medical consent forms and medicine labels.<sup>58</sup>
- 61 New Zealand Government Web Standards are based on international 'Web Content Accessibility Guidelines' and are mandatory for core government departments. However, compliance with these standards is low and the standards have been criticised for their limited scope ie, they don't include District Health Boards, local authorities and schools.<sup>59</sup>

## Recommendations **Article 9**

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- 11 That the Government ensure all building legislation and building standards align with the CRPD, make compliance with accessibility standards mandatory for all new and renovated public buildings and ensure accessible building standards are appropriately implemented, enforced and monitored
- 12 That the Government engages with DPOs using the new engagement principles<sup>60</sup> to ensure DPOs are able to provide meaningful input and leadership in work resulting from the Building review and ongoing work on building accessibility
- 13 That the Government improves the housing modifications policy, funding and practice to ensure it provides for the independence, autonomy and safety of disabled people
- 14 That the Government progresses plans, in close consultation with DPOs, to progressively improve the accessibility of transport services and infrastructure for disabled people, and to closely monitor progress
- 15 That the Government progresses plans, in close consultation with DPOs, to improve the accessibility of government agencies' information, including by raising compliance with New Zealand Government Web Standards and extending the scope of mandatory compliance with these standards to crown entities, including District Health Boards, local authorities and schools.

## Article 11 Situations of risk and humanitarian emergencies

- 62 The 2010 and 2011 major earthquakes in Christchurch highlighted inadequacies in the emergency readiness and response to disabled people living in the community. Since then there have been a number of initiatives to improve accessible information and planning for disabled people in emergencies.
- 63 The Earthquake Disability Leadership Group was established to advocate for the rights of disabled people in the recovery of Christchurch. This group is led by disabled people and includes DPOs. It has been effective in providing a united voice, however, building accessibility issues and planning for disabled people in emergencies continue to be an issue in both Christchurch and across New Zealand.

### Recommendations Article 11

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- 16 That the Government continues to involve DPOs and disabled people in all work around the recovery and rebuild of Christchurch
- 17 That the Government ensures clear plans are in place to provide protection, safety and continuation of services and support to disabled people in emergency situations.

## Article 12 Equal recognition before the law

- 64 The Convention Coalition monitoring group (made up of DPOs) reported in 2012 that New Zealand most often uses substituted decision-making and not the supported decision-making approach outlined in the CRPD<sup>61</sup> and the CRPD Committee's 'General comment on Article 12'.<sup>62</sup>
- 65 The three pieces of New Zealand legislation most relevant to the application of article 12 are the Protection of Personal and Property Rights Act 1988, the Mental Health (Compulsory Assessment and Treatment) Act 1992 and the Intellectual Disability Compulsory Care and Rehabilitation Act 2003.
- 66 All these statutes contain provisions that support the ability of disabled people to make their own decisions to the greatest extent possible but concerns have been expressed around poor implementation processes and ensuring appropriate safeguards are in place.

- 67 Disabled people have expressed concerns that compulsory interventions are often the first resort rather than the last.<sup>63</sup> There are reports of the administration of electroconvulsive therapy (ECT) by mental health clinicians without consent<sup>64</sup> and reports that the number of people being treated is rising.<sup>65</sup> Concerns have been expressed that people with mental illness are being subject to overuse of compulsory treatment powers under New Zealand's Mental Health (Compulsory Assessment and Treatment) Act. The number of people under compulsory treatment has increased significantly in the past five years and Māori people are over-represented in those numbers.<sup>66</sup> There are also concerns about the widespread use of seclusion in mental health facilities and calls to eliminate this practice.<sup>67</sup>
- 68 The Mental Health Foundation has recommended reviewing and amending the mental health legislation to ensure it recognises that people with mental disorders do not automatically lose their capacity to consent to treatment. They want to ensure that electroconvulsive therapy is genuinely administered with informed consent and to further investigate the reason for the disparities in hospitalisation of Māori people.<sup>68</sup>
- 69 The Mental Health (Compulsory Assessment and Treatment) Act has been criticised for its lack of human rights principles, with changes being sought to make it consistent with the CRPD.<sup>69</sup>
- 70 The Government's new Disability Action Plan 2014 - 2018<sup>70</sup> identifies work needed on legal capacity and supported decision-making and proposes to explore how the Mental Health Act relates to the CRPD. Going forward, this work will require the close involvement of, and monitoring by, the DPOs.

## Recommendations **Article 12**

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- 18 That the Government progresses, in close consultation with DPOs, work to ensure disabled people can exercise their legal capacity through supported decision-making, and to ensure processes provide appropriate safeguards
- 19 That the Government improves monitoring, including providing data and information about disabled people exposed to substituted and supported decision-making
- 20 That the Government progresses immediately, in close consultation with DPOs, work to change the Mental Health (Compulsory Assessment and Treatment) Act 1992 and mental health policies and practices to ensure full compliance with the CRPD.

