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# the nathaniel report **75**

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# in this issue

Editorial: Regulating Genetic Engineering in Aotearoa New Zealand: Democratic Concerns Dr John Kleinsman

Written Submission to the Health Select Committee on the Gene Technology Bill

Staff of the Nathaniel Centre for Bioethics

Oral Submission to the Health Select Committee on the Gene Technology Bill Staff of the Nathaniel Centre for Bioethics

Oral Submission to the Health Select Committee on the Gene Technology Bill InterChurch Bioethics Council

Gene Technology Resource InterChurch Bioethics Council and Nathaniel Centre for Bioethics

Pope Francis I: Public Theologian Dr Greg Marcar

Child Sex Exploitation Staff of the Nathaniel Centre for Bioethics

TE KUPENGA NATHANIEL CENTRE FOR BIOETHICS



The Nathaniel Centre for Bioethics was established in 1999 as an agency of the New Zealand Catholic Bishops' Conference. In 2020, the Centre was formally affiliated with Te Kupenga – The Catholic Leadership Institute.

The key functions of The Nathaniel Centre include:

- developing educational opportunities in bioethics
- acting as an advisory and resource centre for individuals, and professional, educational and community groups
- carrying out research into bioethical issues, and promoting the study and practical resolution of ethical, social, cultural and legal challenges arising out of clinical practice and scientific research
- carrying out research and action to support the Church's pastoral response to bioethical issues taking into account the needs of different cultures and groups in society.

### **Our Philosophy**

Rapid advances in science have moral, ethical, and spiritual implications at an individual and societal level. While Catholic bioethics deals with the same realities as secular bioethics we are committed to bringing the light of the Gospel and the wisdom from the Church's moral tradition to the various issues under discussion.

Reason and faith do not exist in isolation; they guide our individual and collective search for truth and they complement each other when they meet in genuine service of those who suffer. In the words of Pope Benedict XVI: "Only in charity, illumined by the light of reason and faith, is it possible to pursue development goals that possess a more humane and humanising value." In this way the work of bioethics appears as a practical expression of the reverence we have for the gift of life.

For The Nathaniel Centre, the context of bioethics is pastoral, because the ethical issues arising in healthcare and the life sciences reflect the realities of people's lives.

Faith and reason are like two wings on which the human spirit rises to the contemplation of truth...

POPE JOHN PAUL II

... faith consolidates, integrates and illuminates the heritage of truth acquired by human reason.

**POPE BENEDICT XVI** 



# IN THIS ISSUE...

In the Editorial, **Dr John Kleinsman** outlines his view that the Gene Technology Bill poses a potential threat to our democracy because of its (seemingly intentional) failure to consider the rich wisdom of our cultural, ethical, and spiritual traditions. We should learn from history and pay heed to the perspectives that these wisdoms bring; failure to do so will be to the detriment of the well-being of ourselves and the planet we share with all other species.

Submissions made to the Health Select Committee on the Gene Technology Bill by the **Nathaniel Centre for Bioethics** (written and oral) and the **InterChurch Bioethics Council** (oral) follow. All three of these submissions, among other arguments, highlight the failure of the Bill to include and integrate the cultural, ethical and spiritual voices as part of the legislative and regulatory processes. They are critical, in particular, of the absence of Ethics Committee oversight, the lack of provision for public consultation, and the very limited scope for input from Māori which we believe contravenes the Principles of Te Tiriti o Waitangi.

The next article by **Dr Greg Marcar** is a reflection on the different approaches of Popes Francis and Benedict XIV, something that can be seen in the lives of the saints from which they drew their names. On the one hand is the Benedictine focus on inner renewal which shapes our relationships with one another and society at large; on the other is Francis' outward focus towards the whole of creation and its inhabitants, which is *part of* renewing our internal life. The two approaches are different but complementary.

This is followed by an article from **Staff of the Nathaniel Centre** examining Child Sexual Exploitation in Aotearoa New Zealand. Many of us are likely to see this as a problem for other countries. However, as agencies such as the Police, Customs and the Department of Internal Affairs attest, it is also a significant and growing problem in New Zealand. There are various agencies dedicated to raising awareness of the issue, including the recently launched St Nicholas Children's Trust.

## **EDITORIAL**

# **Regulating Genetic Engineering in Aotearoa New Zealand: Democratic Concerns**

It is fundamental to a healthy democracy that matters such as Genetic Engineering (GE), which touch so deeply on human life and environmental wellbeing, are guided by the contribution of disciplines beyond the technical, scientific and economic. As well as acknowledging and admitting cultural, ethical and spiritual voices into the debate, this also means not forgetting the lessons of recent history.

In May 2000, the Royal Commission on Genetic Modification was set up to report to the New Zealand government of the day on how best they could manage the opportunities and risks related to this emerging technology and to advise on appropriate legal, regulatory, policy and institutional arrangements to address GE into the future.

The makeup of that Royal Commission is, of itself, highly instructive. The four members were: Sir Thomas Eichelbaum, former Chief Justice and lawyer; Dr Jacqueline Allan, GP and community health advocate with experience in Māori health; Dr Jean Fleming, Senior Lecturer in Anatomy and Structural Biology; and Rev Richard Randerson, who brought "an extensive academic background in religious studies and ... a solid understanding of ethical issues to the Commission."<sup>1</sup> Their appointments reflect an unquestioned awareness that GE was a matter for sustained reflection requiring a wide range of perspectives, in line with the Māori concept of the three baskets of knowledge representing the spiritual, natural, and human realms.

The consultation process for the 2000 Royal Commission is also instructive:

In the formal part of its consultation, it heard from approximately 400 witnesses ... The people who gave evidence ... included representatives from research institutions and the biotechnology industry, New Zealand's primary production sector, the organics industry, church and religious groups, Māori organisations, the health and food sectors and environmental groups.

As well, more than 10,000 members of the public provided written submissions and, in the course of its 14-month inquiry, the Royal Commission consulted widely with the New Zealand public, holding 50 public meetings, hui and workshops in regional centres from Invercargill in the south to Kaikohe in the north.

The process of consultation embraced by the 2000 Royal Commission reveals a second unquestioned awareness: the importance of deliberate and meaningful consultation with the public.

Twenty-five years on, our Parliament is reviewing, for the first time, the regulations around GE. We anticipated this review more than a year ago and, in an Open Letter (January 2024) signed by four Christian entities comprising of scientists, ethicists, theologians and medical practitioners, we welcomed it as timely and necessary.<sup>2</sup> We also asked for a demonstrably independent body to be established outside of the parliamentary process that would firstly educate, and secondly consult widely with, the public and other interested parties. Only this sort of review was capable, we believed, of delivering the transparency and accountability deserving of such an important and serious issue.

Eleven months later, the Government finally introduced the Gene Technology Bill into Parliament where it passed its first reading on the 17<sup>th</sup> of December 2024, just as our country was entering into the great Christmas/summer shutdown. The Health Select Committee, to whom the Bill was referred, then, inexplicably, decided to close the public submission period by the 17<sup>th</sup> of February, giving minimal time to prepare submissions on what is a complex and controversial area!

Reflecting on this, it is hard not to conclude that both the legislative process surrounding the Bill, as well as the proposed future regulatory processes it contains, are biased towards groups with a vested economic or scientific interest while actively excluding other important voices.

