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New Zealand

The present report is a compilation of the information contained in the reports of treaty bodies and special procedures, including observations and comments by the State concerned, and of the Office of the United Nations High Commissioner for Human Rights (OHCHR), and in other relevant official United Nations documents. It is presented in a summarized manner due to word-limit constraints. For the full text, please refer to the document referenced. This report does not contain any opinions, views or suggestions on the part of OHCHR other than those contained in public reports and statements issued by the Office. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

I. Background and framework

A. Scope of international obligations¹

International human rights treaties²

	<i>Status during previous cycle</i>	<i>Action after review</i>	<i>Not ratified/not accepted</i>
<i>Ratification, accession or succession</i>	ICERD (1972)	OP-CRC-SC	ICRMW
	ICESCR (1978)	(2011, extension to Tokelau only upon notification)	CPED
	ICCPR (1978)		
	ICCPR-OP 2 (1990)		
	CEDAW (1985)		
	CAT (1989)		
	OP-CAT (2007, non-application to Tokelau)		
	CRC (1993)		
	OP-CRC-AC (2001, extension to Tokelau only upon notification to the Secretary-General)		
	CRPD (2008, extension to Tokelau only upon notification)		
<i>Reservations, declarations and/or understandings</i>	ICESCR (reservation, art. 8; withdrawal of reservation for the metropolitan territory only, 2003)		
	ICCPR (reservations, arts. 10, para. 2 (b), 10, para. 3, 14, para.6, 20 and 22)		
	CAT (reservation, art. 14)		
	CRC (general reservation; reservations arts. 32, para. 2 and 37 (c), 1993)		
<i>Complaint procedures, inquiry and urgent action³</i>	ICCPR, art. 41 (1978)		ICERD, art. 14
	ICCPR-OP 1 (1989)		OP-ICESCR
	OP-CEDAW, art. 8 (2000)		OP-CRC-IC
	CAT, arts. 20, 21 and 22 (1989)		ICRMW OP-CRPD CPED

Other main relevant international instruments

	<i>Status during previous cycle</i>	<i>Action after review</i>	<i>Not ratified</i>
<i>Ratification, accession or succession</i>	Convention on the Prevention and Punishment of the Crime of Genocide		ILO fundamental conventions Nos. 87 and 138 ⁸
	Rome Statute of the International Criminal Court		ILO Conventions Nos. 169 and 189 ⁹
	Palermo Protocol ⁴		Additional Protocol III to the 1949 Geneva Conventions ¹⁰
	Conventions on refugees and stateless persons except 1954 Convention ⁵		1954 Convention relating to the Status of Stateless Persons ¹¹
	Geneva Conventions of 12 August 1949 and Additional Protocols I and II ⁶		
	ILO fundamental conventions except Nos. 87 and 138 ⁷		
	UNESCO Convention against Discrimination in Education		

1. New Zealand was encouraged to consider ratifying ICRMW,¹² CPED,¹³ OP-ICESCR,¹⁴ OP-CRPD,¹⁵ OP-CRC-IC¹⁶ and ILO conventions No. 138¹⁷ and No. 169;¹⁸ to make the optional declaration provided for in article 14 of ICERD;¹⁹ and to extend the application of CRC to the territory of Tokelau.²⁰

2. Recommendations were made to New Zealand to consider withdrawing its reservation to: article 14 of CAT,²¹ article 8 of ICESCR²² and article 10, paragraphs. 2 (b) and 3, of ICCPR, and to consider withdrawing all other reservations to ICCPR²³ as well as to withdraw the general reservation and the reservation to article 32, paragraph 2, and article 37 (c) of CRC.²⁴

B. Constitutional and legislative framework

3. In 2010, the Human Rights Committee (HR Committee) reiterated its concern that the Bill of Rights Act 1990 (BORA) did not reflect all ICCPR rights.²⁵ In 2012, the Committee on Economic, Social and Cultural Rights (CESCR) expressed concern that economic, social and cultural rights were not recognized in BORA and that the legislative and policymaking processes did not allow for a review of the compatibility of draft laws, regulations and policies with the rights enshrined in ICESCR. CESCR urged New Zealand to incorporate economic social and cultural rights into BORA.²⁶

4. In 2009, the Committee against Torture (CAT) noted with concern that BORA had no higher status than ordinary legislation in the domestic legal order.²⁷ The HR Committee remained concerned that laws adversely affecting the protection of human rights had been enacted in New Zealand, notwithstanding that they had been acknowledged by the

Attorney-General as being inconsistent with the BORA.²⁸ CAT further noted that judicial decisions made little reference to international human rights instruments.²⁹

5. In the context of the ongoing constitutional review process, CESCR urged New Zealand to give full effect to ICESCR in its domestic legal order and to ensure that redress for violations of the Covenant's rights could be sought through the various recourse mechanisms.³⁰

6. In 2011, the Special Rapporteur on the rights of indigenous peoples stated that the principles enshrined in the Treaty of Waitangi and related internationally protected human rights should be safeguarded within the domestic legal system. At a minimum, the development of safeguards similar to those under BORA would be important in the context of the Treaty of Waitangi.³¹ In 2013, the Committee on the Elimination of Racial Discrimination (CERD) further recommended that New Zealand consider adopting this recommendation by the Special Rapporteur.³² CERD recalled its previous recommendation and urged New Zealand to ensure that public discussions and consultations were held on the status of the Treaty of Waitangi within the context of the ongoing constitutional process, and to focus on whether the Treaty should be entrenched as a constitutional norm.³³