## Article 13 Access to justice

- 71 The New Zealand Sign Language Act 2006 (NZSL Act) provides the right to use NZSL in legal proceedings whenever it's someone's first or preferred language. Court rules and instructions define the standards of competency that interpreters who work in courts need to have. However, there are reports from Deaf people of inconsistencies and difficulties in accessing competent NZSL interpreters in courts and in obtaining legal assistance. An apparent lack of monitoring and oversight means there is a lack of evidence for this.<sup>71</sup>
- 72 Regulation and practice under the Juries Act 1981 provides for disabled people to be excused from jury service on the grounds of their disability. However, where reasonable accommodations are provided, disabled people may effectively serve on juries. The DPOs are aware of an instance in 2005 where appropriate accommodations were provided enabling a Deaf person to successfully serve on a jury.

## Recommendations Article 13

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- 21 That the Ministry of Justice, in collaboration with appropriate DPOs immediately begin collecting national information on the demand for, and provision of, NZSL interpreters in courts, and report on this information annually
- 22 That the Government review statute, policy and practice in relation to disabled people serving on juries to ensure provisions and practice are not discriminatory and reasonable accommodations are provided.

## Article 14 Liberty and security of person

- 73 Compared to the general population, prisoners have significantly higher levels of mental illness<sup>72</sup> and mental health care for prisoners has been raised as a significant concern.<sup>73</sup> The Office of the Ombudsman is currently monitoring a project between the Department of Corrections and the Ministry of Health to improve mental health care in prisons.<sup>74</sup>
- 74 Concerns have been expressed about a lack of reasonable accommodations for disabled prisoners; and there have been calls for better monitoring of the detention and treatment of people with intellectual/learning disabilities and people with mental illness.<sup>75</sup>



## Recommendations **Article 14**

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- 23 That the Government improve Corrections policy and practices to ensure provisions for disabled prisoners, including prisoners with mental illness, are consistent with the CRPD.

## **Article 16 Freedom from exploitation, violence and abuse**

- 75 Prompted by media reports of disabled people being mistreated and abused by disability service providers, Parliament carried out an Inquiry into the quality of care and services for disabled people in 2008. The Inquiry report highlighted systemic problems and recommended ways to address these. Recommendations included: establishing a new independent monitoring agency (Disability Commission/er), providing disabled people with more choice, individualised funding options, improving complaints processes and service audits, and for disabled people and their families to have a key monitoring role.<sup>76</sup>
- 76 In 2013 the Ministry of Health undertook a review looking at ways to ensure disabled people are safe in disability support services.<sup>77</sup> The resulting report (called 'Putting People First') recommended improving performance management systems (such as not renewing contracts to providers who fail to meet performance standards),<sup>78</sup> making sure disabled people can speak out when they are unsafe and improving complaint processes.<sup>79</sup>
- 77 Recent community research also found a number of structures in place that maintain the status quo of poor and unsafe services to disabled people. These included poor management practices, inadequate monitoring and reporting, little awareness of what constitutes disability abuse and silencing processes.<sup>80</sup>
- 78 Despite several reports over several years consistently pointing to serious systemic problems in the provision of safe and appropriate disability support services, there has been little progress by the Government to make improvements.
- 79 It is unclear whether the definition of abuse in New Zealand's Domestic Violence Act 1995 covers abuse between a disabled person and their caregiver.<sup>81</sup> It has been recommended that work is undertaken to ensure legislation, policy and practice keeps disabled people safe from serious harm.<sup>82</sup>
- 80 The historic abuse and violence against disabled people in the care of the State (for example, in institutions, social welfare homes, residential schools and foster care) has been acknowledged only to a limited extent. The complaints and



restorative processes made available have not been made appropriately accessible to disabled people.

- 81 There is an overall lack of data and monitoring of abuse and violence towards disabled people and, coupled with slow progress in system improvements, makes this a significant concern.
- 82 In New Zealand a court order is not required for sterilisation without personal consent of learning/intellectually disabled people under the age of 18.<sup>83</sup> A Parliamentary select committee considering amendments to the Care of Children Act 2004 heard from disability advocates raising concerns about the lack of legal protections for young disabled girls and women being sterilised. However, the recommendation to require a court order for such procedures was not accepted due to a lack of supporting information,<sup>84</sup> thus highlighting the wide-spread problem of having insufficient data to push necessary improvements.

