



Aotearoa New Zealand Association of Social Workers
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AOTEAROA NEW ZEALAND ASSOCIATION OF SOCIAL WORKERS (ANZASW)

Submission on

International treaty examination of the Trans-
Pacific Partnership Agreement (TPPA)

To the:

Foreign Affairs, Defence and Trade Committee

Submissions due 11 March 2016



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Introduction

Aotearoa New Zealand Association of Social Workers, or ANZASW, is the professional body for social workers in New Zealand. It is imperative that we provide a voice for our members on the International treaty examination of the Trans-Pacific Partnership Agreement (TPPA) Bill.

In order to be in a position to write this submission on behalf of our membership ANZASW conducted a survey. The survey was emailed to 2,659 Research subscriber members, 3,393 members via our weekly ANZASW Announcement email and promoted via our ANZASW Facebook page which has a membership of 453.

We received 145 replies.

The questions in the survey related to whether New Zealand should be part of the TPPA, whether the members thought the Trans Pacific Partnership Agreement (TPPA) may have a positive or negative effect on New Zealand society and what specific impact the TPPA may have on Tangata Whenua. The questions asked were of an interval scale type except for when specific feedback was asked for. The questions were:

- Do you agree New Zealand should be a party to the Trans Pacific Partnership Agreement?
- The TPPA will have a negative impact on the Treaty of Waitangi?
- The TPPA will have a negative impact on our public health and medicines?
- The TPPA will contribute to the loss of our sovereignty?
- The Investor State Dispute Settlement (ISDS) provision should be removed from the TPPA?
- The TPPA will increase corporate power and influence over the political process?
- The TPPA will threaten climate action and our environment?
- The TPPA will increase the cost to consumers for copyright extensions?
- The TPPA will compromise internet protections and privacy?
- The TPPA will undermine our democracy (ie. secret tribunals, secret negotiations)?
- In your view, what are the specific impacts on Tangata Whenua?

Social work practice is about providing assistance, understanding and encouragement to sensitive, stressed and vulnerable clients. Social workers are focused on improving clients' wellbeing whilst effecting long term change. Our members have a significant professional interest in the concerns surrounding the Trans Pacific Partnership Agreement (TPPA) and its potential as a catalyst for social and human rights injustices.

Considering the countless ramifications the Trans Pacific Partnership Agreement will have on the general public, our members have provided feedback from their unique social work point of view. The summary of their viewpoints and suggestions for improvements are below for your consideration.

Aotearoa New Zealand Association of Social Workers

Aotearoa New Zealand Association of Social Workers (ANZASW) is the professional body for a national collective of more than 3,500 social workers, who have day-to-day involvement with the most vulnerable people in our society. Our work is guided by a Code of Ethics that is aligned with the International Federation of Social Workers (IFSW).

Social work is founded on principles of human rights and social justice. We are guided by the Treaty of Waitangi and respect the equality, worth and dignity of all people. In accordance with the March 2012 IFSW Global Agenda¹ “we commit ourselves to supporting, influencing and enabling structures and systems that positively address the root cause of oppression and inequality. We commit ourselves wholeheartedly and urgently to work together with people who use services and with others who share our objectives and aspirations to create a more socially-just and fair world”. We believe the overarching principles of social work are respect for the inherent worth and dignity of human beings, doing no harm, respect for diversity and upholding human rights and social justice.

Our mission is to enable people to develop their full potential; our skill-set is problem solving and facilitation of positive change in individuals, organisations, whānau and communities. We recognise the environment contains opportunities for people to be both agents of change and victims of factors beyond their control. As a profession we strive to alleviate poverty, foster social inclusion and liberate those who are vulnerable or oppressed. Social work is evidence-based and draws on theories of human development, behaviour and social systems.

