

Office of the Clark  
Select Committee Office  
Level 10  
Bowen House  
Wellington



25 June 2009

**AMNESTY INTERNATIONAL AOTEAROA NEW ZEALAND**

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Dear Sir/Madam,

Please find **enclosed** our submission to the Auckland Governance Legislation Select Committee on the Local Government (Auckland Council) Bill 2009. We do not wish to make an oral submission to the Committee.

Yours sincerely,

Patrick Holmes  
Chief Executive Officer

Amnesty International Aotearoa New Zealand:  
Submission to the Auckland Governance Legislation  
Select Committee on the Local Government  
(Auckland Council) Bill 2009

25 June 2009

**Amnesty International is an independent movement of over 2.2 million people in more than 150 countries who contribute their time, money and expertise to the promotion human rights and international campaigning to prevent some of the most serious violations.**

**Amnesty International**, recognising that human rights are indivisible and interdependent, also works to promote all the human rights enshrined in the Universal Declaration of Human Rights and other international standards, through human rights education programs and campaigning for ratification of human rights treaties.

**Amnesty International's** New Zealand section has approximately 8,100 members and regular donors, and active members in some 30 local community groups, specialist groups and various action networks. At any one time its members are working on cases and issues in approximately 90 countries. The work of Amnesty International's New Zealand members is supported by paid staff and volunteers based in Auckland, and the movement's International Secretariat based in London.

**Amnesty International** is impartial. It is independent of any government, political persuasion or religious creed. It does not support or oppose any government or political system, nor does it support or oppose the views of the victims whose rights it seeks to protect

**Amnesty International's** policies and plans are discussed and decided at general meetings of the membership and meetings of their elected representatives held every two years (International Councils). In New Zealand their implementation is managed by the Chief Executive Officer overseen by an elected Governance Team. Between International Councils the international affairs of Amnesty International are managed by the Secretary General, who reports to an elected International Executive Committee of members from at least seven different countries.

**Amnesty International** is financed by its worldwide membership and the public. Strict guidelines exist to safeguard its independence of the organisation; AI does not accept government funds for its campaigning work or organisation.

**Amnesty International** has formal relations with the United Nations Economic and Social Council (ECOSOC), UNESCO, the Council of Europe, the Organization of American States, the Organisation of African Unity, and the Inter-Parliamentary Union.

**Amnesty International** was awarded the United Nations Human Rights Prize for "outstanding achievements in the field of human rights" on the 30th anniversary of the Universal Declaration of Human Rights. The movement received the Nobel Peace Prize in 1977 for its contribution to "securing the ground for freedom, for justice, and thereby also for peace in the world".

## SUMMARY

- 1.0 Amnesty International Aotearoa New Zealand (AIANZ) welcomes the opportunity to make a submission on the Local Government (Auckland Council) Bill 2009. AIANZ considers that the provisions in the Bill, providing for the governance structure of the Auckland Council, fail to adequately uphold the human rights of indigenous peoples. AIANZ encourages all decision-makers to take a human rights approach to the development of the governance of the new super-city.
- 2.0 It is widely accepted in international law that this human rights approach includes the following specific features:
- Participation
  - Accountability
  - Non Discrimination
  - Empowerment
  - Explicit linkage to human rights standards

## HUMAN RIGHTS STANDARDS

### The Right to Development

- 3.0 The right to development can be found in international law and New Zealand common law.<sup>1</sup>
- 3.1 The United Nations General Assembly's Declaration on the Right to Development,<sup>2</sup> adopted in 1986, provides in Article 1 for the right to political development, which entails the right to participate, contribute to and enjoy *political development*.
- 3.2 The primary responsibility for implementing the right to development rests with the Government (Article 3), and requires the Government to formulate appropriate conditions for realising the right through policies (Articles 2, 4 and 8) including the eradication of 'all social injustices.'
- 3.3 Furthermore, the United Nations Development Group Guidelines on Indigenous Peoples' Issues asserts that, as part of the right to development, indigenous peoples have the right to define and decide on their own development priorities. This includes the right to participate in the formulation, implementation and evaluation of programmes for national development that may affect them, and that the development goals of indigenous peoples are closely linked to their ability to exercise decision-making in their communities.<sup>3</sup> Interconnected to the said rights is the right to free, prior and informed consent.

### The right to free, prior and informed consent

- 4.0 The right to free, prior and informed consent is recognised in various international instruments including the General Recommendation XXIII of the United Nations Committee on the Elimination of Racial Discrimination, the UN General Assembly's Plan of Action for the 2nd International Decade of the World's Indigenous Peoples, the International Labor Organization Convention 169 and UN Declaration on the Rights of Indigenous Peoples (UNDRIP).
- 4.1 Article 19 of UNDRIP provides that 'States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain

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<sup>1</sup> *Tainui Māori Trust Board v A-G* (1989). 2 NZLR 513 (CA), *Te Runanganui o Te Ika Whenua Inc Society v A-G* (1994). 2 NZLR 20 (CA) and the Waitangi Radio Spectrum Report, 1999. (Wai 776)

<sup>2</sup> UN General Assembly *Declaration on the Right to Development* 4 December 1986 Resolution 41/128.

<sup>3</sup> The United Nations Development Group Guidelines on Indigenous Peoples' Issues February 2008, <http://www2.ohchr.org/english/issues/indigenous/docs/guidelines.pdf>

their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.’

## **RECOMMENDATIONS**

5.0 AIANZ makes the following recommendations to the Auckland Governance Legislation Select Committee:

1. AIANZ recommends that the Select Committee adopt a human rights approach to the formation of the governance structure of the Auckland super-city.
2. As indigenous peoples have the right to participate in the formulation, implementation and evaluation of programmes for national development that may affect them, AIANZ recommends that there be full and meaningful consultation on the governance of the Auckland super-city with indigenous peoples.