## Recommendations **Article 16**

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- 24 That the Ministry of Health continues to implement and report on recommendations in the 'Putting People First' report, in a timely manner, to ensure no disability provider and no disabled person falls below the radar
- 25 That the Government ensures the safety, wellbeing and citizenship of disabled children and adults today and into the future by acknowledging past mistakes and providing appropriate processes to address historic abuse to ensure this does not continue
- 26 That the Government commits to improving monitoring data and reporting on, sterilisations of disabled children and adults carried out without their full and free consent, with a view to ending this practice.

## **Article 19 Living independently and being included in the community**

- 83 Disabled people in group residential homes say they continue to experience oppressive living arrangements (such as not being allowed to live with, or near, their partners, families or friends),<sup>85</sup> and have little or no control over the supports they receive and the lives they lead.<sup>86</sup>
- 84 There is a lack of age-appropriate residential facilities for disabled people severely restricting their residential choices and sometimes forcing them to live in rest homes (old people's homes).<sup>87</sup> In 2008 Parliament recommended that

young disabled people in rest homes be placed in age-appropriate services within two years<sup>88</sup>, however, six years on there is no evidence of a reduction in the number of young disabled people in rest homes. In 2008 a reported 583 disabled people under the age of 65 were living in rest homes<sup>89</sup> and five years later this figure is still reported to be over 500 people.<sup>90</sup>

- 85 In 2011, three years after a Parliamentary recommendation to give disabled people more choice in their day-to-day living arrangements,<sup>91</sup> the Government established a 'Choice in Community Living' project. This project aims to provide disabled people in residential services with more choice and control over where they live and the supports they receive. This is a three-year demonstration project limited to 150 people in the Auckland and Waikato regions. An evaluation of this demonstration project is planned.
- 86 The DPOs are not aware of plans, with clear targets and timeframes, to roll out changes to all disabled people in residential services.

## Recommendations **Article 19**

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- 27 That the Government, in close consultation with DPOs, develops targets and timeframes, to ensure that within five years all disabled people have more choice and control over the supports they receive and the lives they lead
- 28 That the Government relocates all disabled people under 65 into the community over the next two years.

## **Article 20 Personal mobility**

- 87 Guide dogs receive no government funding and are fully funded by charity money. Currently, there is a one year waiting list for getting a guide dog.<sup>92</sup> There are inconsistencies in laws and policies that refer to guide dogs, companion dogs or disability dogs and some tension between the Dog Control Act 1996 and protections from unlawful discrimination under the Human Rights Act.<sup>93</sup> These barriers impact the rights of access and participation for disabled people with service animals.

## Recommendations **Article 20**

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- 29 That the Government reviews all provisions for personal mobility to ensure all disabled people the greatest possible independence in personal mobility.

## Article 21 Freedom of expression and opinion, and access to information

- 88 The New Zealand Sign Language Act made NZSL an official language. However, the Act was criticised for its lack of dedicated resources and funding for the promotion and maintenance of the language and for its lack of provisions for NZSL in education.<sup>94</sup>
- 89 The Human Rights Commission’s Inquiry into NZSL in 2013 highlighted key gaps that the Government needs to address to ensure deaf people can realise their rights to their language. In partnership with the Deaf community the Government has progressed proposals towards establishing an NZSL Board to provide strategic advice and oversight on the promotion and maintenance of NZSL.
- 90 Access to information is discussed more fully in Article 9 of this report.

### Recommendations Article 21

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- 30 That the Government continues to progress, in partnership with the Deaf community, an NZSL Board and NZSL Fund for the provision of strategic advice, oversight and promotion of NZSL.

## Article 23 Respect for home and the family

- 91 There are reports that it is harder for disabled people to adopt a child and easier for authorities to remove a child if their parent/s is/are disabled.<sup>95</sup>
- 92 The New Zealand Adoption Act 1955<sup>96</sup> provides that the court may dispense with the consent to adoption if any parent or guardian is deemed “unfit by reason of any physical or mental incapacity”. Disabled people view this as discriminatory and inconsistent with Article 23 of the CRPD.
- 93 Disabled children’s rights to home and family are discussed in Article 7 of this report.

### Recommendations Article 23

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- 31 That the Government review the Adoption Act, other relevant legislation, and all policies and practices around adoption, fostering, custody/guardianship and supports as they relate to disabled children and disabled parents, to ensure compliance with the CRPD.