Social workers respond to crises and emergencies along with the personal or social problems that arise from experience of barriers, inequities and injustices within our society. Our interventions involve problem solving, development of coping strategies, one-on-one counselling and therapy, family and group work, agency administration, community organisation and helping people to access services, resources and support systems within their community. We work across government and non-government settings including community organisations, iwi agencies, private practice, youth justice, child protection, mental health, addictions and disability. We are involved in research, training, education, professional development, competency assessment, data gathering, risk assessment, structural analysis, interagency protocols and the improvement of social policy.

¹ International Federation of Social Workers, International Association of Schools of Social Work and International Council on Social Welfare (2012). ‘The Global Agenda for Social Work and Social Development Commitment to Action’. Available at isw.sagepub.com (accessed 13 June 2012)

Understanding the potential impacts

International trade agreements like the Trans Pacific Partnership (TPP) are nothing new so to understand the rationale as to why the ANZASW and its members would write a submission opposing the Trans Pacific Partnership, we must first look at previous agreements like the North American Free Trade Agreement (NAFTA) and the Central America Free Trade Agreement (CAFTA) which have been operational for 22 and 10 years respectively.

Provisions within the TPP have been modelled off trade agreements like NAFTA and CAFTA and therefore to understand the potential impacts of the TPP one has to look at what affects both these agreements (and identical provisions such as the ones found within the TPP) have had since they went into effect.

We also need to look at some potential impacts the implementation of the TPP may have on New Zealand society and debunk the economic bonus so lauded by Government.

Employment and Economic Development

Proponents of international trade agreements claim it will bring economic growth to the countries involved and that if the economy grows then the public will be better off. However recent studies, indicate that the TPP will provide limited economic growth with a GDP “gain of 0.00% for Australia, Canada, Chile, Peru, Singapore, and the United States; for Japan, New Zealand, Malaysia, and Mexico, the projected gain is 0.01% or 0.02%; Vietnam is projected to get the biggest GDP boost at 0.1%” (Burfisher et al., 2014, p. 21), with a potential reported loss for Malaysia of nearly RM 5 billion (Idris, 2014, para. 1) per year” (as cited in Arevalo, 2015).

If such limited growth of GDP is the reality the hypothesis that trade agreements facilitate an increase in a nation’s wealth is significantly flawed resulting in a conclusion that corporate businesses are the main benefactor of such agreements.

The Right to Safe Drinking Water and Sanitation

According to the World Health Organisation “1.6 million people die every year from diarrhoeal diseases (including cholera) attributable to lack of access to safe drinking water and basic sanitation and 90% of these are children under 5” (WHO, 2015, para. 6). The right to safe drinking water and sanitation, which should be a basic right afforded to every human being, is not secured through the Trans Pacific Partnership trade agreement.

Two examples, both involving Argentina, show how through the ISDS provision installed within the TPP agreement, corporations can successfully sue governments even when it has been proven that the corporations have acted against the best interest of the public.

- In 1995 Vivendi Universal and its Argentine partner Compañía de Aguas del Aconquija S.A. were contracted to develop and operate the Argentines Province of Tucuman’s water service. Within 12 months the company raised water bills by 70 percent and heavy magnesium deposits, which are a potential public health hazard, left the province’s tap water brownish in colour. In that time they did not deliver an improvement to the service provided to the residents of the province. By the end of 1996, after significant public outcry and government dissatisfaction, the agreement was cancelled and in 1997 Vivendi filed a claim for \$300 million in damages against Argentina and won. (Public Citizen, 2007, p. 12).

- In 1999 Enron's Azurix division was involved in a water privatisation operation with the provincial government of Buenos Aires. Shortly after taking over it attempted to increase the rates. The increase was blocked by regulators. In addition, there was an algae outbreak which left consumers needing to boil their water. Enron decided to dissolve Azurix and exit from its Argentinian contract. They also filed "a compensation claim with ICSID. In June 2006, ICSID ruled that Argentina must pay \$165.2 million of Enron's Azurix \$525 million claim. Argentina has petitioned for an annulment in the Azurix case". (Public Citizen, 2007, p. 12) This was unsuccessful.