C. Institutional and human rights infrastructure and policy measures

Status of national human rights institutions³⁴

<i>National human rights institution</i>	<i>Status during previous cycle</i>	<i>Status during present cycle</i> ³⁵
New Zealand Human Rights Commission	A (2006)	A (2011)

7. In 2013, CERD noted New Zealand's intention to develop a new human rights action plan, under the aegis of the New Zealand Human Rights Commission, in connection with the universal periodic review process. CERD recommended that adequate consultations be undertaken with relevant stakeholders in developing the action plan.³⁶

8. Several treaty bodies made specific recommendations for the next human rights action plan to take account of the concluding observations of CESCR;³⁷ and for an action plan to: combat racial discrimination, in line with the Durban Declaration and Programme of Action,³⁸ to implement the Convention on the Rights of the Child;³⁹ and to mainstream gender in all national plans.⁴⁰

9. CESCR recommended that New Zealand raise awareness of Covenant rights among parliamentarians and policymakers⁴¹ and CEDAW recommended that it consider establishing a human rights select committee in parliament to strengthen parliamentary oversight on human rights generally and especially on women's rights and gender equality.⁴²

10. In 2011, the Committee on the Rights of the Child (CRC) encouraged New Zealand to consider taking measures to ensure that the business sector complied with international and domestic standards on corporate social responsibility, particularly with regard to child rights.⁴³

II. Cooperation with human rights mechanisms

A. Cooperation with treaty bodies⁴⁴

1. Reporting status

<i>Treaty body</i>	<i>Concluding observations included in previous review</i>	<i>Latest report submitted since previous review</i>	<i>Latest concluding observations</i>	<i>Reporting status</i>
CERD	August 2007	2012	March 2013	Twenty-first and twenty-second reports due in 2015
CESCR	May 2003	2009	May 2012	Fourth report due in 2017
HR Committee	July 2002	–	April 2010	Sixth report due in 2015
CEDAW	August 2007	2010	August 2012	Eighth report due in 2016
CAT	June 2004	–	June 2009	Sixth report overdue since May 2013
CRC	October 2003	–	April 2011 (CRC;OP-CRC-AC)	Fifth report due in 2015 (CRC, OP-CRC-AC); initial report due in October 2013 (OP-CRC-SC)
CRPD	–	2012	–	Initial report pending consideration

2. Responses to specific follow-up requests by treaty bodies

Concluding observations

<i>Treaty body</i>	<i>Due in</i>	<i>Subject matter</i>	<i>Submitted in</i>
CERD	2014	National Action Plan on Human Rights; incitement to racial hatred and violence; indigenous peoples; language ⁴⁵	–
HR Committee	2011	Overrepresentation of Maori in prisons; terrorism suppression and Operation 8; review of the Foreshore and Seabed Act 2004 ⁴⁶	2011 ⁴⁷ and 2012 ⁴⁸
CEDAW	2014	Situation of women with disabilities, rural women, older women and women from ethnic minority groups; prohibition of underage and forced marriage ⁴⁹	–

<i>Treaty body</i>	<i>Due in</i>	<i>Subject matter</i>	<i>Submitted in</i>
CAT	2010	Conditions of detention; allegations of ill-treatment; withdrawal of reservation to article 14; use of taser weapons ⁵⁰	2010 ⁵¹ Follow-up ongoing ⁵²

Views

<i>Treaty body</i>	<i>Number of views</i>	<i>Status</i>
HR Committee	1 ⁵³	Follow-up dialogue ongoing ⁵⁴

Country visits and/or inquiries by treaty bodies

<i>Treaty body</i>	<i>Date</i>	<i>Subject matter</i>
SPT	29 April-8 May 2013	–

11. The HR Committee recommended that New Zealand give full effect to all views on individual communications adopted by the Committee.⁵⁵

12. CRC recommended that its concluding observations be transmitted to the Head of State, the Supreme Court, Parliament, relevant ministries and local authorities for appropriate consideration and further action.⁵⁶

B. Cooperation with special procedures⁵⁷

	<i>Status during previous cycle</i>	<i>Current status</i>
<i>Standing invitation</i>	Yes	Yes
<i>Visits undertaken</i>	Indigenous people (16–26 November 2005)	None
<i>Visits agreed to in principle</i>	None	Arbitrary detention (24 March–7 April 2014)
<i>Visits requested</i>	None	None
<i>Responses to letters of allegations and urgent appeals</i>	In the period under review three communications were sent. New Zealand replied to all of these communications.	
<i>Follow-up reports and missions</i>	Indigenous people (mission 18–23 July 2010) ⁵⁸	

13. CRC encouraged New Zealand to take into account observations and recommendations made by the Special Rapporteur on the rights of indigenous peoples following his 2010 visit.⁵⁹

C. Cooperation with the Office of the United Nations High Commissioner for Human Rights

14. New Zealand contributed financially to OHCHR annually.⁶⁰ The OHCHR Regional Office for the Pacific, established in 2005, is located in Suva, Fiji, and covers the 16 Pacific Island Forum countries, including New Zealand.⁶¹

III. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Equality and non-discrimination

15. CEDAW recommended that New Zealand, in the context of the current Constitutional review, fully incorporate the principle of equality between men and women;⁶² include in its equality legislation provisions to encourage the use of temporary special measures, in both the public and private sectors;⁶³ and establish a legal definition of discrimination on the basis of sex.⁶⁴