## Article 24 Education

- 94 Access to funding and support for disabled children in education is a common theme among complaints made to the Ombudsman and the Human Rights Commission,<sup>97</sup> and is the largest area of disability complaints to the Human Rights Commission.<sup>98</sup>
- 95 There are reports of ongoing difficulties to achieve an education that meets disabled children's needs.<sup>99</sup> Families' aspirations are rising but the education system is slow to respond and is lagging behind public expectations.<sup>100</sup>
- 96 The Independent Monitoring Mechanism for the CRPD noted in 2012 and 2014 three concerns regarding education for disabled children:
- a The lack of an enforceable and specific right to education for disabled children
  - b The lack of learning outcomes data for disabled students
  - c The lack of a plan to take New Zealand from a mixed segregated-inclusive education system to a fully inclusive education system.<sup>101</sup>
- 97 The Human Rights Commission's NZSL Inquiry in 2013 found that the Government provides "too little too late" to facilitate children's and families' access to NZSL, particularly in the crucial early years.<sup>102</sup> In response to this Inquiry the Government is progressing a work programme to make NZSL more available in education.
- 98 Disabled youth report experiencing isolation, exclusion, bullying and intimidation in schools.<sup>103</sup>
- 99 A leading disability services and advocacy organisation is progressing legal proceedings against the Ministry of Education claiming special education policies are discriminatory. This is in response to a high number of complaints and concerns about disabled children being treated differently to non-disabled children in enrolment, access to the curriculum and participation in school life.<sup>104</sup>

## Recommendations Article 24

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- 32 That the Government establishes an enforceable right to education for all that is consistent with the CRPD
- 33 That the Ministry of Education works in partnership with DPOs, to take New Zealand from a mixed segregated-inclusive education system to a fully inclusive education system

- 34 That the Ministry of Education establishes a governance body, including DPOs, to provide oversight, advice and disability leadership on education for disabled people
- 35 That the Ministry of Education collects and reports annually on disaggregated data of the learning outcomes, achievement and participation of disabled students in education
- 36 That the Ministry of Education implements anti-bullying programmes to ensure schools are safe and nurturing places for disabled students; and provides data on the types and extent of bullying experienced by disabled students in schools
- 37 That the Tertiary Education Commission collects and reports annually on disaggregated data of the achievement and experiences of disabled people in tertiary education.

## Articles 25 and 26 Health, and habilitation and rehabilitation

### Systemic disparities

- 100 New Zealand has two separate systems providing disability supports:
  - a Accident Compensation Corporation (ACC) that covers people disabled by injury or accident, and
  - b Ministries of Health and Social Development, including the District Health Boards, that fund people disabled from congenital factors or from ageing.
- 101 The Law Commission has criticised the ACC system for unjustifiable discrimination based on the cause of disability.<sup>105</sup>
- 102 There are reported inconsistencies and inequalities between these two systems with reports that ACC sometimes provides higher levels of support. For example, if a leg or sight is lost through diabetes, supports are likely to be much less than if sight or a leg was lost as the result of an accident.<sup>106</sup> Disabled people have called for the two systems to be made one system for all disabled people, irrespective of the cause of disability.
- 103 Disabled people not disabled by injury continue to report negative experiences in health services reporting discrimination, inequality and a lack of dignity and respect in health services.<sup>107</sup>

## Small moves towards people-centred disability support services

- 104 A Ministry of Health demonstration project established in 2011 includes providing the option of individualised funding and Coordinators to support the disabled person to get the services and support they want.<sup>108</sup> This project is being trialled in one area and in 2012 had helped 27 people and their families achieve some positive changes in their lives. At August 2013 a total of 59 people had asked to work with this new project.<sup>109</sup>
- 105 Another government project involving the Ministry of Health, Ministry of Education and Ministry of Social Development also aims to provide disabled people with greater choice and control around their support and services<sup>110</sup>. Called 'Enabling Good Lives' demonstration projects have been established in Christchurch and the Waikato region and will run for three years. The Christchurch project is initially focusing on school leavers with high needs.
- 106 These new approaches have potential to benefit a large number of disabled people however, these projects are small scale and progress has been slow. Also, various factors have contributed to slow uptake of the services over the last four years.<sup>111</sup>
- 107 Other than saying these demonstration projects will inform future directions, the Government has not committed to any long-term plans or targets to transform the entire disability support system, which is the outcome sought by disabled people.

## Learning/intellectually disabled people

- 108 The serious poor health status of people with intellectual/learning disabilities has been well documented in New Zealand, including in a 2003 report of the National Health Committee.<sup>112</sup> However, there has been minimal progress on addressing this<sup>113</sup>, which was commented on by the UN during New Zealand's second Universal Periodic Review.<sup>114</sup>
- 109 The Government's new Disability Action Plan 2014 - 2018<sup>115</sup> identifies the need to improve health outcomes for disabled people, with a specific focus on learning/intellectually disabled people. A work programme with targets and timeframes has yet to be developed.