Unhealthy food

Following the signing of NAFTA, corporations from the United States increased investments within Mexico (predominantly within the food processing sector). This led to very high rates of child obesity in Mexico through the widespread consumption of soft drinks and snack food (De Schutter, 2011, p. 15). Even though there is general consensus that the NAFTA agreement is the main source of the obesity crisis now hitting Mexico (Carlsen, 2011, para. 5), restricting or banning advertising on unhealthy food would be an infringement of the market access provisions of the Services Chapter. Furthermore, any move to legislate against this may invoke litigation. In effect, this erodes a nation's sovereign right to rule for the betterment of its population. This may resign further generations to health issues like heart disease, obesity and diabetes therefore increasing the nation's costs on health beyond what it foresaw before NAFTA.

Fishing

The right to food extends beyond land based activities. Fishing to feed one's family accounts for approximately 1 billion people (predominantly in developing countries). This is in terms of relying "on fish as their primary animal protein source" (Fisheries and Ocean Canada, 2012, para. 2). In regards to the right to food, the United Nations Special Rapporteur states "in the case of communities dependent on fish and fishing resources, Governments must comply with obligations to respect, protect and fulfil the right to adequate food" (United Nations, 2004, p. 21). Provisions within the Services Chapter of the TPP will make it harder to restrict foreign vessels from entering waters and therefore further marginalise the communities who are dependent on fishing for their survival. The commercial fishing vessels are set up "towards export and may undermine local small-scale fisheries" (De Schutter, 2012, p. 10) by abusing the resources available beyond their capacity. This could further increase poverty within the local population. If a Government decides to revoke the fishing licence of such a company, who happens to also be from another TPP nation, they could be in violation of the fair and equitable treatment provision in the leaked TPP investment chapter and be sued.

Pollution

The World Health Organisation stated in a 2014 report that 7 million people died in 2012 as a direct result of exposure to air pollution confirming that air pollution is the number one environmental health risk (WHO, 2014, para. 1). In addition, the Global Alliance on Health and Pollution articulated that "pollution is the leading cause of death in low and middle income countries" (GAHP, 2014, para. 4). On the basis of these two significant statements, you could assume a world-wide strategy (inclusive of international corporations) on the reduction of pollutants would be on the global agenda. Unfortunately this is not the case. In regards to the some past and present trade

agreements if a nation was to try to prevent its citizens from being exposed to pollution it could be sued under equivalent provisions to those which have been agreed in the leaked TPP investment chapter.

Current examples of TPP countries having been sued under equivalent provisions are:

- Ethyl Corp v. Canada: ban of dangerous chemical: In 1997 the Canadian Government banned the import of methylcyclopentadienyl manganese tricarbonyl (MMT) as they had not determined its toxicity. Ethyl Corp, the sole manufacturer of MMT in the world, then subsequently commenced litigation against the Canadian Government claiming the banning of MMT was an arrest of its investment. In the end the Canadian Government dropped its ban and paid Ethyl Corp “\$13 million for costs and lost profits while the legislation was in place and gave Ethyl Corp. A letter authorizing the use of MMT, stating that there was no scientific evidence of any health risk or any impact on car exhaust systems” (United Nations, 2003, p. 20).
- Metalclad v Mexico: Toxic Waste Facility: Metalclad purchased a facility off a Mexican firm in the municipality of Guadalupe. The Mexican municipality decided not to grant Metalclad a construction permit until Metalclad cleaned up existing issues regarding toxic waste. As well as the decision not to grant the permit, the Mexican Government ordered the establishment of an ecological preserve on the same site. Metalclad started proceedings on the grounds that the denial of a permit amounted to “expropriation without compensation, and a denial of fair and equitable treatment”. The tribunal ruled “the denial of the construction permit and the creation of an ecological reserve” went against NAFTA’s “obligation to provide foreign investors with a “minimum standard of treatment,” because the firm was not granted a “clear and predictable” regulatory environment” (Public Citizen, 2015, p. 24).
- Renco v Peru: metal smelter pollution: In 1997, Renco purchased a lead smelting plant in La Oroya, Peru via its subsidiary Doe Run Peru (DRP). A condition of the sale was that Renco would perform and complete an environmental remediation plan called a PAMA. DRP has stalled, delayed and continuously asked for extensions to its obligation to the PAMA. In 2006 the surrounding environment at the site of the smelter was named in the top ten most polluted sites in the world with 99% of the children living in and around the site having high levels of lead poisoning. The Peruvian Government considered acquiescing to yet another extension. However in the end the “Peruvian Government rejected Doe Run Peru’s/Renco’s restructuring plan that would include reopening the metallurgic plan” (NJGI, 2015, para. 1). Despite undisputed evidence regarding the environmental impact made by Doe Run Peru / Renco, they pursued an \$800 million dollar litigation path against the Peru government.