For example, revealingly, and of great concern, an MBIE authored Cabinet paper dated 10 December titled "Regulation of gene technology – policy decisions",<sup>3</sup> reflects a pejorative and paternalistic attitude to public consultation within our public service: "... the predictable result of public consultation will simply be unscientific calls for prohibition." The same MBIE paper dismisses all sources not scientific as being beyond the Bill's "narrow, scientific scope", something designed to "prevent applications being declined for *subjective* or *speculative* reasons" which, while not specifically defined, clearly include offerings of a spiritual, ethical and cultural nature.

This approach represents a *shrinking of the moral horizons of our lives*.

Against this reductionist backdrop, the wisdom of the cultural, ethical and spiritual disciplines provides an important and necessary corrective, including protection from the undue influence of private, profit-driven, interests that will unnecessarily benefit some to the detriment of other legitimate parties, humankind and other species.

By way of example, theologian and bioethicist Richard McCormick explains the corrective potential of spirituality in terms of the transformation brought about by "reason informed by faith" which has "a cognitive dimension through its invasion of consciousness".<sup>4</sup> Expanding on this in an explanation of the role of prayer in the formation of conscience, Lamoureux and Wadell point out that its role is to "*expand the moral horizons of our lives* so that we see beyond our own needs to the needs of others,"<sup>5</sup> informing the consciences of communities and

Continued on page 7

# Written Submission to the Health Committee: Gene Technology Bill

Staff of the Nathaniel Centre 17 February 2025

### Introduction

In January 2024, in an Open Letter to the Prime Minister jointly signed by **the Nathaniel Centre**, the **InterChurch Bioethics Council, The Christian Medical Fellowship**, and **NZ Christians in Science**, we stated our belief that "it is timely for a review of our laws and regulations governing genetic modification."

# Finding Common Ground in a Diverse and Pluralistic Society

- It is an axiom of ethical theory that different cultures, groups and traditions (whether religious or secular) bring their own specific agenda to the exploration of ethical issues. These agendas reflect certain assumptions, priorities and preformed convictions that are not always clearly articulated. With respect to decisions relating to genetic engineering (GE), this explains why, as we noted recently, "Even when a majority of people can agree on a framework or key principles ... the fact that people bring different interests to the GE debate means that we are likely to interpret and apply those principles differently."<sup>1</sup>
- Or, as the New Zealand Catholic Bishops and the Nathaniel Centre submitted to the Royal Commission on Genetic Modification in 2000:

A culture which understands the human person as in control of the natural world will respond to issues such as genetic modification in a manner which is different to that of a culture which views the human person and the natural world as interconnected, part of a network rather than a hierarchy with human beings at the apex.

 From this we deduce that a proper assessment of the risks and benefits associated with the use of GE has to go beyond a consideration of the scientific or economic and include an assessment of the cultural, ethical and spiritual considerations. This approach can be described in terms of an ecological worldview which recognises the interconnectedness of all life; a broad relational approach based on an ecological, holistic perspective.

### A wisdom-based approach, by definition, includes consideration of the cultural, ethical and spiritual dimensions, something accepted and well-articulated by the 2001 Report by the Royal Commission on Genetic Modification.

 From a Catholic religious perspective, we would add that the nature and consequences of GE, including its potential for harm to humans and the natural order, calls for sustained reflection that draws upon the best of human wisdom as well as the best of scientific knowledge. For Aotearoa, this includes the wisdom of the indigenous Māori and the wisdom of the many faith traditions. A wisdombased approach, by definition, includes consideration of the cultural, ethical and spiritual dimensions, something accepted and well-articulated by the 2001 Report by the Royal Commission on Genetic Modification.

As we pointed out in our 2000 submission to the Royal Commission, specific concerns about the use of GM or GE

... may be justified if science and economic interests are left to make the major decisions about the use of GM. The challenge for all of us lies in developing theological, ethical, social and philosophical perspectives which will enable us to make wise decisions for ourselves, for future generations and for the earth. Our search for wisdom must now be as resolute and innovative as the work of the scientists has been in developing the technology of genetic modification.

It behoves every group to critically understand their own ethical starting points. Based on our understanding that ethics is best done in a multi-disciplinary manner, and that ethical discernment is most fruitful when it is a group-based process involving many different perspectives, we now offer a brief exposition of our key assumptions, priorities and principles.

### A Catholic Perspective on Genetic Engineering

We are open in principle to the use of GE. Quoting again from our 2000 Submission to the Royal Commission:
Most human inventions can be used to benefit or to harm, and GM is no exception. While we see the technology of genetic modification as ethical, we are very aware that there may be uses of that technology which are unethical or unwise, and that there are cultures which see the blending or mixing of different species as morally repugnant.

# Catholics believe, as do many others, that the goods of the earth are for the use of everyone.

Again, in that same submission, noting the potential of GE to "diversify and accelerate the process of evolutionary change," we highlighted the tension between what humankind is at a given moment in history and what may be possible in the future.

We believe that all human beings have a role as cocreators with God, and as participants in the evolutionary process ... To use GM for both our benefit and that of other species, while at the same time preserving the rich

#### biodiversity of life, is the essence of this challenge.

- With respect to the question of ethical limits in the use of GE in human beings, we also wrote in 2000:
  - We believe the use of genetic modification for therapeutic purposes to be ethical ... In principle, we would also see germ-line therapy to be an ethically acceptable therapeutic intervention, providing that safety issues are resolved and the welfare of future generations can be assured.
- Catholics believe, as do many others, that the goods of the earth are for the use of everyone. When applied to GE, the principles of Catholic Social Teaching require a fair and equitable sharing of benefits, and the means of ensuring that vulnerable groups or their resources are not subject to exploitation. The notion of "social mortgage" is sometimes used to describe this principle. As noted in *Sollicitudo rei socialis*:

The goods of this world are originally meant for all. The right to private property is valid and necessary, but it does not nullify the value of this principle. Private property, in fact, is under a 'social mortgage,' which means that it has an intrinsically social function, based upon and justified precisely by the principle of the universal destination of goods."<sup>2</sup>

There is, these days, an increased awareness that the universal destination of goods has an inter-generational dimension.

Finally, in 2000, our submission to the Royal Commission stressed, as we continue to do, the importance of taking proper account of our responsibilities to tangata whenua as established under Te Tiriti o Waitangi:

Many of the issues in genetic modification have arisen from a non-Māori world and have their origins in a different cultural perspective. The Treaty of Waitangi requires respect for the 'world view' of Māori, their spirituality, culture and traditions. The status of the Treaty principles requires explicit acknowledgment. They must be fully integrated into any framework to be used in New Zealand for individual or collective decision-making on issues associated with genetic modification.

### Our Response to the Proposed Gene Technology Act

 The MBIE briefing to the Minister (concerning the drafting of new legislation for the regulation of gene technologies) states explicitly that "The proposed regime is primarily based on Australia's Gene Technology Act 2000."

We note that the purpose of the New Zealand Bill is "to enable the safe use of gene technologies and regulated organisms by managing their risks to the health and safety of people and the environment." By contrast, Australia's Gene Technology Act (2000) states that its object "is to protect the health and safety of people, and to protect the environment, by identifying risks posed by or as a result of gene technology, and by managing those risks through regulating certain dealings with GMOs". The differences between the two highlight very different starting points. It strikes us that the New Zealand Bill is, worryingly, focused primarily on 'enabling' gene technologies rather than on protecting the health and safety of people and the environment.