16. CEDAW expressed concern at the situation of disadvantaged groups of women and concern that the new social security legislation would likely predominantly affect Maori women and reduce their social benefits, and that there were few education and employment programmes targeted at women and girls with disabilities. It also noted with concern the impact of the Christchurch earthquake on women, particularly rural women and older women, including their reported higher degrees of stress, anxiety and depression, as well as their resulting higher numbers of displacement and unemployment.⁶⁵

17. CESCR was concerned that provisions of the 1972 Equal Pay Act fell short of article 7 of ICESCR, recommended that New Zealand amend its legislation to provide for equal pay for work of equal value and urged it to take steps within a clear timetable to correct the gender gap in the public sector.⁶⁶ CEDAW made related recommendations.⁶⁷

18. CEDAW was concerned, *inter alia*, at the negative and sometimes exploitative representation of women in the media, the incidence of cyber-bullying, notably targeting teenage girls, and the practice of forced marriage of young girls in migrant communities.⁶⁸ CEDAW urged New Zealand to implement without delay a national campaign on the importance of equality and to eliminate negative stereotypes.⁶⁹

19. CERD regretted recent inflammatory remarks made by a member of parliament and urged New Zealand to promote ethnic harmony through raising awareness.⁷⁰ CERD recommended the development of a comprehensive legislative framework for addressing the problem of incitement to racial hatred on the Internet.⁷¹

20. CERD recommended that New Zealand: intensify its efforts to improve the outcome of the Maori and Pasifika in the fields of employment, health and the administration of criminal justice by addressing the existing structural discrimination; and that it consider strengthening its special measures to increase the level of educational attainment of Maori and Pasifika children, in particular by focusing its measures on addressing the root causes of absenteeism and high dropout rates in schools.⁷² Related recommendations were made by CRC and CESCR.⁷³

21. CERD was concerned at reports of persistent discrimination against migrants, particularly those of Asian origin, in the labour market.⁷⁴

B. Right to life, liberty and security of the person

22. CAT was deeply concerned at the introduction of taser weapons by the police and that their use in some cases might even cause death. The HR Committee recommended that New Zealand consider relinquishing the use of electric taser weapons.⁷⁵

23. While noting the various initiatives undertaken, CAT was concerned at the over-representation of Maoris at all levels of the criminal justice process, and the insufficient safeguards to protect the rights of minorities from discrimination and marginalization, which put them at a higher risk of torture and ill-treatment.⁷⁶

24. CAT was concerned at the insufficient number of prison facilities; inadequate provision of mental health care and legal services to mentally ill inmates in prisons; and the use by prison authorities of instruments of physical restraint that might cause unnecessary pain and humiliation.⁷⁷

25. Despite positive developments, CEDAW was concerned at the continued high and increasing levels of violence against women and the low rates of reporting and conviction, particularly relating to sexual violence.⁷⁸ CAT also remained concerned about the continued prevalence of violence against women, particularly Maori, Pacific and minority women.⁷⁹ CEDAW called upon New Zealand to encourage reporting, strengthen training, ensure the necessary legal and psychosocial services, and improve the level of representation on the Task Force for Action on Violence within Families.⁸⁰ CESCR recommended the priority adoption of a framework for implementing the recommendations of the Task Force for Action on Sexual Violence.⁸¹

26. CRC remained alarmed at the high prevalence of abuse and neglect of children in the family and at the lack of a comprehensive nationwide strategy in that regard. CRC recommended that New Zealand establish mechanisms for monitoring the number of cases and extent of violence, sexual abuse, neglect, maltreatment or exploitation, including within the family, in schools and in institutional or other care.⁸² CRC also recommended the allocation of sufficient funding to enable toll-free, 24-hour access to the child helplines.⁸³

27. While welcoming the abolition of parental force for the purposes of correction, CRC recommended that New Zealand continue to promote positive and non-violent forms of discipline in child-rearing.⁸⁴

28. CEDAW recommended that New Zealand introduce legal measures to prohibit underage and forced marriages and that it promote measures to protect women impacted by polygamy and dowry-related violence.⁸⁵

29. While welcoming the measures taken, the HR Committee was concerned that New Zealand had failed to identify any case of trafficking. CEDAW recommended raising awareness of threats of trafficking and exploitation and the screening of vulnerable populations, including migrant women and girls, such as “mail order” and “Internet” brides.⁸⁶

C. Administration of justice and the rule of law

30. CAT recommended that New Zealand consider abandoning the system which gave the Attorney-General discretion to decide whether or not to prosecute, even in cases in which there was reasonable ground to believe that an act of torture had been committed, and which gave the police the discretion to prosecute alleged perpetrators on the basis of public interest.⁸⁷