## Māori

- 110 As a population, Māori people have a higher incidence of disability than non-Māori people<sup>116</sup> and have the poorest health status of any ethnic group in New Zealand.<sup>117</sup>

- 111 Māori people are disproportionately represented in mental illness statistics, experience a poorer standard of living, higher unemployment, lower educational achievement and socio-economic status and consequently poorer health.<sup>118</sup>
- 112 The Government developed a Māori Disability Action Plan 2012 to 2017 Whāia Te Ao Mārama in collaboration with Māori disabled people, key stakeholders and the Māori Disability Leadership Group.<sup>119</sup> The Māori Disability Action Plan outlines priority areas to improve outcomes for Māori disabled people and their whānau (family). A monitoring and advisory group of Māori disabled people meet six-monthly to review progress on implementation and to provide advice to the Ministry of Health.<sup>120</sup>

### **Pasifika disabled people**

- 113 Total rates of disability among Pasifika people<sup>121</sup> are similar to that of non-Pasifika people, however, Pasifika people present with different patterns of disability. For example, Pasifika children have higher rates of deafness and asthma than non-Pasifika children.<sup>122</sup> And, Pasifika people present with higher rates of severe disability than non-Pasifika people.<sup>123</sup> Diabetes is the leading cause of premature mortality and disability for Pasifika people, causing significant disability through heart disease, stroke, blindness, kidney failure and lower limb amputation.<sup>124</sup>
- 114 There is evidence to suggest that Pasifika disabled people are not receiving the same quality of care as the rest of the population, with disparities in the uptake of disability support services, equipment, technology<sup>125</sup>, residential services and supported living services.<sup>126</sup> Pasifika people report that the barriers to disability services include cultural, linguistic, logistic and physical factors.<sup>127</sup>
- 115 The Government's National Pasifika Disability Plan 'Faiva Ora 2014-2016' identifies three priority areas for action to improve outcomes for Pasifika disabled people and their family members.<sup>128</sup> This Action Plan covers disability support services for Pasifika people but not access to health services generally.
- 116 A leadership team is assisting the Ministry of Health with implementing this Strategy.<sup>129</sup>

### **Refugees with disabilities**

- 117 New Zealand has a refugee quota, accepting 750 refugees to settle into New Zealand every year, this includes up to 75 places for refugees with medical conditions or disabilities.<sup>130</sup> A 2012 report found that 38 percent of refugees had a health problem or disability and those people were significantly more likely than others to experience loneliness.<sup>131</sup>



- 118 There is a lack of coordination across refugee support agencies and health and disability support services, resulting in disabled refugees not being able to realise their rights to information and to live independently.<sup>132</sup>

### Quality carers

- 119 Problems in finding and maintaining good quality paid carers (personal assistants<sup>133</sup>) is an ongoing issue, often attributed to the low wages for carers.<sup>134</sup>
- 120 Disabled people have called for a full inquiry into the work and remuneration of aged-care and home-based care workers.<sup>135</sup> A 2008 Parliamentary Inquiry called for a strategy, with funding, to improve workforce training, pay rates, working conditions and career paths for carers and support workers.<sup>136</sup>

## Recommendations **Article 25**

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- 38 That the Government works in partnership with the DPOs to address the systemic and serious health status of disabled people, especially people with learning/intellectual disabilities, Māori disabled people, Pasifika disabled people and disabled refugees, including setting clear targets and timeframes for improved outcomes
- 39 That the Government works in partnership with the DPOs to develop, implement and monitor a strategy to address carer/support workers workforce issues, including workforce training, pay rates, working conditions and career paths.

## **Article 27 Work and employment**

- 121 Disabled people are significantly under-represented in the workforce with a reported 43.6 percent in the workforce, compared with 70 percent of non-disabled people.<sup>137</sup> These figures have not changed in the decade 1996 – 2006.<sup>138</sup> There are further concerns around multiple disadvantaged disabled people, such as Māori, Pasifika and women. Statistics show that Māori disabled people are significantly less likely to be in employment than non-Māori disabled people, non-disabled Māori adults and non-disabled non-Māori adults.<sup>139</sup>
- 122 Employers are often unwilling to give opportunities to disabled people and have incorrect assumptions, such as exaggerated health and safety concerns and being unaware of government funding for disability employment costs.<sup>140</sup> There is a significant group of well-educated disabled people who are unable to access employment.<sup>141</sup>



- 123 There is a lack of data and information on disabled people's employment status. The Disability Survey is undertaken only every five years, whilst a number of annual government surveys<sup>142</sup> monitoring the workforce do not include disability.
- 124 New Zealand's sheltered employment system ceased in March 2007 and in its place the Minimum Wage Act (1983) provides for minimum wage exemption permits to workers who are limited by a disability. This means a lower minimum wage rate may be set for a disabled person in a particular job for the period in the permit. Approximately 1,000 individual workers are under this minimum wage exemption, with about 70 percent of those individuals being paid less than \$5 per hour.<sup>143</sup> Disabled people have called for this minimum wage exemption to be abolished.<sup>144</sup>
- 125 Disabled Persons Assembly NZ Inc., together with Workbridge, established the Disability Employment Forum to bring together disabled people, DPOs, service providers and employers to find solutions to getting more disabled people into satisfying employment. This work includes developing a long-term, all-of-government strategy.