That the proposed New Zealand legislation falls under the purview of the Ministry that is focused primarily on economic growth seems to validate our concern that the regulation of GE in New Zealand will be unduly subject to scientific and economic interests. It is unacceptable to us that regulation of gene technologies would not include consideration of the cultural, ethical and spiritual perspectives as outlined above.

- 2. We also note that, unlike the equivalent Australian legislation, the Regulator in the New Zealand Bill does not have a Gene Technology Ethics and Community Consultative Committee and nor is it required to consult widely with other agencies and local governments. In the Australian case, The Regulator and the Ministers' Meeting can request advice from the Gene Technology Ethics and Community Consultative Committee (GTECCC) on:
  - ethical issues relating to gene technology
  - principles, guidelines and codes of practice for genetically modified organisms (GMOs) and genetically modified (GM) products
  - community consultation on the process for applications for licences covering dealings that involve the intentional release of a GMO into the environment (DIRs)
  - risk communication matters for DIRs (dealings involving intentional release of a GMO)
  - matters of general concern about GMOs
  - matters identified by the Regulator.

Such consultation is missing from the New Zealand Bill. We would like to see New Zealand legislation provide for the establishment of a Gene Technology Ethics and Community Consultative Committee.

- 3. We are concerned that "The Regulator" is appointed by the Minister and the impact that this may have on their independence. As it stands, the proposed legislation leaves the appointment open to the *perception* of political interference or political bias if not actual interference or bias. The public of New Zealand will have greater confidence in the Regulator only if it is clear that the appointment is made on the basis of skills, competence and political neutrality.
- 4. Following on from and related to point 3, above, we also note that while the Gene Technology Bill states that the Regulator "must act independently of the EPA and the Minister," it also states that the Regulator will be "subject to general policy directions given by the Minister". These two clauses are surely contradictory and, once again, undermine the *perception* of freedom from political interference and bias if not actual interference or bias. The Regulator must be free to act independently and to follow up or initiate inquiries into areas that they consider warrant investigation.
- 5. In addition, it concerns us that both the Technical Advisory

6 # ISSUE SEVENTY-FIVE **APRIL 2025** THE NATHANIEL REPORT

Committee and the Māori Advisory Committee members are appointed by the Minister, and the Minister may remove a member of these committees 'if the Minister thinks fit'. Put plainly, this is egregious, placing far too much control in the hands of the Minister. These unsatisfactory appointment processes further undermine the already very limited provision for broad consultation and input from outside organisations, groups and individuals. This is especially disquieting when we are contemplating a technology that potentially has far-reaching negative impacts on people, plants, animals and the environment generally.

While there is always a certain tension between adequate consultation and the creation of unnecessary processes that slow down low-risk developments in GE, we do not think that the proposed Bill has got the balance right regarding the importance of public consultation and independent and effective regulatory oversight.

6. We are concerned that the Regulator has too much discretion around declaring activities as pre-assessed (Section 23). With respect to Section 23 (1) (b) which states that "the Regulator is satisfied that the relevant risks of the activity are no more than *medium*", (emphasis ours) we think this is a virtually meaningless statement open to wide interpretation – appealing to a standard of 'measurement' that will be virtually impossible to challenge, further giving an impression that the new legislation has a nebulous air about it.

In our considered view, this, in turn, means that the right of the public to be consulted is at the whim of the Regulator who, retrospectively, can simply claim, without providing substantive evidence, that, in their considered view, "the relevant risks [were able to] be reasonably managed and controlled". Whatever these latter criteria might mean in real life is, again, not clearly specified.

We understand, as spelled out in our submission to the Royal Commission on Genetic Modification in 2000, that there is

a need to ensure that as well as being ethically sound, regulation acts to facilitate and not to inhibit appropriate ethically acceptable research, technological advancement, and industry. If regulation is too onerous in areas of low risk, the benefits of genetic modification may be lost to New Zealanders as surely as if genetic modification had been prohibited.

While there is always a certain tension between adequate consultation and the creation of unnecessary processes that slow down low-risk developments in GE, we do not think that the proposed Bill has got the balance right regarding the importance of public consultation and independent and effective regulatory oversight. Local communities often possess valuable knowledge about their environment, including unique ecosystems, traditional practices and social consequences. In general, the exclusion of input from local communities is likely to lead to a lack of trust and social license for new gene technology activities. It is also possible that gene technology developments could have disproportionate impacts on the ecosystems of specific communities, meaning they become subject to environmental injustice.

- 7. We also note that, under Section 135, the reviewer of any decision as described in Schedule 3 is the Regulator. This is, from both an ethical and a legal perspective, a highly irregular situation which adds to our view that the bill lacks real transparency and accountability. While there is a right of appeal direct to the High Court on matters of law, we feel there could, and should, be an alternative independent body for objectors to appeal to, prior to court action.
- 8. We note with concern that, in making its decisions on declarations, licences, and conditions, while the Regulator will take expert advice from the Technical Advisory Committee, it is not required to seek advice from the Māori Advisory Committee. Furthermore, the Māori Advisory Committee is allocated very limited scope in the advice it is able to provide; it appears to be able to provide feedback when a proposal has "material adverse effects on one or more kaitiaki relationships with the indigenous species that would be used as a host organism". We do not regard this as in keeping with the spirit or the Principles of Te Tiriti o Waitangi.

Confining Māori involvement to situations where specific native plants or animals are directly affected excludes consideration of the broader impacts of GE on ecosystems, traditional Māori practices, or potential long-term consequences of gene technology. Inadvertently or otherwise, this excludes the indigenous voice from discussions and decisions about other aspects of gene technology, such as its potential impacts on human health, food systems, or the environment in general. By way of example, we note that The Royal Society of New Zealand Te Apārangi convened a multidisciplinary panel of experts, supported by a Māori reference group, to consider the social, cultural, legal and economic implications of gene-editing technologies for New Zealand.

It is also our view that membership of the Māori Advisory Committee should not be subject *only* to appointments by the responsible Minister.

9. It concerns us that the Bill allows for an exemption from a local assessment of the risks and benefits if there has been a safe assessment from two other countries. While it is worthwhile and good common sense to recognise and cooperate with overseas Gene Technology Regulators, and while this will, in many cases increase efficiency, there still needs to be a process for taking account of local cultural and other contextual issues. Other countries may have different standards for risk assessment and regulation of gene technologies. Moreover, other countries' risk assessments may not adequately address New Zealand's specific environmental conditions, biodiversity, or cultural values. Given our responsibilities to tangata whenua under Te Tiriti o Waitangi, it is arguable that relying solely on foreign assessments without adequate local consultation could be seen as a breach of the Treaty agreement.

10. Finally, we are concerned that the Bill regularly refers to a 'risk proportionate' approach, rather than a 'precautionary approach'. While the Precautionary Principle emphasises caution and preventative action when there is a potential risk of serious or irreversible harm (as is the case with gene technology developments, where there is also likely to be a high level of uncertainty), the focus of the Risk-Proportionate approach is on balancing the potential benefits of an activity against the potential risks. This second approach is likely to neglect uncertain risks, shifting the burden of proof to those noticing and then raising concerns, something that is more likely to occur after the fact. The Precautionary approach is more appropriate for the case of gene technologies, where there is a high likelihood of unintended genetic changes.