31. CAT was concerned that the Evidence Act 2006 did not fully incorporate article 15 of the Convention and recommended that it be brought into line with that article so as to exclude explicitly any evidence obtained as a result of torture.⁸⁸
32. CAT recommended that New Zealand further strengthen the independence of the Independent Police Conduct Authority, which should be staffed with independent experts drawn from outside the police.⁸⁹
33. The HR Committee recommended that New Zealand expedite the adoption of amendments to the Misuse of Drugs Act 1975 to ensure the right to be presumed innocent.⁹⁰
34. The HR Committee recommended that New Zealand continue to closely monitor all measures of privatization of prison management.⁹¹
35. While noting the initiatives taken, CERD urged New Zealand to intensify its efforts to address the overrepresentation of members of the Maori and Pasifika communities at every stage of the criminal justice system.⁹² The HR Committee also recommended that New Zealand increase its efforts to prevent the discrimination against Maori in the administration of justice.⁹³ The Special Rapporteur on the rights of indigenous peoples recommended that, in consultation with Maori leaders, the Government should redouble its efforts to address the problem of high rates of incarceration among Maori. Specific attention should be given to the disproportionate negative impacts on Maori of any criminal justice initiatives that extended incarceration periods, reduced opportunities for probation or parole, used social status as an aggravating factor in sentencing or otherwise increased the likelihood of incarceration.⁹⁴
36. CEDAW urged New Zealand to facilitate women's access to justice, including by providing free legal aid to women without sufficient means and to make sure that migrant and Maori women were not discriminated against in the administration of justice; and to enhance awareness-raising initiatives for women on how to use available legal remedies against discrimination, including with regard to the Human Rights Commission.⁹⁵
37. The Special Rapporteur on the rights of indigenous peoples recommended that New Zealand should ensure the necessary funding was available to enable the Waitangi Tribunal to resolve its pending caseload of historical grievances in an efficient and timely manner, and should consult with Maori people to determine the future role of the Tribunal.⁹⁶ New Zealand should also take steps to ensure that the 2008 deadline for the submission of historical claims did not have the effect of barring legitimate claims and that the 2014 goal for the settlement of all historical claims did not compromise any settlement processes that could benefit from more negotiating time.⁹⁷ He also recommended that any decision by the Government to act against the recommendations of the Waitangi Tribunal in a particular case should be accompanied by a written justification and should be in accordance with the principles of the Treaty and international human rights standards.⁹⁸
38. Referring to allegations of cruel, inhuman or degrading treatment inflicted by persons acting in an official capacity on children in State institutions and patients in psychiatric hospitals, CAT recommended that New Zealand ensure that such allegations in the "historic cases" were investigated promptly and impartially, that perpetrators were duly prosecuted and that the victims were accorded redress, including adequate compensation and rehabilitation.⁹⁹
39. CRC reiterated its concern regarding the low age of criminal responsibility and its concern that New Zealand maintained the age of penal majority at 17 years. It also regretted that, despite the existence of "family group conferences", the judiciary used a punitive approach more often than a restorative approach.¹⁰⁰ Recommendations were made to address those and other matters,¹⁰¹ including that New Zealand should develop a broad

range of alternative measures to detention for children in conflict with the law and that it should separate any child, male or female, from adults in detention.¹⁰²

40. Additionally, CRC recommended that New Zealand ensure that all child victims and/or witnesses of crimes were provided with the protection required by the Convention.¹⁰³

D. Right to privacy, marriage and family life

41. CRC recommended that New Zealand intensify its efforts to render assistance to parents and legal guardians in the performance of their child-rearing responsibilities with timely responses at the local level, including counselling and support services for the treatment of alcohol- or drug-related problems, and, in the case of Maori and Pacific Islander populations, culturally appropriate services.¹⁰⁴

42. CRC recommended that New Zealand should take steps to ensure that a child's consent, as appropriate, was required for domestic adoptions; resume its review of adoption legislation; and lower to at least 18 years (from the current 20 years) the age at which adopted children had the right to have access to their files.¹⁰⁵

E. Freedom of expression and right to participate in public and political life

43. The HR Committee recommended that New Zealand further encourage the participation of women in high-level and managerial positions and on the boards of private enterprises.¹⁰⁶ CEDAW made similar recommendations.¹⁰⁷

44. CRC recommended that New Zealand promote and implement, in legislation and in practice, the principle of respect for the views of the child.¹⁰⁸

F. Right to work and to just and favourable conditions of work

45. CESCR expressed concern that unemployment continued to disproportionately affect young persons and recommended that New Zealand include in its strategy for boosting skills and employment targeted measures to address the obstacles impeding young persons' access to employment.¹⁰⁹

46. In 2013, the ILO Committee of Experts on the Application of Conventions and Recommendations once again expressed its serious concern that children between 15 and 18 years of age were allowed, in law and in practice, to perform types of work which were clearly hazardous, as previously acknowledged by the Government and confirmed by the Department of Labour's research.¹¹⁰

47. CESCR recommended that New Zealand introduce a statutory maximum number of work hours and investigate all allegations of violations of labour laws.¹¹¹

48. CEDAW recommended that New Zealand introduce appropriate legal measures to ensure paid parental leave and consider ratifying ILO Convention No. 156 (1981) concerning workers with family responsibilities.¹¹²

G. Right to social security and to an adequate standard of living

49. CRC, while noting the measures taken, was concerned that about 20 per cent of children still lived under the poverty line and recommended that New Zealand take all

necessary measures to provide appropriate support to allow disadvantaged families and their children to move out of poverty sustainably, and continue to provide assistance to those who remained under the poverty line.¹¹³

50. CESCR noted with concern the shortage of childcare facilities and regretted that childcare subsidies under the Working Families Scheme had reportedly benefited mainly middle- and higher-income groups. CESCR called on New Zealand to increase the number of childcare facilities and ensure that the most disadvantaged and marginalized groups also had access to such services.¹¹⁴

