

*Expert Seminar in Support of the Work of the
UN Expert Mechanism on the Rights of Indigenous Peoples
Establishing effective monitoring mechanisms at the national and regional levels for the implementation of the
UN Declaration on the Rights of Indigenous Peoples*



THE UNIVERSITY OF BRITISH COLUMBIA



UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

Panelist	Dr. Margaret Mutu
Panel	Panel 3: Monitoring by Indigenous Peoples
Time	14.00 – 15.30
Date	Thursday 23 February 2023
Location	<i>(Remote via Zoom)</i> Robert H. Lee Alumni Centre University of British Columbia 6163 University Blvd Vancouver, BC



Aotearoa Independent Monitoring Mechanism for the Implementation of the Declaration

PRESENTED BY PROF MARGARET MUTU

Monitoring Mechanism

- ▶ Established 2014 to monitor NZ government's compliance with the UN Declaration on the Rights of Indigenous Peoples – supported by Human Rights Commission – annual reports 2015 – 2022
- ▶ Reports to National Iwi Chairs Forum (NICF) and to UN EMRIP

Purpose

- ▶ promote, protect and monitor the implementation of the Declaration
- ▶ hold government to account
- ▶ work in partnership
- ▶ realisation of the rights and responsibilities agreed in He Whakaputanga and Te Tiriti o Waitangi.

Mandate

- ▶ National Iwi Chairs Forum
- ▶ Appoints the governance body
- ▶ Receives the report
- ▶ Reports back to their communities
- ▶ <http://iwichairs.maori.nz/>

Structure

- ▶ Governance Forum
- ▶ Diverse membership
- ▶ Indigenous rights experts
- ▶ Determine scope and priorities for the monitoring report
- ▶ Direct the technical team
- ▶ Members accountable to their iwi and organisation

Structure

- ▶ Technical team
- ▶ Produces the report
- ▶ Reports to the Governance Forum
- ▶ Voluntary work
- ▶ Academics, human rights advocates

Establishment and first reports

- ▶ 2015 – notifies its establishment and intention to report – invites government to contribute
- ▶ 2016 – reports on NZ non-compliance in respect of treaty claims settlements, TPPA and local government; recommends a National Plan for implementation of UNDRIP & sets out principles
- ▶ 2017 – Sets out priorities for a National Plan

Priorities

- ▶ 2017 – our key priorities for a National Plan of Action
 - ▶ **Constitutional transformation**
 - ▶ **Self-determination** – decision-making, free prior and informed consent – child protection, local government
 - ▶ **Lands, territories and resources** – treaty claims settlements extremely problematic; fiduciary duties; climate change
 - ▶ **Cultural rights** – language – very small improvements; tikanga (law) still marginalised
 - ▶ **Equality and non-discrimination** – poorer outcomes in health, education, justice, employment, housing and income; high incarceration; poverty especially children
 - ▶ **Practical implementation** and technical assistance

2018-2022 – reported progress on 2017 priorities

- ▶ **Constitutional transformation** – need engagement
- ▶ **Self-determination** – need engagement – Office of Māori-Crown Relationships positive step; free prior and informed consent still extremely problematic
- ▶ **Lands, territories and resources** – climate crisis (Zero Carbon Bill); extractive industries, ownership of water and treaty claims settlements all still extremely problematic;
- ▶ **Cultural rights** – need support for language and to address racism and discrimination against Māori and our language
- ▶ **Equality and non-discrimination** – need public education on racism, discrimination, Te Tiriti, indigenous and human rights especially of Māori disabled and Māori women;
- ▶ **Practical implementation** – National Plan of Action started but then stalled in 2022

Evolution over time

- ▶ Monitoring reports provided each year to EMRIP and to NICF
- ▶ Providing shadow reports to UN treaty bodies (including: UN Human Rights Committee (2016); Committee on Economic, Cultural and Social Rights (2017), Committee on Discrimination Against Women (2018), Universal Periodic Review (2018))
- ▶ Holding workshops with Iwi and community groups to inform reports
- ▶ Engaging in EMRIP annual sessions
- ▶ Requesting and hosting an EMRIP country visit
- ▶ Increasing engagement with government, financial support, developing partnership ways of working
- ▶ Seeing some examples of the Monitoring Mechanism's work and international reporting prompting government action

Challenges

- ▶ Overcoming government resistance
- ▶ Recruiting useful partners/associates (planned engagement)
- ▶ Funding, skills, resources
- ▶ Bridging the local, national international divide
- ▶ Finding the appropriate UN body to receive our reports

Our inspiration

JUST DO IT

Improving what we do

- ▶ What processes and procedures can EMRIP establish to make it easy for monitoring reports to be received by EMRIP?
- ▶ What might the reports contain to enable EMRIP to respond in a manner that is useful for the promotion and protection of indigenous rights?
- ▶ How can these reports engage other UN bodies?
- ▶ What might be the role of States (and other groups such as Human Rights Commissions) in the development of monitoring reports?
- ▶ How can the independence of the Mechanism be maintained?