### **Concluding Comments**

We do not regard the Bill being proposed as fit for purpose on a number of levels, not least because of the unprecedented powers it gives to both the Minister responsible as well as the Regulator. While the potential benefits of GE are high, the risks associated with gene technology are equally high and require a transparent and accountable regulatory system that is, simultaneously, not too onerous on applicants.

In its current form, the Bill will not deliver sufficient transparency or accountability, and it does not provide robust or adequate processes for public consultation, in particular with tangata whenua.

#### Continued from page 3

making us more aware of how self-interested we can be while subverting self-centred ways of seeing, thinking, imagining and acting. In other words, a faith lived fully empowers us to towards justice and a love that is all-embracing and inclusive; a love that overcomes the inequalities and divisions that are present in our societies.

It is only by being open to the wisdom that resides in our spiritual, ethical and cultural traditions that we can be more certain that new technologies like GE will enhance rather than detract from human flourishing and environmental well-being.

While the specific technical knowledge involved in GE is, without doubt, the domain of scientists, 'human flourishing' (which is surely the goal of all scientific developments) is the domain of society as a whole. To dismiss it as "subjective or speculative" in our debates and regulatory processes concerning the application of GE can only be to the overall detriment of societal well-being.

Finally, drawing on the lessons of history, we must not forget the Cartwright Inquiry (1987–88) which highlighted the dangers of institutional cultures and systems which give too much power to researchers and experts without the requisite checks and balances.

History, culture, ethics and spirituality are among our great teachers. As we navigate the benefits and risks of biotechnologies like GE, we ignore their wisdom to the

#### **Endnotes**

- 1 Gene Editing (GE) in Aotearoa New Zealand 2025 and Beyond. www.tekupenga.ac.nz/wp-content/uploads/2025/02/Gene-Editing-Pamphlet-FINAL-VERSION-10-Feb.pdf
- 2 Catholic Church. Pope (1978-2005 : John Paul II) & John Paul II, P. (1988). Encyclical letter Sollicitudo rei socialis of the supreme pontiff, John Paul II, to the bishops, priests, religious families, sons and daughters of the church and all people of good will for the twentieth anniversary of Populorum progressio. Office of Publishing and Promotion Services, United States Catholic Conference.

detriment of the well-being of ourselves and the planet we share with all other species.

As the Waitangi Tribunal remarked in Ko Aotearoa Tēnei, WAI 262 (2011): "Our technological developments must be matched by our moral and ethical capacity to make good decisions in deploying these technologies for ourselves and future generations".

Dr John Kleinsman (PhD) is Kaitohu/Director of the Nathaniel Centre for Bioethics.

#### Endnotes

- About the Royal Commission on Genetic Modification (2003). www.beehive.govt.nz/release/about-royal-commission-geneticmodification.
- 2 Open Letter re Review of laws and regulations governing genetic modification in Aotearoa New Zealand (2024). www.interchurchbioethics. org.nz/wp-content/uploads/2024/04/Letter-to-Incoming-government-January-2024-re-Genetic-Modification-FINAL.pdf
- 3 See www.mbie.govt.nz/dmsdocument/29938-regulation-of-genetechnologies-policy-decisions-proactiverelease-pdf
- 4 McCormick, R. (1994). Corrective Vision: Explorations in Moral Theology. Kansas City: Sheed & Ward, p. 141.
- 5 Lamoureux, P. Wadell, P. (2010). *The Christian Moral Life*. New York: Orbis Books, pp. 166-168.

# Oral Submission to the Health Select Committee: Gene Technology Bill

# The Nathaniel Centre for Bioethics 14 March 2025

As highlighted in our written submission, we are open in principle to the use of Genetic Engineering (GE). The challenge facing us is how to get the best out of GE technology while limiting its negative effects, keeping in mind two closely inter-connected goods – the good of humanity *and* the good of the environment.

At the heart of debates about biotechnologies such as GE lies a tension between what has been described as the Scylla of technological risk and the Charybdis of public reaction and overregulation. We recognise that regulations must facilitate and not inhibit appropriate research and technological advancement. However, we also recognise that there are approaches to managing this inherent tension that give insufficient attention to what happens at the intersection of scientific innovation and society.

Within this model, the public are regarded as uneducated and fearful – a potential threat to scientific progress. Consequently, consultation around new innovations is restricted to an elite, primarily technical, group while many philosophical, ethical, cultural and spiritual considerations are excluded.

We have outlined various serious concerns about the Gene Technology Bill in our written submission and these stand alongside tour oral submission. Today, however, we will focus on one issue; the importance of a regulatory scheme that is open to all disciplines. We believe that biotechnologies have significant consequences at a societal level and that they need to be critiqued and regulated according to the interplay that results between society and science, rather than apart from societal input. We believe this requires consultation with a wide range of perspectives other than the scientific and economic.

Our specific concern with this proposed legislation is the narrowness of the frameworks that sit behind it – the frameworks within which risks and benefits are identified, and which shape the questions deemed relevant.

Our key message today is that it must be **society as a whole** that ultimately owns and determines the regulation of new innovations, the alternative being a process that is primarily the domain of scientists, technological entrepreneurs and/or politicians. This leads us to identify two specific problems with the proposed Bill: (i) that it potentially gives too much control to groups with a vested economic or scientific interest; and (ii) that it construes democratic consultation and oversight as irrelevant if not a potential threat to scientific innovation.

Fifty years ago, a number of leading molecular biologists gathered in Asilomar, California, to evaluate the risks of the then

novel and emerging technology of recombinant DNA and to set guidelines to govern research. This meeting and its model of risk management has often been held up as an exemplar of how to manage the risks of new biotechnological developments. It continues to be promoted by many who support its approach without recognising its inherent biases. The Asilomar model has rightly been criticised over recent decades for the fact that it rests on certain flawed assumptions, most notably that it reflects a science-first, ethics-second, paradigm.

These days, those who are critical of the Asilomar model include many scientists. The point is made that the Asilomar approach prioritises scientific freedom and autonomy to the exclusion of other principles. This, in turn, means that the questions around risk management are too narrowly linked to scientific and technical concerns. Within this model, the public are regarded as uneducated and fearful – a potential threat to scientific progress. Consequently, consultation around new innovations is restricted to an elite, primarily technical, group while many philosophical, ethical, cultural and spiritual considerations are excluded.

Reacting to the biases of the science-first paradigm, critics such as the Global Observatory for Genome Editing hold the view that new biotechnologies like GE raise important questions about the meaning and purpose of human life. Consideration of these questions provides an important corrective to the dominant science-first, ethics-second, approach which overly privileges the scientific and technical.

### This type of science-first approach is highly unacceptable to our minds, not to mention that it fails to establish a true partnership model with Māori as demanded by the Treaty.

To properly acknowledge that the implementation of biotechnologies influences our perceptions of what it is to be human is simultaneously to acknowledge the need for, and importance of, cultural, ethical and spiritual forms of wisdom.