## Recommendations **Article 27**

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- 40 That the Government continues to work in partnership with DPOs to plan and implement work to increase the number of disabled people in employment; to ensure reasonable accommodation in employment is understood and provided; and to support career progression for disabled people; with the public sector leading by example. Plans should include clear targets and timeframes to improve outcomes for disabled people
- 41 That the Government works in partnership with the DPOs to increase data and information on the employment of disabled people
- 42 That the Government works in partnership with the DPOs to develop better alternatives to the minimum wage exemption that ensure consistency with the CRPD.

## **Article 28 Adequate standard of living and social participation**

- 126 As a population group, disabled New Zealanders have a low socio-economic status. They are more likely to live on their own and more likely to live in households with low incomes. They are also less likely to have educational qualifications and less likely to be in the workforce.<sup>145</sup>

- 127 A 'cost of disability' research study in 2010 found that the additional weekly costs for a single disabled person living alone can range from just under \$200 a week to over \$2,500 a week, depending on the impairment type and level of need.<sup>146</sup>
- 128 Although the Government provides various financial supports to help with disability costs, some costs are not recognised<sup>147</sup> and financial support provided is often less than the actual costs. Financial support does not take into account time costs (eg, things taking extra time) and opportunity costs (having fewer opportunities). Research has shown that the majority of the cost of disability falls on individuals and their families.<sup>148</sup>
- 129 Disabled people have called for recognition of the disabling effect of the cost of disability.<sup>149</sup>

## Recommendations **Article 28**

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- 43 That the Government reviews the costs of disability for disabled people to better understand how these costs create barriers to their full participation in society.

## **Article 29 Participation in political and public life**

### **Electoral Commission**

- 130 Since 2005, the Electoral Commission has been working with disabled people to improve access to electoral events and voting information.<sup>150</sup> As a result, there has been an increase in accessible information, captions on television advertisements, information on accessible polling places, disability awareness training for Election Day staff and DVD resource kits for voters with learning/intellectual disabilities.
- 131 The Electoral Commission's post-election surveys include disabled people and have indicated there is a high level of awareness about the accessible information and positive comments about accessible voting processes.<sup>151</sup>
- 132 The Electoral Commission's new disability strategy aims to ensure that by 2020 disabled voters will be able to cast an independent and secret ballot in parliamentary elections.<sup>152</sup> This includes looking at the feasibility of providing telephone dictation voting for the September 2014 general election. It is also monitoring progress on overseas online voting, with the hope of providing online voting in New Zealand for the 2020 general election.

## Limitations on the right to vote

- 133 New Zealand's Electoral Act 1993 disqualifies certain categories of people from voting, including people who have been detained (but not necessarily convicted) for three years or more for criminal offending due to a serious mental health condition.<sup>153</sup> It has been recommended that this disqualification be reconsidered.<sup>154</sup>

## Recommendations **Article 29**

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- 44 That the Government removes limitations on voting by disabled people who have been detained
- 45 That the Government continues to progress work to ensure all disabled people have access to a fully informed, independent secret vote in national and local elections, and that accommodations meet the requirements of diverse disabled people.

## **Article 30 Participation in cultural life, recreation, leisure and sport**

- 134 Access to television, DVDs and online broadcasting for people with sensory disabilities in New Zealand is significantly lower than the other countries New Zealand likes to compare itself with. Less than 10 percent of television in New Zealand is captioned and only about two hours per day of television is audio described.<sup>155</sup>
- 135 The way people access broadcasting is rapidly changing and there is a need for a comprehensive approach to improving the accessibility of broadcasting in New Zealand.<sup>156</sup> Disabled people have called for captioning and audio-description to be mandated by statute that progressively increases the proportion of accessible broadcasting and ensures high quality standards.<sup>157</sup>
- 136 Blind and vision impaired people have called on the Government to sign and ratify the Marrakesh Treaty.<sup>158</sup> Only 1-7 percent of the world's published books are available in accessible formats, partly due to barriers in copyright laws.<sup>159</sup> The Treaty helps address this by requiring a domestic copyright exception in law for vision impaired and print disabled people, and allowing for the import and export of accessible materials.