ANZASW member responses

Do you agree New Zealand should be a party to the Trans Pacific Partnership Agreement?

91% of respondents did not agree that New Zealand should be party to the Trans Pacific Partnership. Many cited the attack of our sovereign right to rule without outside corporate interests as one of the main reasons they opposed the TPP. The secrecy in which the TPP was conducted, coupled with the lack of transparency and consultation, also played a large part in members rejecting the notion of New Zealand being party to this trade deal.

Of the 9% who agreed New Zealand should be party to this deal having access to regional markets and the expected growth in GDP was a contributing factor in their positivity to the TPP however, all but two raised the notion that transparency, the need to protect Te Tiriti O Waitangi and our continued sovereignty were issues needing protection.

- *'The public have had limited information regarding the content of this deal and more importantly what ramifications potentially transpire down the track. As citizens and tax payers I believe we have a right to robust information...invoking the guise of "commercial sensitivity" does not devolve the Ministers and government from their responsibility to govern with transparency'*
- *'The TPP agreement goes against many of the philosophies of social work, social justice and equality. The so-called partnership agreement is purely about profit and ensuring fiscal growth. While, in this capitalist society, I understand the philosophy behind economic growth, TPPA takes this to the extreme in that it does not consider the needs of the society of Aotearoa. Instead the agreement rides roughshod over the needs of our society. Importantly, in my opinion, TPPA is contrary to the founding document of this nation, Te Tiriti o Waitangi, showing no consideration for the indigenous population. Having the country placed in the position of being sued for loss of profit by multi-national organisations is at best short-sighted, at worst it evidences the complete lack of consideration the current government has for the general public of Aotearoa new Zealand'*
- *'I am Maori, I am a Rights Holder not Stakeholder of Aotearoa, I will not be a part of an agreement that threatens Te Tiriti O Waitangi and the Sovereignty of Maori. The World Banks and Leaders need to re- think their strategy of ONE WORLD POLICY. WE ARE NOT UP FOR BEING TAKEN OVER or SOLD'*

The TPPA will have a negative impact on the Treaty of Waitangi

113 of the 145 respondents either agreed or strongly agreed that the TPP will have a negative impact on Te Tiriti O Waitangi.

- *'TPPA would severely impinge on our freedom to access information and quality, affordable healthcare. The TPPA would reduce the importance of Te Tiriti thereby further disempowering the indigenous people of our land. TPPA could cause financial instability as we would lose control over our laws in place to reduce the possibility financial crisis'*
- *'Further colonisation via corporations, opportunity to further disregard Te Tiriti'*
- *'The risks factors that the TPPA implies to Te Tiriti and the unconvinced manner in which the NZ Government arrived to the signing of this agreement is a matter of concern. The undemocratic process and lack of consultation does nothing to appease these concerns'*

The TPPA will have a negative impact on our public health and medicines

The ANZASW feels that the right to affordable medicine (i.e. the continued accessibility to generic medication) is at risk through the TPPA. This is particularly significant for the marginalised in our community when decisions are being made daily as to whether to pay for medicines needed or to put food on the dinner table.