That the proposed Gene Technology Bill is a paradigmatic example of the reductionist, science-first approach is clear from the shape of the Bill as well as from the various commentaries around it which speak exclusively about "the scientific management of risk". Moreover, it seems to us that this approach is clearly intentional.

For example, the MBIE authored Cabinet paper titled "Regulation of gene technology – policy decisions (10 December 2024) speaks of the new GE regime being more enabling than that of the Hazardous Substances and New Organisms Act (HSNO) because its "narrow, scientific scope will prevent applications being declined for subjective or speculative reasons". The paper categorically asserts that the "Regulator is not able to take into account unscientific calls for prohibition because they are outside the scope of the regulatory decision-making framework." The same paper then speaks, pejoratively and paternalistically, about public deliberation: "the predictable result of public consultation will simply be unscientific calls for prohibition."

This type of science-first approach is highly unacceptable to our minds, not to mention that it fails to establish a true partnership model with Māori as demanded by the Treaty.

It is worth noting that key scientists and science bodies in Aotearoa New Zealand, including the Royal Society of New Zealand, readily embrace the type of broad approach to public consultation that we are advocating for. For example, the Royal Society's recent commentary on Gene Editing, includes ethical and māori cultural considerations, alongside medical, legal, social, environmental, and technical/scientific considerations.<sup>1</sup> Speaking of the need to support public confidence in decisionmaking (Recommendation 4), it also asserts that "regulation needs to be informed by wide engagement with the public" (Recommendation 5).

In the absence of mechanisms allowing broader interdisciplinary input and public input into decisions about GE, we believe the regulatory process, as proposed, risks alienating large sections of the public of Aotearoa New Zealand, undermining public confidence and leading to the possibility of significant public resistance.

Furthermore, it needs to be noted that the proposed Gene Technology Bill not only fails in this regard but, sadly, represents a regression in terms of the way in which other current regulatory schemes and laws in Aotearoa New Zealand provide for ongoing and broad consultation inclusive of cultural, ethical and spiritual perspectives, the HSNO Act being an obvious example.

The example we wish to focus on, however, and one we have engaged significantly with for almost 20 years, is the Human Assisted Reproductive Technology (HART) Act (2004). We suggest that the HART Act offers a particularly useful and appropriate regulatory model for the Gene Technology Act (given that both human reproductive technologies and gene technologies have the potential for unintended negative human and/or environmental outcomes) and we strongly promote the HART Act as an alternative and more robust regulatory model than what is currently being proposed for GE for the following three reasons:

i. Notably, unlike the Gene Technology Bill, the HART Act rests on a clearly enunciated set of principles. In particular 4 (f) which affirms "the needs, values, and beliefs of Māori should be considered and treated with respect"; and 4(g) which clearly states that "the different ethical, spiritual, and cultural perspectives in society should be considered and treated with respect". This Bill does not do that.

- Closely related to the two principles above, The HART Act also spells out the requirement for public consultation in the section titled Guidelines and advice (see in particular Sub-Sections 36, 39, 40, and 41).
- iii. The regulatory framework for the HART Act centres around an Advisory Committee that works closely in conjunction with an Ethics Committee that oversees particular procedures that have not, previously, been deemed as "established procedures" (see Appendix 1). (It is notable that the Australian regulatory scheme for Gene Technology includes an Ethics and Community Consultative Committee that "provides advice on ethical issues and matters of general concern to the community relating to GMOs".) We regard the lack of a similar Ethics Committee as a serious flaw in our proposed GE legislation. (See Appendix 2)

In the absence of mechanisms allowing broader interdisciplinary input and public input into decisions about GE, we believe the regulatory process, as proposed, risks alienating large sections of the public of Aotearoa New Zealand, undermining public confidence and leading to the possibility of significant public resistance.

To summarise, GE raises fundamental questions that go beyond scientific risk and economic benefit. The scientific and technological frontier is also a cultural, ethical, moral and spiritual frontier.

It demands an approach that focuses on the global common good, something that requires a broad focus on human and environmental well-being drawing on all forms of wisdom as an antidote to hubris and an excessive drive for growth and profit; an approach that employs a broad range of imaginations related to culture, ethics and spirituality; an approach which considers the impact of scientific developments on human institutions and environmental well-being as well as economic and scientific gains.

As the Waitangi Tribunal remarked in Ko Aotearoa Tēnei, WAI 262 (2011), biotechnological developments reflect

the fact that humans have come to exercise control over the matrix of life itself. We now have powers that were once the exclusive preserve of the gods. Our technological developments must be matched by our moral and ethical capacity to make good decisions in deploying these technologies for ourselves and future generations (p.95).

This Bill, in its current form, does not enhance our moral and ethical capacities let alone consider that as being important.

### **Endnotes**

1 See also Royal Society Te Apārangi "Gene Editing. Reflections from the Panel Co-Chairs". Scenario Summaries and Scenarios (Healthcare, Pest Control and Primary Industries. Legal and Regulatory Implications. August 2019). www.royalsociety.org.nz/assets/Uploads/Gene-Editing-FINAL-COMPILATION-compressed.pdf

# Oral Submission to the Health Committee: Gene Technology Bill

# Rev. David Bush and Dr Joy McIntosh on behalf of The InterChurch Bioethics Council 14 March 2025

We are members of the InterChurch Bioethics Council, and we represent the Methodist, Presbyterian and Anglican Churches of Aotearoa New Zealand. ICBC members include molecular and micro-biologists, medical practitioners, ethicists and theologians.

The "InterChurch Commission on Genetic Engineering", now called the InterChurch Bioethics Council, was formed in 2000 in order to hold consultations around the country on Christian perspectives to genetic modification, leading to a written submission to the Royal Commission on GE in 2000. Significantly, the Royal Commission identified the InterChurch Commission's submission as one of the best they received. The result was the Royal Commission's report recommending three new categories that must be considered in matters of bioethics in New Zealand legislation: those being *cultural, ethical and spiritual.* This recommendation developed because, as the Royal Commission report stated, concerns within these three areas underlay much of what we heard about genetic modification and biotechnology.

### As a bioethics council representing a group of Christian denominations in NZ, our mahi aims to find a point or a place for justice in every situation, well-being for every New Zealander, and care for the vulnerable or disadvantaged.

We agree it is timely to review the legislation regarding Gene Technology in the light of the significant and ongoing advances in this technology and the many possible opportunities for its use.

Our submission can be best summarised with 3 main points:

- 1. There is no provision for how ethics is to be considered in this Bill
- 2. There are shortfalls in how the Regulator is stated to operate in this Bill
- 3. There is need for better public consultation into the future

#### 1. Lack of provision for ethics in this Bill

Ethical consideration weighs the predicted impacts of Gene Technology, and asks which people, which communities, which ecosystems will benefit and which will be disadvantaged or harmed.

As a bioethics council representing a group of Christian denominations in NZ, our mahi aims to find a point or a place for justice in every situation, well-being for every New Zealander, and care for the vulnerable or disadvantaged. These are also important aims for many New Zealanders who are not part of faith communities. Jennifer Doudna, who co-discovered CRISPR technology in 2012, was adamant that it is critical to find safe and ethical ways to proceed for future uses of CRISPR and avoid any use that creates human inequality.

Because Gene Technology can be used in a range of scenarios from medicine and conservation to agriculture and industry, the bioethical considerations are also necessarily wide. And because most gene editing would not be reversible, impacts need to be considered for now as well as for future generations.

