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WORLD CONFERENCE ON HUMAN RIGHTS
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GENERAL DEBATE ON THE PROGRESS MADE IN THE FIELD OF HUMAN RIGHTS
SINCE THE ADOPTION OF THE UNIVERSAL DECLARATION ON HUMAN RIGHTS
AND ON THE IDENTIFICATION OF OBSTACLES TO FURTHER PROGRESS IN
THIS AREA AND WAYS IN WHICH THEY CAN BE OVERCOME

Contribution by the New Zealand Human Rights Commission

Introduction

1. It is in its domestic laws and institutions that the commitment of a State to the protection and upholding of human rights will be evident; in its willingness to change those laws and to create those institutions.

I. ESTABLISHMENT

2. The first institution established in New Zealand was the Office of the Race Relations Conciliator (Race Relations Act 1971). New Zealand had also adopted the institution of the Ombudsman in 1962.

3. In 1977, an office with a broader role was set up, the Human Rights Commission. The establishment of the Commission was clearly linked to the United Nations initiatives. The Long Title to the Human Rights Commission Act 1977 reads: "An Act to establish a Human Rights Commission and to promote the advancement of Human Rights in New Zealand in general accordance with the United Nations International Covenants on Human Rights". There are seven Commissioners, three full time, one part time; the Race Relations Conciliator; the Privacy Commissioner and the Chief Ombudsman.

4. The Chief Ombudsman has indicated a desire not to be part of the Commission when the Act is reviewed. There is a possible conflict of interest because the Commission is subject to the Official Information Act, which is administered by the Ombudsman, and separate roles and jurisdictions for the two organizations.

5. The Commissioners are appointed by the Governor General on the recommendation of the Minister of Justice, for a fixed term (five years), and are removable only for specified reasons by the Governor General. Salaries are determined by the Higher Salaries Commission, an independent body which fixes the salaries of, for example, judges and politicians.

6. The Commission itself is accountable in its work in that it is required to report annually to the Minister and that report is tabled in Parliament. It is also, as a government-funded body, now subject to the audit requirements of the Public Finance Act.

II. FUNCTIONS OF THE COMMISSION

A. Complaints procedure

6. The first function of the Human Rights Commission and until recently the best known in New Zealand is that the Commission acts as an anti-discriminatory board with an individual complaints jurisdiction on a number of grounds specified in the Act - currently sex, marital status, religious or ethical belief and race in certain circumstances. Recently age has been included, although as yet in employment only.

7. It is hoped that the Act will soon be expanded to include, inter alia, disability (including impairment and disease), sexual orientation, family status, identity of spouse, employment status and political opinion. Further, a proposal for the amalgamation of the Race Relations and Human Rights

Commission Acts has been put forward. It is considered that this would make the law easier to understand as the Human Rights Commission Act covers discrimination on grounds specified in the Race Relations Act in areas not dealt with by the Race Relations Act.

8. Enquiries and complaints are initially received by the Enquiries Officer. A complaint is then investigated by a mediator who interviews all relevant parties and compiles and presents a report to the Commission. If the Commission finds substance in the complaint, the mediator attempts a settlement between complainant and respondent. Over 90 per cent of complaints are settled in this way. Examples of settlements include an apology, the implementation by an employer or defendant of education and training programmes for the workplace and or the individual defendant, individual counselling (for cases such as sexual harassment) and monetary compensation.

9. If the complaint is not settled, the Commission itself takes the case for or instead of the complainant to the Equal Opportunities Tribunal, a separate independent judicial body. This is a model which is somewhat different from that in other jurisdictions but one which we have found to have considerable advantages.

B. Education

10. Secondly, the Commission has a very broad education role in virtually all aspects of human rights including the international dimension. New Zealand, since signing the United Nations Declaration of Human Rights in 1948, has ratified a number of conventions such as the International Convention on the Elimination of All Forms of Racial Discrimination (1972), the International Covenant on Civil and Political Rights (1978), the Optional Protocol and Second Optional Protocol to the International Covenant on Civil and Political Rights (1989 and 1990), the Convention on the Elimination of All Forms of Discrimination Against Women (1984) and the Convention on the Rights of the Child (1993).