51. CESCR also expressed concern about the retrogressive nature and possible discriminatory impact of welfare reforms. CESCR called on New Zealand to reconsider the work-test requirements being introduced and also to ensure that income management was applied on an individual basis and according to need.¹¹⁵ CEDAW recommended that New Zealand ensure that the ongoing welfare reforms did not discriminate against disadvantaged groups of women and that an independent evaluation of their gendered impact be made, and that it ensure the gender mainstreaming of policies relating to the process of recovery from the 2011 earthquake and engage in analysis of their gender impact.¹¹⁶

52. Noting the challenges caused by recent earthquakes, CESCR recommended that New Zealand adopt a human rights approach to reconstruction efforts, ensuring appropriate consideration to availability, affordability and adequacy of housing, including for temporary housing; and encouraged the application of designs which enabled access for persons with disabilities.¹¹⁷

53. CESCR regretted New Zealand's decision to restrict eligibility for social housing to only those "in the greatest need". It called on New Zealand to ensure that its enactments and policies guaranteed the right to adequate housing for everyone and urged the taking of appropriate measures to address the problem of the long waiting list for social housing.¹¹⁸

54. CESCR recommended that New Zealand ensure that the right to affordable and safe water was guaranteed, including in the context of privatization of water distribution.¹¹⁹

H. Right to health

55. While commending New Zealand's advocacy of women's sexual and reproductive rights and the prevention of maternal mortality, CEDAW urged New Zealand to review abortion law and practice with a view to simplifying it and to ensure women's autonomy to choose, prevent women from having to resort to unsafe abortions and remove punitive provisions imposed on women who underwent an abortion.¹²⁰

56. CEDAW urged New Zealand to promote widely education on sexual and reproductive health rights, particularly with regard to the prevention of teenage and unwanted pregnancies, and to strengthen measures to support pregnant girls; to address the deteriorating mental health situation of young girls, and to prevent and combat the abuse of their health situation; to prevent and combat the abuse of alcohol and use of drugs; and to prevent suicide.¹²¹

57. The Special Rapporteur on the rights of indigenous peoples noted that the available health statistics raised serious concerns that Maori were not receiving the standard of health services received by other groups in New Zealand.¹²² CRC recommended that inequalities be addressed through a coordinated approach between health policies and those aimed at reducing income inequality and poverty.¹²³ The Special Rapporteur encouraged the Government to continue work with *whanau*, *iwi* and Maori leaders to assess the causes of the discrepancy in health conditions and identify possible culturally appropriate solutions.¹²⁴

58. CEDAW urged New Zealand to increase efforts to improve health-care services, including mental health care, for minority women, especially Maori and Pacific women; to improve access and quality of health services for lesbian women and transgendered persons; and to ensure that pregnant women were informed that HIV testing was not mandatory and that, when they were tested, their informed consent was obtained.¹²⁵

59. CESCR recommended that New Zealand strengthen measures to counter tobacco consumption, particularly among Maori and Pasifika, and improve access to smoking cessation programmes.¹²⁶

I. Right to education

60. While appreciating the numerous efforts undertaken, CRC was concerned that several groups of children had problems being enrolled in school or continuing or re-entering education, notably children with disabilities (children with special educational needs), children living in rural areas, Maori, Pacific and minority children, asylum-seeking children, teenage mothers, dropouts and non-attendees for different reasons. Furthermore, the Committee was concerned that only 20 hours of free early childhood education and care were available and that there was limited access for many children, especially those in need; that many public schools were pressuring parents to make “donations”; and that bullying was a serious and widespread problem,¹²⁷ which could hinder children’s attendance at school and successful learning. The Committee was also concerned at the number of school suspensions and exclusions and that these particularly affected children from groups which in general were low on school achievement.¹²⁸

61. CEDAW recommended that New Zealand should develop a systematic programme to ensure that parents understood the voluntary nature of payments requested by schools and monitor schools’ practices regarding the collection of fees;¹²⁹ implement measures to decrease dropout rates among Maori girls and reintegrate them in the educational system; and introduce measures to widen women’s and girls’ opportunities for future employment.¹³⁰ The United Nations Educational, Scientific and Cultural Organization (UNESCO) encouraged New Zealand to take additional measures to increase access to free education and to ensure that children from low-income families and families living in rural areas were not discriminated against in the provision of education.¹³¹

J. Persons with disabilities

62. CESCR was concerned that persons with disabilities continued to be disadvantaged despite the measures that had been taken, and called upon New Zealand to introduce incentives and other special measures to promote their employment; explicitly regard denial of reasonable accommodation as a form of discrimination; and ensure that the primary health system was adequately equipped to provide care for persons with intellectual disabilities.¹³²

K. Indigenous peoples

63. The Special Rapporteur on the rights of indigenous peoples indicated that, especially in recent years, New Zealand had made significant strides to advance the rights of Maori people and to address concerns raised by his predecessor as Special Rapporteur. They included New Zealand’s expression of support for the United Nations Declaration on the Rights of Indigenous Peoples, its steps to repeal and reform the Foreshore and Seabed Act of 2004 and its efforts to carry out a constitutional review process with respect to

constitutional issues, including Maori representation and the role of the Treaty of Waitangi.¹³³ Additionally, the Treaty settlement process in New Zealand, despite evident shortcomings, was one of the most important examples in the world of an effort to address historical and ongoing grievances of indigenous peoples, and settlements already achieved had provided significant benefits in several cases.¹³⁴ While welcoming those efforts, the HR Committee recommended that New Zealand ensure that the views expressed by different Maori groups during consultations in the context of the historical Treaty claims settlement process were duly taken into account.¹³⁵