Recently in New Zealand, critics and supporters of the trade deal have discussed the ramifications of the TPP on Pharmac. Critics argued that “there were numerous ways the US and overseas pharmaceutical companies could undermine Pharmac's effectiveness as a result, including restricting cheaper generic medicines” (New Zealand Herald, 2015, para. 20).

The ANZASW calls for an independent comprehensive Health Impact Assessment (HIA). “The scope of such an assessment must be broad and encompass both the direct and indirect effects of the TPP on health and health equity in NZ over both the short and long term” (nzDoctor, 2014, para. 12).

99 of the 145 respondents either agreed or strongly agreed that the TPP will have a negative impact on our public health and medicines.

- *‘The health and welfare of our people and our land and our waterways should be a priority. I fear the TPPA has different priorities’*
- *‘I have listened to Jane Kelsey speak about this issue and the implications it will have on New Zealand, our ability to stand up for the rights of our people to access health care medications at reasonable prices, protecting our environment. This puts us at risk of being controlled by overseas companies’*
- *‘Any loss of sovereignty and restrictions on control over our own land and law making ability will have negative effects. The increased ability to extend patents for medicines will reduce the amount of money Pharmac has to fund health’*

The TPPA will contribute to the loss of our sovereignty

106 of the 145 respondents either agreed or strongly agreed that the TPP will contribute to the loss of our sovereignty.

- *‘When profits of multi-national corporations take precedence over the holistic wellbeing of citizens we all suffer. However, the potential degradation of our sovereignty and self-determination impacts greatly on tangata whanau who have already suffered the loss of these rights and fought long and hard in the attempt to regain them. The environmental implications threaten to further diminish the connection of tangata whenua to the land. How can the Treaty be upheld in this context, when the opinions of Maori are not required in this agreement and when the protection of Te Ao Maori is not assured?’*
- *‘The right for New Zealanders to set their business sovereignty / tino rangatiratanga within New Zealand regarding foreign interest rights would be put in jeopardy. Our country our rules of business end of story invest or not their risk not ours! John Keys ill conceived \$ hypothesis is finally being realised by us all’*

The Investor State Dispute Settlement (ISDS) provision should be removed from the TPPA

98 of the 145 respondents either agreed or strongly agreed that the Investor State Dispute Settlement (ISDS) provision should be removed from the TPPA.

- *'The TPPA does not recognise the validity of customary rights or cultural values. Financial interests will be placed above traditional values held by Tangata Whenua in any disputes with potential investors over land or resource development. The Treaty exception in the TPPA relies on the government of the day to acknowledge Treaty issues and decide whether an issue relates to the Treaty or not. This could leave Tangata Whenua with fewer rights over their environment, natural resources and biodiversity than multinational corporations who have access to ISDS processes. It will become more difficult for the Crown to continue the Treaty of Waitangi processes of settlement due to potential conflict with private business interests who have access to ISDS tribunals that can penalise a government very heavily. This creates a 'chilling' effect which could be detrimental to Maori Treaty claims. Maori have not been consulted under the TPPA process and the results of the TPPA for Maori are clearly in breach of the Treaty'*
- *'There is good evidence that the TPPA will result in an increase in inequality and unemployment in New Zealand (see Bill Rosenberg's CTU report of January - the TUFTS University modelling of the TPPA). I would query a number of aspects of the claimed economic benefits of the TPPA (see the expert paper on TPP Legal by Barry Coates, Rod Oram, Tim Hazledene and Geoff Bertram - there are many flaws in the governments modelling of the benefits). The ISDS process has been questioned in its legal validity (Open Letter from Lawyers on TPP 2012) and in its effects on Human Rights (Alfred de Zoyas address to the UN calling for human rights impact assessments on trade and investment agreements)'*

The TPPA will increase corporate power and influence over the political process

103 of the 145 respondents either agreed or strongly agreed that the TPPA will increase corporate power and influence over the political process