## Māori and Pasifika disabled people

- 137 Māori disabled people report being unable to access aspects of their Māori culture and language.<sup>160</sup> Māori marae and Pasifika churches are significant cultural and community meeting places and access for Māori disabled and Pasifika disabled is problematic. For example, the rights of Deaf Māori people to access their Māori culture and language are significantly limited as there are only two qualified tri-lingual interpreters in New Zealand<sup>161</sup> (tri-lingual interpreters are able to interpret between three languages: English, Māori and New Zealand Sign Language).

## Recommendations **Article 30**

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- 46 That the Government works in partnership with DPOs to develop and implement plans to increase the accessibility of broadcasting. This is to include television and online broadcasting and ensuring the percentage of broadcasting that has captions and audio-descriptions is progressively increased
- 47 That the Government works in partnership with DPOs to develop, implement and monitor plans to ensure Māori and Pasifika disabled people can access and participate in their Māori/Pasifika culture and language
- 48 That the Government signs and ratifies the Marrakesh Treaty by December 2015.

## **Article 31 Statistics and data collection**

- 138 The lack of meaningful, analytical and demographic data collected on disabled people by central and local government raises serious questions about the Government's commitment to meaningfully monitor the CRPD.
- 139 The CRPD Convention Coalition has recommended that government agencies, including District Health Boards, schools and local authorities, be required to collect and report on disaggregated data on disabled people in their annual reports.<sup>162</sup> Disabled people are the largest marginalised minority group in New Zealand, comprising 24 percent of the population<sup>163</sup>, and disability must be included within standard demographic questions in all government agencies' monitoring and reporting.

## Recommendations **Article 31**

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- 49 That Statistics New Zealand works in partnership with DPOs to develop, implement and monitor an all-of-government work programme to ensure that government agencies, including District Health Boards, schools and local authorities, collect and report on disaggregated data on disabled people in their agencies' reports.

## **Article 32 International cooperation**

- 140 The Pacific Disability Forum (PDF) is a partnership of Pasifika organisations of, and for, disabled people (including New Zealand DPOs) working to improve the lives of disabled people.
- 141 In August 2010 the New Zealand Government, along with other Pasifika leaders at the Pacific Islands Forum, affirmed its support for the Pacific Regional Strategy on Disability 2010-2015.
- 142 At a UN Human Rights Council session in March 2011 New Zealand supported a resolution for governments to ensure international cooperation measures are consistent with the CRPD and to include disability-specific initiatives.<sup>164</sup> Despite the New Zealand Government's apparent support for this resolution it discontinued its disability development funding to the PDF in the same year.<sup>165</sup>

## Recommendations **Article 32**

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- 50 That the Government reinstates financial support for specific disability development initiatives in the Pacific, including to the PDF, and work in partnership with New Zealand DPOs and Australia in the implementation and monitoring of such initiatives.

## **Article 33 National implementation and monitoring**

- 143 In response to this article the New Zealand Government established an independent monitoring mechanism for the CRPD, comprised of three bodies: the Convention Coalition Monitoring Group (a coalition of seven DPOs<sup>166</sup>), the Human Rights Commission and the Office of the Ombudsman.

- 144 The Convention Coalition Monitoring Group has been funded by the Ministry of Social Development to produce monitoring reports on the rights of disabled New Zealanders. They have completed four reports since 2010.
- 145 This monitoring work makes use of the international monitoring instrument developed by Disability Rights Promotion International (DRPI). To capture the depth and scope of discrimination experienced by disabled people, the DRPI framework requires monitoring across three areas:
- a Individual violations
  - b Systems (policy and legislative frameworks, case law, etc)
  - c Media coverage of disability.
- 146 Government funding for the Convention Coalition to do CRPD monitoring work for the 2013–2016 period covers only the first of the three areas in the DRPI framework and so it provides only part of the picture.

## Recommendations **Article 33**

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- 51 That the Ministry of Social Development provides ongoing funding for the Convention Coalition to collectively undertake strategic monitoring in all three areas of the DRPI framework to help inform the independent monitoring of the CRPD.

## Optional Protocol

- 147 Disabled people have called on the New Zealand Government to immediately sign and ratify the CRPD Optional Protocol.<sup>167</sup>
- 148 During New Zealand's second Universal Periodic Review in January 2014, the Government confirmed that accession to the Optional Protocol to the CRPD was a key consideration<sup>168</sup>. However, the DPOs are not aware of any specific plans or timeframe for achieving this.

## Recommendations **Optional Protocol**

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- 52 That the Government is transparent with its plans and timeframes for ratifying the CRPD Optional Protocol.