11. The Commission, for example, prepares materials for programmes in schools on equal employment opportunities and sexual harassment.

C. A wider human rights role

12. Thirdly, the Commission has a broader watchdog role. The Commission is empowered to scrutinize legislation and it can make submissions on bills to a Select Committee in the usual way or report separately to the Prime Minister.

13. The Commission has recently prepared and made a number of submissions with regard to employment and in the context of privacy of information legislation. It can receive representations from the public, make public statements and report to the Prime Minister on "any matter affecting human rights". Recent examples include a "Report to the Prime Minister on migrant workers" (1990), a report on mental health, "Patient rights and the public interest" (1991) and "Who cares for the kids?", a study of children and young people in out-of-family care (1992). The Commission can also report on the desirability of adherence to international instruments. It is also now consulted during the reporting procedure to United Nations treaty bodies.

14. The promotion and protection of human rights in New Zealand also involves the Commission in the obligation to be informed about and take part in international and regional human rights initiatives.

III. THE NEW ZEALAND BILL OF RIGHTS ACTS

15. The Commission's role in advancing human rights in New Zealand in accordance with the International Covenants on Human Rights was further consolidated by the passing of the Bill of Rights Act 1990 which incorporates the International Covenant on Civil and Political Rights into domestic legislation. The Bill of Rights protects the basic rights listed in it in two ways: by ensuring that new bills are tested against these rights before introduction to the house, and by directing the courts in their interpretation of laws in a manner consistent with the Bill. The rights in the Bill are subject, however, to a limitation section which recognizes the need to balance various rights against each other and in the context of the public good.

16. In addition to affirming New Zealand's commitment to the International Covenant, the Long Title of the Bill of Rights Act specifically states that the aim of the Act is "to affirm, protect and promote human rights and fundamental freedoms in New Zealand". The Commission may therefore be seen as having a central role in monitoring the implementation of the Bill.

IV. NEW ZEALAND'S HUMAN RIGHTS RECORD

Universal Declaration on Human Rights	Adopted by United Nations General Assembly	1948
United Nations 1951 Convention relating to the Status of Refugees (reservation to 24 (2))	Acceded	1960
1967 Protocol	Acceded	1973
Race Relations Act (established Office of the Race Relations Conciliator)		1971
International Convention on the Elimination of All Forms of Racial Discrimination (reported on biennially; 8th and 9th consolidated reports presented August 1990)	Ratified	1975
Office of Ombudsman established		1962
Human Rights Commission Act (established Human Rights Commission)		1977
International Covenant on Civil and Political Rights (reserved articles 10 (2) (b); 10 (3); 14 (6); 20; 22) 1st report 1983; 2nd report 1989	Ratified	1978

International Covenant on Economic, Social and Cultural Rights (reserved articles 8; 10 (2) - 1st report lodged 1990 - not yet presented)	Ratified	1978
Official Information Act (jurisdiction to Ombudsman)		1982
Convention on the Elimination of All Forms of Discrimination Against Women (1st report 1987, 2nd report submitted July 1992 - not yet presented (reserved 11 (2) (b)); recruitment into armed services; underground work in mines (withdrawn subsequently after denunciation of ILO Convention No. 45)	Ratified	1984
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1st report submitted July 1992) - not yet presented	Ratified	1989
Optional Protocol to International Covenant on Civil and Political Rights	Acceded	1989
Bill of Rights Act		1990
Second Optional Protocol to International Covenant on Civil and Political Rights	Acceded	1990
Convention on the Rights of the Child	Ratified	1993
ILO Conventions		
New Zealand has ratified a large number of ILO Conventions and has been a strong supporter of the ILO. However, it has not ratified Convention Nos. 76 and 98.		