- *'This reduces NZ autonomy and is against the Tiriti Waitangi, it is an under handed way to surrender to corporate greed'*
- *'I feel if TPPA goes ahead, our rights as Tangata Whenua will become null and void, as the land will be a commodity to big corporate business wanting to invest in our clean, green image. They will not care/may be ignorant how they acquire that commodity. The poor get poorer and the rich get richer'*
- *'It's about power and control. Large multinational corporations are looking at ways to increase their influence and profits. They do not want to be restricted by independent nation's political processes and policies and have no interest in any individual's social circumstances, especially if that individual is at the bottom of the heap. This means, if you have nothing you are of no value and if you have a little even that will be taken away. Tangata Whenua are over represented among the economically poor, as a collective they might stand a better chance but the TPPA will take bargaining with the government away'*

and put it in the hands of the wants of the multinational corporations. Tangata Whenua might feel that this is a repeat of the arrival of European settlers in New Zealand and we all know how that went for Tangata Whenua'

The TPPA will threaten climate action and our environment

105 of the 145 respondents either agreed or strongly agreed that the TPPA threaten climate action and our environment.

- *'Anything that impacts on our country's ability to make its own decisions; including with job opportunities; climate change and many other facets of our life will affect the root causes of oppression and inequality'*

The TPPA will increase the cost to consumers for copyright extensions

105 of the 145 respondents either agreed or strongly agreed that the TPPA will increase the cost to consumers for copyright extensions

The TPPA will compromise internet protections and privacy

100 of the 145 respondents either agreed or strongly agreed that the TPPA will compromise internet protections and privacy

The TPPA will undermine our democracy (ie. secret tribunals, secret negotiations)

107 of the 145 respondents either agreed or strongly agreed that the TPPA will undermine our democracy (ie. Secret tribunals, secret negotiations)

What are the specific impacts on Tangata Whenua?

There were a number of themes coming through from ANZASW members with regards to the specific impact the TPPA would have on Tangata Whenua if the TPPA was implemented. Members cited the fact that there was no or limited consultation with Maori, the loss of tino rangatiratanga and the weakening of Te Tiriti O Waitangi. Members specified the lack of transparency during the negotiation process as a major issue and the dilution of Tangata Whenua rights as alarming.

- *'Tangata whenua have been disenfranchised in this process and weakened the ability of successive governments to make any agreements with tangata whenua. How this agreement will impact on our founding treaty is unsure. This endorses foreign corporations, non-democratically elected entities to have power over the sovereign peoples of Aotearoa. This is politically motivated method of undermining the citizens of this Nation'*
- *'The current changes that are being put through Parliament now in the Te Ture Whenua Act will have impact on the use of land for Maori i.e. unused land - there is suspicion that the unused land will be taken without consultation Water rights - we will lose our rights to the water - it is already being sold literally from under us as a hapu in Northland have discovered. Fishing rights - Kai moana will be restricted I believe the Treaty of Waitangi is being targeted and I strongly believe that the Government would like to see the treaty removed made null and void. The TPPA attacks the core of Te Ao Maori the whenua, the environment, the kai...'*
- *'There are numerous issues, including Maori sovereignty, intellectual property, the Treaty of Waitangi exception clause, and the contentious issue of water rights. The government failed on its Treaty of Waitangi obligation to actively engage with Maori on the deal. The*

government refused to release information that would allow Maori experts to conduct a full and independent treaty risk assessment. They wouldn't release the text even confidentially to the Waitangi Tribunal. The TPPA includes a clause which states it will not preclude New Zealand giving favourable treatment to Maori, including under the terms of the Treaty of Waitangi'

