

Ministry of Justice
19 Aitken Street
Wellington

30 May 2024

Tēnā koutou,

Re: 4th Universal Periodic Review: feedback on recommendations

Thank you for the opportunity to provide feedback on the recommendations from New Zealand's fourth Universal Periodic Review (UPR) at the Human Rights Council in Geneva.

The NZ Drug Foundation wishes to comment on two groups of recommendations, raised by a number of countries:

1. *New Zealand's human rights obligations for Māori under te Tiriti o Waitangi and the disproportionately high number of Māori in prison.*

A number of states raised concerns about New Zealand's legal framework and criminal justice practices relating to Māori rights. These countries included some of New Zealand's closest diplomatic and trading partners, such as Germany (recommendation 6.29), Canada (recommendations 6.65 and 6.248), and others (e.g., recommendations 6.67-70).

Currently, Māori represent over half (52.4%) of the prison population in NZ¹. We strongly support any policies and actions that help reverse poor criminal justice outcomes for Māori, and give effect to the Crown's obligation for protection of Māori under te Tiriti o Waitangi.

Over the last ten years, over 20,000 Māori have been convicted of drug offences, including 5,327 who were sentenced to imprisonment.² Any criminal conviction has a knock-on effect on both the individual and their whānau. Having a criminal record perpetuates poverty by locking people out of employment and educational opportunities and reducing social participation.

We urge the Government to address the root causes of poor criminal justice outcomes for Māori and to uphold the Crown's obligations under te Tiriti o Waitangi. This should include decriminalisation of personal possession and social supply of all drugs and replacing these measures with health offerings for those at risk of drug harm.

Meaningful improvements are possible even before existing legislation is changed. We recommend that the Government strengthens and expands te Ara Oranga programme nationwide. This programme is a partnership between the community, health system, and the Police that has proven effective in:

- Reducing criminal justice involvement among Māori,
- Increasing access to and acceptability of health and social interventions to treat addiction and reduce drug harms, and
- Boosting access to the labour market by removing barriers to education and employment.

¹ Corrections NZ. (2024). *Prison facts and statistics – March 2024*. Available from:

https://www.corrections.govt.nz/resources/statistics/quarterly_prison_statistics/prison_facts_and_statistics_-_march_2024

² Information provided by the Ministry of Justice to NZ Drug Foundation in response to a request under Official Information Act – April 2024.



2. *The rights of people with disabilities, our disability support system, and a human rights-based approach in mental health legislation in line with the Convention on the Rights of Persons with Disabilities.*

A range of recommendations pertained to the rights of disabled people (e.g., recommendations 6.213-220). We agree more needs to be done to strengthen disabled people's ability to exercise their human rights fully.

We note that disabled people have an elevated prevalence of substance use. This is likely due to poor access to health care, which forces people to self-treat their symptoms with illicit drugs and locks them out of adequate income, housing, and education. We recommend that the Government develops policies that address these underlying causes, and that the financial, social and health supports available to disabled communities are strengthened.

In particular, we recommend increasing access to appropriate and adequate health care, including where this requires the use of controlled substances. Specifically, we recommend that more attention is paid to the needs of people with neurodevelopmental disorders. This should include increasing access to timely assessment and treatment of Attention-Deficit/Hyperactivity Disorder (ADHD) through enabling stimulant prescribing in primary care. We note that early and adequate treatment of ADHD has been shown to decrease the incidence of substance use disorder in later life³ and to reduce criminal justice involvement among those on treatment.

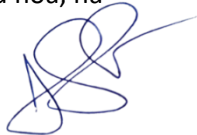
In the context of the rights of disabled people, we recall the recent Government announcement about the proposed changes to the Land Transport (Drug Driving) Amendment Act⁴. We have serious concerns about the principle of penalising individuals for the 'presence' of qualifying drugs under the Land Transport Act, instead of (appropriately) penalising driving while impaired.

Of particular concern are insufficient protections of the rights of people who receive medical treatment with 'qualifying drugs' (such as opioids, benzodiazepines, stimulants, or medicinal cannabis) and who may be seriously disadvantaged by currently limited medical defence provisions. In our view, the current provisions are insufficient, do not follow natural justice principles, and are discriminatory to disabled people. These issues include:

- an automatic 12-hour driving ban for people receiving medical treatment with a qualifying drug, regardless of whether they are impaired or not, and
- the flawed process of claiming medical defence evidenced by the 'current' prescription which ignores the medical realities of people with chronic illnesses who often, and in line with the medical advice they receive, continue to use leftover medicine beyond the prescription period.

We hope that our comments help shape New Zealand's response to the UPR recommendations.

Nāku noa, nā



Sarah Helm

Executive Director | Kaitohu Hautū

NZ Drug Foundation Te Puna Whakaiti Pāmamae Kai Whakapiri

³ Boland, H., DiSalvo, M., Fried, R., Woodworth, K. Y., Wilens, T., Faraone, S. V., & Biederman, J. (2020). A literature review and meta-analysis on the effects of ADHD medications on functional outcomes. *Journal of psychiatric research*, 123, 21–30.

<https://doi.org/10.1016/j.jpsychires.2020.01.006>

⁴ New Zealand Government. (2024). *Government to rollout roadside drug testing*. Available from: <https://www.beehive.govt.nz/release/government-rollout-roadside-drug-testing>