64. The Special Rapporteur recommended that, in order to address any conflicts regarding participation or representation in settlement negotiations, the Government, in consultation with Maori, should strengthen available mediation or other alternative dispute resolution mechanisms.¹³⁶ He also encouraged the Government to show flexibility in its positions during settlement negotiations and to strive, as appropriate, for creative solutions that provided adequate redress for Maori claims, in accordance with the Treaty of Waitangi and international standards.¹³⁷ In consultation with the Maori, the Government should explore and develop means of addressing Maori concerns regarding the Treaty settlement negotiation process, especially the perceived imbalance of power between Maori and government negotiators.¹³⁸

65. While welcoming the Waitangi Tribunal's Wai 262 decision, CERD recommended that New Zealand promptly announce a timetable to implement that decision so as to fully protect the intellectual property rights of Maori communities over their traditional knowledge and genetic and biological resources.¹³⁹

66. CERD urged New Zealand to ensure that any privatization of energy companies was pursued in a manner that fully respected the rights of Maori communities to freshwater and geothermal resources, as protected by the Treaty of Waitangi.¹⁴⁰

67. CERD urged New Zealand to continue to review the 2011 Marine and Coastal Areas (Takutai Moana) Act with a view to facilitating the full enjoyment of their rights by Maori communities regarding the land and resources they traditionally owned or used, and in particular their access to places of cultural and traditional significance.¹⁴¹

68. CESCR called on New Zealand to ensure that the inalienable rights of Maori to their lands, territories, waters and marine areas and other resources as well as the respect of the free, prior and informed consent of Maori on any decisions affecting their use were firmly incorporated in New Zealand's legislation and duly implemented.¹⁴²

69. The Special Rapporteur recommended that New Zealand strengthen efforts to secure Maori political participation at the national level and that special attention be focused on increasing Maori participation in local governance.¹⁴³

70. Concerned at the finding by the Waitangi Tribunal that the Maori language was at risk of erosion, CERD urged New Zealand to expedite the development of a new Maori language strategy.¹⁴⁴

L. Migrants, refugees and asylum seekers

71. The HR Committee recommended that New Zealand bring its legislation fully in line with the principle of *non-refoulement*, and consider extending the mandate of the New Zealand Human Rights Commission so that it could receive complaints of human rights violations related to immigration laws, policies and practices and report on them.¹⁴⁵

72. Noting that the Immigration Amendment Bill would provide for the mandatory detention of asylum seekers and persons arriving in a group of more than 10 persons, CERD urged New Zealand to ensure that the 2012 Bill accorded to international standards

in the treatment of persons in need of international protection so that it did not unfairly and arbitrarily discriminate against asylum seekers.¹⁴⁶ UNHCR associated itself with CERD's recommendation.¹⁴⁷

73. CERD urged New Zealand to refrain from sending asylum seekers to a neighbouring country's offshore detention facilities until the conditions met international standards.¹⁴⁸ UNHCR recommended that any asylum seekers arriving in New Zealand, whether by sea or air, be given access to the full refugee status determination process in New Zealand.¹⁴⁹

M. Right to development

74. CESCR encouraged New Zealand to increase the level of its contribution of official development assistance to attain 0.7 per cent of gross national income.¹⁵⁰

N. Human rights and counter-terrorism

75. With regard to concerns raised about the so-called Operation 8 (anti-terrorism raids carried out on 15 October 2007), which allegedly involved excessive use of force against Maori communities, the HR Committee recommended that New Zealand ensure that the Terrorism Suppression Amendment Act was not applied in a discriminatory manner and did not lead to excessive use of force against suspects, and ensure that the trials of those arrested in the context of Operation 8 were held within a reasonable time frame.¹⁵¹ In response, in 2012, New Zealand stated that following a decision by the Supreme Court on 2 September 2011, the firearms charges against 18 people had been withdrawn in respect of all but four cases. The trials on the remaining charges of participation in a criminal organization and unlawful possession of firearms were scheduled to commence on 13 February 2012.¹⁵²

76. The HR Committee recommended that New Zealand ensure that its counter-terrorism legislation was in full conformity with ICCPR. New Zealand should ensure that the measures taken to implement Security Council resolution 1267 (1999), as well as the national designation procedures for terrorist groups, fully complied with all the legal safeguards enshrined in the Covenant.¹⁵³

Notes

¹ Unless indicated otherwise, the status of ratifications of instruments listed in the table may be found in the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, <http://treaties.un.org/>. Please also refer to the United Nations compilation on New Zealand from the previous cycle (A/HRC/WG.6/5/NZL/2).

² The following abbreviations have been used for this document:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights;
OP-ICESCR	Optional Protocol to ICESCR
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP 1	Optional Protocol to ICCPR
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
OP-CEDAW	Optional Protocol to CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CAT	Optional Protocol to CAT
CRC	Convention on the Rights of the Child
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography
OP-CRC-IC	Optional Protocol to CRC on a communications procedure
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
OP-CRPD	Optional Protocol to CRPD
CPED	International Convention for the Protection of All Persons from Enforced Disappearance

³ Individual complaints: ICCPR-OP 1, art 1; OP-CEDAW, art. 1; OP-CRPD, art. 1; OP-ICESCR, art. 1; OP-CRC-IC, art.5; ICERD, art. 14; CAT, art. 22; ICRMW, art. 77; and CPED, art. 31. Inquiry procedure: OP-CEDAW, art. 8; CAT, art. 20; CPED, art. 33; OP-CRPD, art. 6; OP-ICESCR, art. 11; and OP-CRC-IC, art. 13. Inter-State complaints: ICCPR, art. 41; ICRMW, art. 76; CPED, art. 32; CAT, art. 21; OP-ICESCR, art. 10; and OP-CRC-IC, art. 12; Urgent action: CPED, art. 30.