- *“With each instrument that it signs up to, the Crown has less freedom in how it can provide for and protect Māori, their tino rangatiratanga, and their interests in such diverse areas as culture, economic development and the environment.” (Waitangi Tribunal, WAI-262, 2012) · The TPPA fetters the sovereignty of New Zealand governments and has the potential to chill their future decisions, including those relating to Māori under te Tiriti o Waitangi, He Wakaputanga o te Rangatiratanga (Declaration of Independence), the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), and as a matter of public policy and social justice. · The TPPA conflicts with Māori rights and Crown obligations under te Tiriti and the UNDRIP. The Crown’s prior commitment to indigenous peoples’ right to self-government and political autonomy and their right to the recognition, observance and enforcement of treaties should have informed the negotiation of the TPPA. · Because the TPPA has the potential to impact on hapu and iwi and their resources, it requires informed consent, or at the least a robust bona fide engagement so Māori views are fully incorporated into decision making. · Despite the Wai 262 report saying the Crown’s then policies and practices did not comply with the Treaty, and too often came after decisions were made, there was no credible attempt to engage with Māori as the Crown’s Treaty Partner before or during the TPPA negotiations. · Several chapters guarantee foreign states and their commercial interests the right to participate in New Zealand’s domestic decisions, while Māori as tangata whenua have no similar guarantees. · Rights of Māori relating to Intellectual Property (IP), biodiversity, and environmental law and policy, guaranteed through te Tiriti o Waitangi and the UNDRIP, could be significantly affected by the TPPA. · The IP chapter strengthens the rights of holders of state-recognized intellectual property rights, a form of intellectual property that has generally not protected mātauranga Māori and the rights of kaitiaki and has, in many cases, undermined those rights. · Despite the Treaty of Waitangi exception, the provisions in the IP chapter will make it more difficult for Māori to achieve changes to New Zealand IP law that are necessary to protect rights and obligations of kaitiaki in relation to mātauranga Māori. · Commercialisation of the mātauranga associated with genetic and biological resources, and of the resources themselves, can compromise the kaitiaki relationship and put the Crown in breach of Treaty principles. Yet the importance of conservation and biological diversity in the TPPA is framed by an objective of facilitating use of biological and genetic resources. · The Environment chapter provides general commitments to environmental protection, specific detail on a small number of environmental issues, and some procedural mechanisms for cooperation between parties. But there is nothing that reflects Waitangi Tribunal recommendations to strengthen Māori participation in environmental decision-making, planning and management, including under the Resource Management Act. · The UN special rapporteur on the rights of indigenous peoples singled out investment chapters of agreements like the TPPA and investor-state dispute settlement as a risk to indigenous rights and a constraint on their ability to gain remedies. · The TPPA leaves the rights and interests of Māori vulnerable to foreign states and corporations who have no obligations under te Tiriti or the UNDRIP, and who will have a legal right to pursue their interests through private*

international mechanisms. This may further undermine the willingness of governments to implement Tribunal recommendations for fear of legal action. · The Treaty exception is limited in scope and relies on the good will of the government to protect Māori rights, which repeated Waitangi Tribunal reports show it has failed to do. · The government has made far-fetched claims regarding the economic gains to New Zealand and to Māori because of their significant presence in natural resource sectors of the economy. Those figures are not supported by evidence and ignore the tangible and intangible costs of the TPPA to Māori. · The TPPA's economic model is based on trade liberalisation, monopoly rights to own exploit intellectual property, and privileged rights for foreign investors, and will not serve a future Māori economic development agenda that is built around core Māori values, commitment to environmental sustainability, and tino rangatiratanga. The Waitangi Tribunal will hold an urgent hearing in March 2016 on a claim that the TPPA is inconsistent with te Tiriti, focusing on the Crown's processes and whether the Treaty of Waitangi exception fully protects Māori using 3 studies: fracking, affordable medicines, and water. The Crown has refused to defer further action on the TPPA until the claim is resolved.

Conclusion

The concerns surrounding the TPP and its potential as a catalyst for social and human rights injustices have led the ANZASW and its members to look closely at this trade agreement.

There are a number of areas for concern – namely the impacts on Tangata Whenua and Te Tiriti O Waitangi, the disempowering nature of this agreement; the fact that many basic human rights will be taken away; the Investor State Dispute Settlements process (ISDS); lack of any Human Rights Impact Assessments (HRIA) and the secrecy surrounding the negotiations.

