

**Government Response to
The United Nations Human Rights Committee in response to communication
No. 3666/2019**

Introduction

- 1 The Government has carefully considered the views of the United Nations Human Rights Committee (the Committee) concerning communication No. 3666/2019 submitted by Arthur William Taylor, Sandra Hinemanu Ngaronoa, and Sandra Wilde (the authors).
- 2 The Government responds to the Committee's Views.

Background

- 3 New Zealand ratified the International Covenant on Civil and Political Rights (ICCPR) on 28 December 1978.
- 4 Article 25(b) of the ICCPR states that every citizen shall have the right and the opportunity to vote at genuine periodic elections which shall be by universal and equal suffrage. Article 2(3)(a) states that State parties undertake to ensure that any person whose rights or freedoms have been violated should have an effective remedy.
- 5 In 2010, New Zealand passed the Electoral (Disqualification of Sentenced Prisoners) Amendment Act, which introduced a blanket ban on prisoner voting by amending the Electoral Act 1993. This is the subject of the authors' complaint to the Committee. This has since been replaced by the current disqualification of prisoners who are serving a sentence of three years or more.
- 6 Having already sought domestic remedies to the blanket ban, the authors initially submitted communication No. 3666/2019 to the Committee on 15 October 2019. The Committee communicated its Views to New Zealand on 23 November 2023.

Views of the Committee

- 7 In its Views of 23 November 2023, the Committee found that:
 - automatic disenfranchisement resulting from a criminal conviction or sentence violates Article 25(b) of the ICCPR, unless there is a reasonable connection between the offending and the act of disenfranchisement (for example, the offence is related to ballot or voter fraud);
 - in this case, there was no reasonable connection between authors' offending and the act of disenfranchisement, and therefore the 2010 Act violated the authors' rights under Article 25(b) of the ICCPR; and
 - New Zealand is under an obligation to provide the authors with a remedy under Article 3 of the ICCPR, but in the circumstances the Committee considered that its Views on the merits of the claim is sufficient remedy in this case. The Committee also noted that New Zealand is under an obligation to take steps to prevent similar violations from occurring in the future, including by reviewing its legislation on voting restrictions for prisoners to ensure alignment with section 25 of ICCPR.
- 8 The Committee requested New Zealand report with information on the measures it is taking to give effect to its Views within 180 days, by 24 May 2024.

New Zealand Government Response

- 9 New Zealand prides itself on our open and transparent democratic system. Free and fair elections are integral to our electoral system and contribute to ensuring trust in the Government and democratic institutions.
- 10 The New Zealand Government notes that the Electoral (Disqualification of Sentenced Prisoners) Amendment Act is no longer in force. Instead, following the passing into law of the Electoral (Registration of Sentenced Prisoners) Amendment Act 2020, section 80(1)(d) of the Electoral Act 1993 provides that prisoners serving a sentence of three years or more are disqualified from enrolling to vote in either parliamentary or local elections.
- 11 The New Zealand Bill of Rights Act 1990 provides that the rights and freedoms contained within that Act may be subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society. The Government considers that the loss of the right to vote during a term of imprisonment of three years or more is justified on this basis.
- 12 The restriction serves the important purposes of enhancing the criminal sanction for serious offending and enhancing civil responsibility and respect for the rule of law. The restriction is proportionate to these purposes for several reasons, including because it is:
 - 12.1 restricted to those who have been convicted of serious criminal offending, and have therefore been sentenced to a term of imprisonment of more than three years; and
 - 12.2 for the term of imprisonment only; and the Electoral Act requires support to be provided upon a prisoner's release, to reengage them with the electoral system.
- 13 The New Zealand Department of Corrections proactively engages with people in prison and assists them if they would like to enrol. For people serving less than three years in prison, this happens after they are sentenced. For people who are serving a longer sentence of three years or more, this will happen when they are due to be released from prison and become eligible to enrol and vote.
- 14 Enrolling to vote is promoted in prison with the display and provision of Electoral Commission information in all units, including posters, application forms, brochures, and booklets. Information covers enrolment eligibility, why enrolling to vote is important, information on the Māori roll and General roll for people enrolling for the first time, and information on the unpublished roll and application process. Prisoners also have access to information on television and via existing self-service kiosks.
- 15 An independent panel of experts has recently reviewed New Zealand's electoral framework. The Independent Electoral Review was established in 2022 to consider how to make New Zealand's electoral system clearer, fairer, and more accessible for current and future generations. The Panel considered prisoner voting and recommended that all prisoners be able to vote. The Government has noted the Panel's finding but considers that it is appropriate to retain the current voting restrictions, for the reasons outlined above.