⁴ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

⁵ 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and 1961 Convention on the Reduction of Statelessness.

⁶ Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Geneva Convention relative to the Treatment of Prisoners of War (Third Convention); Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html.

⁷ International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 105 concerning the Abolition of Forced Labour; Convention No. 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value;

- Convention No. 111 concerning Discrimination in respect of Employment and Occupation;
Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.
- ⁸ International Labour Organization Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise; and Convention No. 138 concerning Minimum Age for Admission to Employment.
- ⁹ International Labour Organization Convention No.169 concerning Indigenous and Tribal Peoples in Independent Countries and Convention No.189 concerning Decent Work for Domestic Workers.
- ¹⁰ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III).
- ¹¹ 1954 Convention relating to the Status of Stateless Persons.
- ¹² Concluding observations of the Committee against Torture (CAT/C/NZL/CO/5), para. 19; concluding observations of the Committee on the Elimination of Discrimination against Women (CEDAW/C/NZL/CO/7), para. 43; concluding observations of the Committee on Economic, Social and Cultural Rights (E/C.12/NZL/CO/3), para. 32; concluding observations of the Committee on the Rights of the Child (CRC/C/NZL/CO/3-4), para. 60; concluding observations of the Committee on the Elimination of Racial Discrimination (CERD/C/NZL/CO/18-20), para. 22.
- ¹³ CAT/C/NZL/CO/5, para. 19; CEDAW/C/NZL/CO/7, para. 43; E/C.12/NZL/CO/3, para. 32; CRC/C/NZL/CO/3-4, para. 60.
- ¹⁴ E/C.12/NZL/CO/3, para. 31; CRC/C/NZL/CO/3-4, para. 60.
- ¹⁵ E/C.12/NZL/CO/3, para. 32; CRC/C/NZL/CO/3-4, para. 60.
- ¹⁶ E/C.12/NZL/CO/3, para. 32.
- ¹⁷ CRC/C/NZL/CO/3-4, para. 50.
- ¹⁸ CERD/C/NZL/CO/18-20, para. 22.
- ¹⁹ *Ibid.*, para. 24.
- ²⁰ CRC/C/NZL/CO/3-4, para. 9 (b).
- ²¹ CAT/C/NZL/CO/5, para. 14.
- ²² E/C.12/NZL/CO/3, para. 30.
- ²³ CCPR/C/NZL/CO/5, para. 5.
- ²⁴ CRC/C/NZL/CO/3-4, para. 9 (a).
- ²⁵ CCPR/C/NZL/CO/5, para. 7.
- ²⁶ E/C.12/NZL/CO/3, para. 10.
- ²⁷ CAT/C/NZL/CO/5, para. 4.
- ²⁸ CCPR/C/NZL/CO/5, para. 7.
- ²⁹ CAT/C/NZL/CO/5, para. 4.
- ³⁰ E/C.12/NZL/CO/3, para. 9.
- ³¹ A/HRC/18/35/Add.4, para. 77.
- ³² CERD/C/NZL/CO/18-20, para. 7.
- ³³ *Ibid.*, para. 7.
- ³⁴ According to article 5 of the rules of procedure of the International Coordinating Committee (ICC) Sub-Committee on Accreditation, the different classifications for accreditation used by the Sub-Committee are: A: Voting Member (fully in compliance with each of the Paris Principles); B: Non-Voting Member (not fully in compliance with each of the Paris Principles or insufficient information provided to make a determination); C: No Status (not in compliance with the Paris Principles).
- ³⁵ For the list of national human rights institutions with accreditation status granted by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), see A/HRC/23/28, annex.
- ³⁶ CERD/C/NZL/CO/18-20, para. 8.
- ³⁷ E/C.12/NZL/CO/3, para. 33.
- ³⁸ CERD/C/NZL/CO/18-20, para. 8. See also para. 23.
- ³⁹ CRC/C/NZL/CO/3-4, para. 14.
- ⁴⁰ CEDAW/C/NZL/CO/7, paras. 17-18.
- ⁴¹ E/C.12/NZL/CO/3, para. 10.
- ⁴² CEDAW/C/NZL/CO/7, para. 10.
- ⁴³ CRC/C/NZL/CO/3-4, para. 23.
- ⁴⁴ The following abbreviations have been used for this document:

CERD	Committee on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
HR Committee	Human Rights Committee
CEDAW	Committee on the Elimination of Discrimination against Women
CAT	Committee against Torture
CRC	Committee on the Rights of the Child
CRPD	Committee on the Rights of Persons with Disabilities
SPT	Subcommittee on Prevention of Torture