As members of the New Zealand Social Work Community it is our obligation to agitate against systems (both locally and internationally) that work against the basic human rights of the marginalised. Only through this work can we highlight the injustices, educate our fellow citizens to the discrimination being lavished across sectors of the population, and hopefully one day live in a world where every human being is treated with the respect and dignity they deserve.

The ANZASW does not support the implementation of the Trans Pacific Partnership Trade Agreement and asks the Select Committee to ask for a delay at least until all interested parties have had a chance to clearly understand the impacts to New Zealanders of what has been agreed to.

References

- Burfisher, M. E., Dyck, J., Meade, B., Mitchell, L., Wainio, J., Zahniser, S., Arita, S., Beckman, J. (2014). Agriculture in the Trans-Pacific Partnership. (Economic Research Report Number 176) Retrieved from United States Department of Agriculture website: <http://www.ers.usda.gov/media/1692509/err176.pdf>
- Concern over TPP Pharmac threat. The New Zealand Herald. Retrieved from http://m.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=11463317
- Idris, S. M. M (2014, October 24). Malaysia may lose RM5 billion from the TPPA. The Malaysian Insider. Retrieved from <http://www.themalaysianinsider.com>
- Carlsen, L. (2011). NAFTA Is Starving Mexico [Website]. Retrieved July 2, 2015, from Foreign Policy in Focus website: http://fpif.org/nafta_is_starving_mexico/
- De Schutter, O. (2011). The Right to Food (Report A/HRC/19/59). Retrieved from United Nations website: http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-59_en.pdf
- De Schutter, O. (2012). The Right to Food (Report A/67/268). Retrieved from United Nations website: <http://www.ohchr.org/en/HRBodies/SP/Pages/GA67session.aspx>
- Fisheries and Oceans Canada. (2012). Overfishing and Food Security. Retrieved June 23, 2015, from Fisheries and Oceans Canada website: http://www.dfo-mpo.gc.ca/international/media/bk_food-eng.htm
- Global Alliance on Health and Pollution. (2014). The Silent Killer of Millions in Poor Countries [Website]. Retrieved June 23, 2015, from Global Alliance on Health and Pollution website: <http://www.gahp.net/new/pollution-the-silent-killer-of-millions-in-poor-countries/>
- Network for Justice in Global Investment. (2015). A brief introduction of the Doe Run / Renco vs Peru case [Website]. Retrieved June 23, 2015, from Network for Justice in Global Investment website: <http://justinvestment.org/2012/04/fact-sheet-la-oroya-peru/>
- nzDoctor. (2014). The impact of the Trans-Pacific Partnership on health: Why an independent, comprehensive health impact assessment is crucial prior to signing. Retrieved March 8, 2016, from nzDoctor website: <http://www.nzdoctor.co.nz/un-doctored/2014/october-2014/28/the-impact-of-the-trans-pacific-partnership-on-health-why-an-independent,-comprehensive-health-impact-assessment-is-crucial-prior-to-signing.aspx>

- Public Citizen. (2015). TABLE OF FOREIGN INVESTOR-STATE CASES AND CLAIMS UNDER NAFTA AND OTHER U.S. "TRADE" DEALS. Retrieved from Public Citizen Website: <http://www.citizen.org/documents/investor-state-chart.pdf>
- United Nations. (2003). Human rights, trade and investment (Report E/CN.4/Sub.2/2003/9). Retrieved from United Nations website: <http://www.ohchr.org/EN/Issues/Globalization/Pages/ReportsHC.aspx>
- United Nations. (2004). The Right to Food (Report A/59/385). Retrieved from United Nations website: <http://www.refworld.org/docid/4267bdb84.html>
- World Health Organisation. (2014). 7 million premature deaths annually linked to air pollution [Website]. Retrieved June 24, 2015, from World Health Organisation website: <http://www.who.int/mediacentre/news/releases/2014/air-pollution/en/>
- World Health Organisation. (2015). Health through safe drinking water and basic sanitation. Retrieved June 23, 2015, from World Health Organisation website: http://www.who.int/water_sanitation_health/mdg1/en/