Therefore, we would urge that the Bill includes an ethics advisory group to the Regulator, such as the Australian Regulator has, or otherwise has a requirement for ethicists to be part of the Industry, Māori and Technical advisory groups, and an additional medical advisory group. The Bill requires detail on how ethical issues and advice will be brought to the Regulator, by these or other groups, independently of the Regulator and without relying on the Regulator to request this advice.

In particular, the Māori advisory group needs to have a larger and more influential role – wider than solely oversight of indigenous species – including how the new legislation will be enacted together with local iwi and other communities. In Aotearoa New Zealand, we believe that respect, care and influence for all things Māori is a valuable and vital part of our kiwi culture.

The Regulator needs to be capable of quickly evaluating and regulating any rapidly emerging new Gene Technology, also best accomplished as a team with proactive advisory groups. It is a common problem in emerging technologies around the world that ethics often lags behind technological developments.

Because of this, relying on Gene Technology regulations and ethical deliberations directly from another country would not be in the best interests of New Zealanders. Instead, we urge careful analysis of outcomes from other countries' gene technology laws alongside effective consultation with New Zealanders from diverse fields and communities. In that way, we are more likely to have legislation that is safe, supported by the majority of New Zealanders, is fit for purpose well into the future and, most importantly, reflects the uniqueness of New Zealand society.

#### 2. Neutrality and independence of the Regulator.

We believe the Regulator needs to be neutral and independent, not selected by a government minister, and made up of a team rather than being one person.

The Regulator needs to be responsible for dealing with complaints, and rectifying or compensating situations where

unintended consequences have occurred. It is critical that matters such as these are resolved without bias or conflicts of interest, something best achieved through an independent Regulatory team.

The Regulator needs to be capable of quickly evaluating and regulating any rapidly emerging new Gene Technology, also best accomplished as a team with proactive advisory groups. It is a common problem in emerging technologies around the world that ethics often lags behind technological developments.

#### 3. Importance of public consultation.

Engaging the public around gene technology is not easy, as the science is complicated and the gene language is foreign to most people. Yet, Gene Technology *will* impact most New Zealanders somewhere in their lifetime. Because of this widespread impact, access to information and an invitation to consult needs to be culturally broad and inclusive – not limited to academic/industry/medical groups but also extended to maraes, GP clinics, churches, and schools. This sort of consultation will have the best chance of reducing polarization of firmly held viewpoints.

A robust process of public consultation before and after this Bill is passed will give a good public support base for any new amendments, which will no doubt be needed as gene technology develops at pace. We submit that such consultation processes need to be a documented part of this Bill.



TE KUPENGA NATHANIEL CENTRE FOR BIOETHICS



# Gene Editing (GE) in Aotearoa New Zealand – 2025 and Beyond

## The Nathaniel Centre and The InterChurch Bioethics Council

The science around gene editing or engineering (GE) has been developing for more than 50 years. Through the improvement of laboratory research tools, it has now become possible to edit the genetic code of a plant or animal, including human beings.

In the area of medicine, GE is already being used to find cures for many genetic disorders or the diseases caused by them. In other fields, gene editing has the potential for altering agricultural productivity and emissions, pest management, protecting endangered species, and producing novel and enhanced varieties of fruits and vegetables.

**But is this always a good thing?** Before we choose to use any technology, we have a responsibility to make sure we have thought about the consequences, good and bad.

This technology raises many questions:

- · What, precisely, are the benefits and risks involved?
- How do we carry out a meaningful risk assessment when many of the risks are not easily measured or understood?
- How might the needs of future generations be robustly and adequately considered when we cannot get their consent?

We cannot simply say that something is wrong, and therefore to be avoided, just because we do not understand it, or because it feels risky. This way of thinking could lead to us missing out on huge benefits for the future.

One thing we can be sure of is that GE will affect each and every one of us.

In the wake of parliament considering major changes to the laws and regulations surrounding GE in Aotearoa New Zealand, the **InterChurch Bioethics Council (ICBC)** and the **Nathaniel Centre for Bioethics** have collaborated to produce a readily understandable educational resource for all interested persons.

The resource explains, in plain language, the science around GE as well as delving into questions about how it could affect us and the world we live in, including future generations.

It is free and can be accessed at: https://bit.ly/ICBCNathaniel

# **Pope Francis I: Public Theologian**

# Dr Greg Marcar

The papacy of Francis I has frequently been framed as a departure from his predecessors. Francis is notable for being not only the first Jesuit Pope, but also the first South American Pontiff, as well as the first to take office in the context of a Pope Emeritus, the late Benedict XVI. As many have noted, no previous Pontiff has shone such a strong theological spotlight onto socio-economic or environmental issues that disproportionately affect those living within the developing world or displaced from it.

At the level of Catholic doctrine, Francis deserves to be remembered for changing the Church's Catechism in 2018 to reflect an unequivocal opposition to capital punishment. It is perhaps on his further *proposed* change to the Catechism, that Pope Francis' hopeful legacy is most clearly in focus. In the context of supporting the recognition of "ecocide" within International Criminal Law, Francis stated in a 2019 address that "[w]e must introduce – we are thinking about it – in the Catechism of the Catholic Church the sin against ecology, the ecological sin against the common home." In this, Francis makes a theological claim that is often unsaid or denied by others: Our interaction with the "natural" world implicates our relationship to God.

It has been suggested that Pope Francis' "ecological" concern here, along with that of his earlier Encyclical *Laudato Si*' ("Praise Be: On Care for our Common Home") (2015), represents a new theological trajectory for the Church. Through a brief comparison with Francis' predecessor, Benedict XVI, I will suggest a partial defence of this claim.

As in the Pope's later teaching in Laudato Si', the need to affirm the earth as our common home is here inextricably linked to our need to affirm a certain familial solidarity with the rest of humanity ("the human family" in which "all of us are brothers and sisters").

### **Public Faith and our Common Home**

One of Pope Francis' first references to the earth as our "common home" occurs in the 2013 Apostolic Exhortation, "Evangelii Gaudium". The context here is a discussion of faith. Francis notes how since "[i]t is no longer possible to claim that religion...exists only to prepare souls for heaven...Consequently, no one can demand that religion should be relegated to the inner sanctum of personal life" (para. 182–83). Drawing on the examples of St Francis of Assisi and Teresa of Calcutta (whose sainthood Pope Francis would subsequently recognise in 2016), Evangelii Gaudium proceeds to affirm that:

An authentic faith...always involves a deep desire to change the world...to leave this earth somehow better that we found it. We love this magnificent planet on which God has put us, and we love the human family which dwells here...*The earth is our common home* and all of us are brothers and sisters. (Evangelii Gaudium, para. 183, emphasis added). As in the Pope's later teaching in *Laudato Si'*, the need to affirm the earth as our common home is here inextricably linked to our need to affirm a certain *familial solidarity* with the rest of humanity ("the human family" in which "all of us are brothers and sisters"). Perhaps even more fundamental, however, is the link between Francis' remarks on caring for our shared earth and the need to recognise the necessarily *external* demands of an "authentic faith". As the preceding paragraph of Evangelii Gaudium makes clear, the confinement of religiosity to an "inner sanctum" must be rejected for a faith that is uncompromisingly turned towards others and towards the world.