## Appendix A

Following are brief organisation descriptions of the seven DPOs that collectively directed this report:

### **Association of Blind Citizens of New Zealand Inc.**

Founded in 1945, the Association of Blind Citizens of New Zealand Inc (Blind Citizens NZ) is New Zealand's leading blindness consumer organisation and one of the country's largest organisations of disabled consumers. Our aim is to heighten awareness of the rights of blind and vision impaired people and to remove the barriers that impact upon our ability to live in an accessible, equitable and inclusive society. We have a nation-wide membership of approximately 1,500 blind and vision impaired people who participate in our work via local branches and informal networks.

We work with government, providers of blindness and disability-specific services and, providers of both public and private services and accommodations, to raise awareness about the needs of blind and vision impaired people and, to remove the barriers so we too, can make our mark in the world. Blind Citizens NZ's objects promote in every way, the interests, well-being and rights of blind and vision impaired people.

### **Balance New Zealand**

Balance NZ is a national network of people who have lived experience of mental health distress (peers). We were formed in the mid-nineties as a network of manic depression support groups, and from there evolved to be actively involved in building and maintaining regional, national and international networks inclusive of all mental health peers. Balance NZ provides peer-led information, education, support, training, advocacy and research with our members to build healthier communities for us all.

### **Deaf Aotearoa New Zealand Inc.**

Deaf Aotearoa is a Disabled Person's Organisation and the New Zealand representative for the World Federation of the Deaf, the international body for Deaf people. Deaf Aotearoa works closely with government agencies, other not-for-profit organisations and the private sector to increase awareness of Deaf people's lives, promote NZSL and strengthen the rights of Deaf people.

We work primarily with members of the Deaf community, as well as providing information and resources to the general public across a range of areas. Deaf

Aotearoa is the national service provider for Deaf people in New Zealand. Deaf Aotearoa owns the only national New Zealand Sign Language interpreting service iSign, which provides interpreting services across all fields.

## **Deafblind (NZ) Inc.**

Deafblind (NZ) Inc. is a consumer-driven Society that works as an advocacy and support body for people in New Zealand who have this unique dual sensory loss. We encourage deafblind people and other people with disabilities to speak for themselves in order to improve their quality of life. Working with the Royal New Zealand Foundation of the Blind and several government departments we advise on the needs of people living with our dual disability to help break down the barriers that prevent full inclusion in society. We also encourage peer support as a vital aspect of our personal and group growth.

## **Disabled Persons Assembly New Zealand Inc.**

Disabled Persons Assembly New Zealand Inc. (DPA) is the national assembly and collective voice of disabled New Zealanders. It is a member-driven organisation governed by disabled people. The organisation's main purpose is to articulate the voice of its members who have all kinds of disabilities. DPA works in collaboration with other DPOs, allied NGOs and government to progress implementation of the Convention on the Rights of Persons with Disabilities in Aotearoa New Zealand.

DPA has some 900 individual members who are disabled or are the parent or guardian of a disabled person and some 200 corporate members who represent or deliver services to disabled people. DPA members form a network of regional assemblies to debate local and national issues.

On the international stage, DPA is New Zealand's representative member of the Disabled Persons International and Rehabilitation International.

## **Ngāti Kapo O Aotearoa Inc.**

Ngāti Kāpō O Aotearoa Inc. (Ngāti Kāpō) is an indigenous Disabled Persons Organisation (DPO) founded by kāpō (blind, vision impaired and deaf blind) Māori and their whānau with membership open to any person who supports the Society's purpose and aims, which, are founded upon Māori cultural philosophy, protocols and practices.

Ngāti Kāpō is charged by its members to create, facilitate and or contribute in the advancement of strategic and service solutions that assist Ngāti Kāpō members to attain whānau ora, thus realising their potential as individuals, as whānau and as contributing citizens in Aotearoa New Zealand society.



## **People First New Zealand Inc. Ngā Tāngata Tuatahi**

People First New Zealand Inc., Ngā Tāngata Tuatahi is a national self-advocacy organisation that is led and directed by people with learning (intellectual) disability. People First NZ works in a human rights framework to empower and assist people with learning disability to be strong and valued citizens of New Zealand. People First NZ is governed by its National Committee – made up of 6 elected Regional Presidents (people with learning disability) and 2 non-voting advisors

People First NZ has 30 local self-advocacy groups throughout New Zealand and members speak up locally, and nationally about issues that are important to them. People First NZ also has an education arm, Learn With Us an Easy Read Translation Service and undertakes project work.

People First NZ Inc. is part of an international social justice movement advocating for the rights and inclusion of all people with learning disability.

# Endnotes

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- <sup>1</sup> “Disabled People’s Organisation (DPO) Roles and Attributes. Working draft – 3 December 2013; and Office for Disability Issues. (2014). “Disability Action Plan 2014-2018: New Zealand’s priorities to advance implementation of the United Nations Convention on the Rights of Persons with Disabilities and the New Zealand Disability Strategy.” (May 2014). P 3.
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