### Christian faith, for Pope Francis – as with St Francis – is necessarily a public orientation towards God's presence within creation.

In this, Pope Francis stands in continuity with Benedict XVI. In his inaugural sermon as Pope, Benedict XVI poignantly spoke of how "[t]he external deserts in the world are growing, because the internal deserts have become so vast." This line is quoted by Pope Francis in *Laudato Si'* to call attention to how a concern for (external) desertification can be a catalyst for *interior* renewal (*Laudato Si'*, para. 217). For both Benedict XVI and Pope Francis, the internal suffering and alienation experienced by human beings goes hand-in-hand with the impoverishment of God's wider creation, such that concern with one necessarily entails concern with the other.

It is in Pope Francis, however, that we find a far more explicit insistence that attending to the external world is in fact *part of* renewing our internal life. Pope Francis' example of this is most tellingly the Saint from which he chose his papal name: "the figure of Saint Francis", through which "we come to realise that a healthy relationship with creation is one dimension of overall personal conversion" (*Laudato Si'*, para. 218). Christian faith, for Pope Francis – as with St Francis – is necessarily a public orientation towards God's presence within creation.

Through faithful reflection and love for God as Creator of all that exists, St Francis is motivated by his piety to an external love for creation.

### A Tale of Two Saints?

This comparison between St Francis and the Pope who bears his name is further illuminated by briefly reflecting upon Pope Francis' own description of his canonised namesake in *Laudato Si*'. The title of this encyclical derives from St Francis' famous Canticle, in which he praises God for his "brothers" and "sisters" within the non-human creation. Drawing upon the portrayal of St Francis that we find in Thomas of Celano (1200-60) and St Bonaventure (1221-74), Pope Francis expands upon the St Francis' doxological *modus operandi*, explaining that: Just as happens when we fall in love with someone, whenever [St Francis] would gaze at the sun, the moon or the smallest of animals, he burst into song, drawing all other creatures into his praise. (*Laudato Si'*, para. 11).

Quoting from St Bonaventure's *Major Legend of Saint Francis*, Pope Francis proceeds to note how "from a reflection on the primary source of all things, filled with even more abundant piety, [St Francis] would call creatures, no matter how small, by the name of 'brother' or 'sister". Through faithful reflection and love for God as Creator of all that exists, St Francis is motivated by his piety to an external love for creation. In titling his 2015 encyclical *Laudato Si'*, Pope Francis consciously aligns himself with St Francis' joyful praise of God and consequent love for all other creatures as his siblings in God. This, Pope Francis tells us, was the foundation for St Francis' care for our "common home". By implication, it is also the theological starting point for *Pope* Francis.

Here again, an instructive comparison may be made with Benedict XVI and the Saint whom *he* chose as a namesake: Benedict of Nursia (480–547 AD). In a 2008 General Audience reflecting upon the life and work of St Benedict, Benedict XVI speaks of how this "Founder of Western Monasticism" began his spiritual vocation with a period of "solitude with God" as a hermit in Subiaco (Italy). During this time, Pope Benedict notes how St Benedict mastered the temptations of self-centredness, sensuality, and retributive anger. This provided Benedict with an inner discipline and peace, from which he went on to make profound and lasting contributions to Western monasticism, theology and society.

One might say that in truly "Benedictine" spirit, these theologically rich Encyclicals explicate how the inner renewal brought about by Christian love and hope implicates our relationships with one another and to society at large.

In these two figures – St Francis, on the one hand, and St Benedict on the other – we can therefore see two paradigmatic responses to one Christian faith. In St Francis, pious reflection on God as the "primary source of all things" (in Bonaventure's words) provided the catalyst to externally address God in praise (*Laudato Si'*) and turn in thanksgiving towards the rest of His creation; in St Benedict, on the other hand, an internal desire to please God and cultivate inner theological virtue preceded his work in founding the Monastic Rule that would provide the foundation for Christian spiritual life across Europe.

Here also, I suggest, is one way of understanding Pope Francis' relationship to his Benedict-inspired predecessor. Just as St Francis and St Benedict evidence two different – if complementary – theological foci and orientations, so too do the Popes that bear their names. Through his Encyclicals, Benedict XVI attends to the nature and cultivation of Christian love (*Deus Caritas est; Caritas in Veritate*), and salvific hope (*Spe Salvi*). One might say that in truly "Benedictine" spirit, these theologically rich Encyclicals explicate how the *inner* renewal brought about by Christian love and hope implicates our relationships with one another and to society at large. This contrasts with the *outwardly* concerned Encyclicals of Francis, whether this concern be for our "common home" (*Laudato Si'*), or for "the single human family" that dwells within that home (*Fratelli Tutti*).

It is not that Francis and Benedict XVI harbour different conceptions of the Catholic faith - such a claim would, in any case, be belied by the fact that Francis' first official encyclical, Fidei Lumen ("the light of faith") was in fact adapted from notes and drafts by Benedict XVI himself. Rather, what Francis' theology represents is an emphasis upon faith's "outwards" movement, which in Pope Francis - following in the footsteps of St Francis - reaches out towards the whole of creation and its inhabitants. This is exemplified by a homily given to commemorate the 400<sup>th</sup> anniversary of Ignatius of Loyola's canonisation, Pope Francis talks of how Christ's ascent up a mountain prior to his Transfiguration (Luke 9:280). The mountain here symbolises, for Francis, "the border between heaven and earth" God may be encountered. To climb the mountain, one progresses both "upwards" and, simultaneously, "outwards". This, in brief, is the path of Pope Francis and the outward-facing and public theology that his Papacy commends to the Church.

Dr Greg Marcar is a senior researcher at the Nathaniel Centre for Bioethics and a research affiliate at the Centre for Theology and Public Issues (CTPI), University of Otago. This piece is based on a contribution to the Talk About: Law and Religion Blog of the International Center for Law and Religion Studies (https://talkabout.iclrs.org).

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# Child Sexual Exploitation in Aotearoa New Zealand

# Staff of the Nathaniel Centre for Bioethics March 2025

In February this year a new agency was launched in Nelson – the Saint Nicholas Children's Trust. This not-for-profit agency has the explicit purpose of raising awareness about child sexual exploitation in New Zealand and across the world. Child sexual exploitation exists all over the world and, in New Zealand, a lack of awareness of the issue has allowed this exploitation to go unnoticed, leaving children in our country particularly vulnerable. So how extensive is this problem in New Zealand and what is happening to protect children?

There is limited awareness of the extent of child sexual exploitation, both in Aotearoa New Zealand and globally. UNICEF estimates that "globally, 1 in 5 girls and 1 in 13 boys have been sexually exploited or abused before reaching the age of 18". It suggests that online interaction is likely to feature in almost all cases of child sexual exploitation and abuse, and that "while the full extent of abuse remains unknown, global statistics show alarming increases in reported cases to national hotlines and clearing houses in recent years".

It is difficult to estimate the prevalence of child sexual exploitation, in particular abuse, as definitions vary, and underreporting is common. Estimates of the prevalence of child sexual abuse in studies undertaken in Aotearoa New Zealand range from 17% to 32% for females and 3% to 9% for males. Reasons for under-reporting include lack of trust in agencies, thinking they will not be believed, victim shame, a (misplaced) sense of responsibility for their experiences, trauma from past disclosure attempts, or fear that reporting will make things worse.

The sexual exploitation of children online continues to be a particularly significant and growing problem. Between 2020 and 2022, the Digital Child Exploitation Team, working with overseas law enforcement agencies, identified more than 90,000 online accounts, including 125 New Zealand based accounts, that possessed or traded child sexual abuse material.

There are several social factors that can contribute to child sexual exploitation. These include poverty. In New Zealand, one in every eight children experience material hardship, and almost 18% of children live in households with less than 50% of the median income (after housing costs).

In New Zealand, the Films, Videos, and Publications Classification Act (1993) aims to restrict access to harmful content, prevent access to banned content, and prohibit objectionable content. It is enforced by the Digital Safety Group within the Department of Internal Affairs (DIA) and DIA inspectors are responsible for monitoring New Zealand websites and newsgroups. The DIA also has a Digital Child Exploitation Team which is responsible for responding to and preventing the spread of child sexual exploitation material. Statistics for 2023 from the Department's Digital Child Exploitation Team show that 47 investigations into child exploitation were undertaken, which led to finding 2,966,773 pieces of objectionable material and 209 seized devices. The sexual exploitation of children online continues to be a particularly significant and growing problem. Between 2020 and 2022, the Digital Child Exploitation Team, working with overseas law enforcement agencies, identified more than 90,000 online accounts, including 125 New Zealand based accounts, that possessed or traded child sexual abuse material. We note that the term 'child sexual abuse material' is now preferred to 'child pornography', which fails to describe the true nature of the material and undermines the seriousness of the abuse from the child's perspective.

### New Zealand does not currently comply with TIP's recommendation of having a national referral mechanism in place. For child sexual exploitation, in particular contact offending, this gap is significant.

The Saint Nicholas Children's Trust (see Box) notes that despite efforts by organisations like UNICEF, the International Labour Organisation (ILO), and New Zealand organisations including the Department of Internal Affairs, NZ Customs Service and NZ Police to combat child sexual exploitation, the lack of effective legal frameworks and enforcement continues to pose challenges. For example, in New Zealand, the Crimes Act (1961) requires proof of deception or coercion for successfully prosecuting traffickers. This is problematic for children, as simply being children makes them inherently vulnerable to being trafficked without coercion or deception. It is also inconsistent with international standards that recognise that there is no need to prove means of coercion or deception to charge someone for trafficking. The Saint Nicholas Trust is currently working to change the Crimes Act so that victims under the age of 18 years do not have to prove coercion or deception.

### Child sexual exploitation exists all over the world and, in New Zealand, a lack of awareness of the issue has allowed this exploitation to go unnoticed.

Sex trafficking of children is defined in New Zealand as the sexual exploitation of a person under the age of 18. This usually involves commercial sexual exploitation (of children) which is when an adult pays a child under 18 to perform a sexual act, using gifts, money, or favours. The recent Trafficking in Persons (TIP) Report 2024 found NZ does not meet the minimum standards for eliminating human trafficking. However, 33 countries, including Australia, Canada, the US, and the UK did meet the standards. New Zealand does not currently comply with TIP's recommendation of having a national referral mechanism in place. For child sexual exploitation, in particular contact offending, this gap is significant.

Public awareness of the issue, and of the extent of the problem in New Zealand, is a necessary first step in working to effectively combat child sex exploitation, something that is a key aim of the Saint Nicholas Children's Trust.

Child sexual exploitation is increasing both in New Zealand and worldwide. Traditionally, this has been treated as a law enforcement problem. Without denying that this is a criminal issue, adding a "public health" approach helps, particularly for those impacted by exploitation. This approach involves raising awareness; education and training; research, surveillance and monitoring in order to build an evidence base for prevention programmes, as well as for legislation and policy development; and understanding and reducing the social factors that contribute to exploitation. Public awareness of the issue, and of the extent of the problem in New Zealand, is a necessary first step in working to effectively combat child sex exploitation, something that is a key aim of the Saint Nicholas Children's Trust.

#### NZ Agencies working to reduce Child Sex Exploitation

Saint Nicholas Children's Trust: The Saint Nicholas Children's Trust (The Trust) is a not-for-profit organisation, focused on raising awareness about child sexual exploitation, including child sex trafficking (and other forms of child sexual exploitation). The Trust has a comprehensive website, https://snctrust.org/, that covers a range of issues including definitions, latest information and stories, contributing factors, current legislation, prevalence, research, resources, and how to help.

**Ecpat NZ:** ECPAT NZ leads and participates in national and international activities that identify, prevent, and address commercial sexual exploitation of children. This includes underage sex work, domestic and international trafficking, child marriage, survival sex, and online sexual exploitation. www.ecpat.org.nz/

**Department of Internal Affairs:** The Digital Child Exploitation Team at DIA is responsible for keeping New Zealanders safe from online harm by responding to and preventing the spread of child sexual exploitation material. www.dia.govt.nz/digital-safety

**NZ Police:** The Online Child Exploitation Across New Zealand (OCEANZ) team is a specialist Police unit. It works as part of an international taskforce, the Virtual Global Taskforce, to protect children from online child abuse. www.police.govt.nz/advice-services/cybercrime-andinternet/online-child-safety

**Netsafe:** Netsafe will support victims to try to get content removed from the Internet. It also helps identify those organisations best placed to support victims, and where to report child sexual abuse material so that offenders can be identified and prosecuted. Netsafe also provides advice about online safety for parents and caregivers and for children and young people. https://netsafe.org.nz/

**New Zealand Customs Service:** Investigates cross-border child sexual exploitation. Customs targets the import or export of child sexual abuse material across our physical and cyber borders to identify, investigate and prosecute individuals. http://customs.govt.nz/report



### The Nathaniel Centre for Bioethics THE STORY BEHIND THE NAME

The red flowers of the pōhutukawa appear in December each year. At Cape Reinga on the northern tip of New Zealand there is a lone pōhutukawa, thought to be 800 years old. In Māori tradition the spirits of the dying travel to Cape Reinga where they slip down the roots of the sacred pōhutukawa into the sea, to journey back to their origin in Hawaiki.

Nathaniel Knoef was born on 12 December 1998, as the põhutukawa flowers were beginning to appear. He died on 2 February 1999 as the same flowers faded, giving way to the seed from which new pohutukawa would grow. At his birth Nathaniel was diagnosed with incurable health problems and in the few weeks of his life his parents faced many ethical issues associated with his care. Their story clearly highlighted the need ordinary people have for access to support in dealing with the growing number of ethical issues which surround the gift of life.

The naming of New Zealand's national Catholic Bioethics Centre in honour of Nathaniel is a sign of the Centre's commitment to those who are most vulnerable in the complex ethical situations which develop in their lives.

# Thanks

The staff of the Nathaniel Centre for Bioethics wish to thank all their benefactors whose support has been instrumental in the establishment and continued work of the Centre. The Nathaniel Centre for Bioethics is supported by the New Zealand Catholic Bishops' Conference and also relies upon fees for its services, and individual donations for its continued operation and growth.

We are grateful to the Bishops' Conference and all who support us through donations. We provide a receipt for all donations received. The receipt states the Charities Commission registration number.

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