- ⁴⁵ CERD/C/NZL/CO/18-20, para. 27.
- ⁴⁶ CCPR/C/NZL/CO/5, para. 22.
- ⁴⁷ CCPR/C/NZL/CO/5/Add.1.
- ⁴⁸ CCPR/C/NZL/CO/5/Add.2.
- ⁴⁹ CEDAW/C/NZL/CO/7, para. 44.
- ⁵⁰ CAT/C/NZL/CO/5, para. 21.
- ⁵¹ CAT/C/NZL/CO/5/Add.1.
- ⁵² Letter dated 7 May 2012 from the Committee against Torture to the Permanent Mission of New Zealand, available at http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/NZL/INT_CAT_FUF_NZL_12099_E.pdf.
- ⁵³ CCPR/C/95/D/1512/2006; views adopted on 17 March 2009.
- ⁵⁴ Ibid., para. 10.
- ⁵⁵ CCPR/C/NZL/CO/5, para. 8.
- ⁵⁶ CRC/C/NZL/CO/3-4, para. 61.
- ⁵⁷ For the titles of special procedures, see www.ohchr.org/EN/HRBodies/SP/Pages/Themes.aspx and www.ohchr.org/EN/HRBodies/SP/Pages/Countries.aspx.
- ⁵⁸ A/HRC/18/35/Add.4.
- ⁵⁹ CRC/C/NZL/CO/3-4, para. 58.
- ⁶⁰ http://www.ohchr.org/Documents/AboutUs/FundingBudget/Voluntary_contributions_2006-2010.pdf and http://www.ohchr.org/Documents/AboutUs/FundingBudget/Voluntary_contributions_17.06.2011.pdf.
- ⁶¹ OHCHR Annual Report 2011, p. 314, available at: http://www2.ohchr.org/english/ohchrreport2011/web_version/ohchr_report2011_web/allegati/23_Asi_a.pdf
- ⁶² CEDAW/C/NZL/CO/7, para. 12.
- ⁶³ Ibid., para. 20.
- ⁶⁴ CEDAW/C/NZL/CO/7, para. 12.
- ⁶⁵ Ibid., para. 36. See also para. 9.
- ⁶⁶ E/C.12/NZL/CO/3, para. 14.
- ⁶⁷ CEDAW/C/NZL/CO/7, para.33.
- ⁶⁸ Ibid., para. 21.
- ⁶⁹ Ibid., para. 22.
- ⁷⁰ CERD/C/NZL/CO/18-20, para. 10.
- ⁷¹ Ibid., para. 9.
- ⁷² Ibid., para. 15.
- ⁷³ CRC/C/NZL/CO/3-4, paras. 24-25; E/C.12/NZL/CO/3, para. 12.
- ⁷⁴ CERD/C/NZL/CO/18-20, para. 16.
- ⁷⁵ CAT/C/NZL/CO/5, para. 16; CCPR/C/NZL/CO/5, para. 10. See also CAT/C/NZL/CO/5/Add.1 and letter dated 7 May 2012 from the Committee against Torture to the Permanent Mission of New Zealand, available at http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/NZL/INT_CAT_FUF_NZL_12099_E.pdf.
- ⁷⁶ CAT/C/NZL/CO/5, para. 5.
- ⁷⁷ Ibid., para. 9. See also, CAT/C/NZL/CO/5/Add.1 and letter dated 7 May 2012 from the Committee against Torture to the Permanent Mission of New Zealand, available at http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/NZL/INT_CAT_FUF_NZL_12099_E.pdf.

- 78 CEDAW/C/NZL/CO/7, para. 24.
79 CAT/C/NZL/CO/5, para. 17.
80 CEDAW/C/NZL/CO/7, para. 25.
81 E/C.12/NZL/CO/3, para. 18.
82 CRC/C/NZL/CO/3-4, paras. 35-36. See also CCPR/C/NZL/CO/5, para. 18.
83 Ibid., para. 54.
84 Ibid., paras. 28-29.
85 CEDAW/C/NZL/CO/7, para. 39.
86 CCPR/C/NZL/CO/5, para. 15; CEDAW/C/NZL/CO/7, para. 27. See also CRC/C/NZL/CO/3-4, paras. 51-52.
87 CAT/C/NZL/CO/5, para. 10.
88 Ibid., para. 15.
89 Ibid., para. 12.
90 CCPR/C/NZL/CO/5, para. 17.
91 Ibid., para. 11.
92 CERD/C/NZL/CO/18-20, para. 11.
93 CCPR/C/NZL/CO/5, para. 12.
94 A/HRC/18/35/Add.4, para. 83.
95 CEDAW/C/NZL/CO/7, para. 16.
96 A/HRC/18/35/Add.4, para. 70.
97 Ibid., para. 71.
98 Ibid., para. 72.
99 CAT/C/NZL/CO/5, para. 11. See also CAT/C/NZL/CO5/Add.1 and letter dated 7 May 2012 from the Committee against Torture to the Permanent Mission of New Zealand, available at http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/NZL/INT_CAT_FUF_NZL_12099_E.pdf.
100 CRC/C/NZL/CO/3-4, para. 55.
101 Ibid., para. 56.
102 Ibid., para. 56 (c) and (d).
103 Ibid., para. 57.
104 Ibid., para. 32.
105 Ibid., para. 34.
106 CCPR/C/NZL/CO/5, para. 9.
107 CEDAW/C/NZL/CO/7, paras. 19-20 and 28-29.
108 CRC/C/NZL/CO/3-4, para. 27.
109 E/C.12/NZL/CO/3, para. 15.
110 ILO Committee of Experts on the Application of Conventions and Recommendations, Observation concerning ILO Worst Forms of Child Labour Convention, 1999 (No. 182) – New Zealand, adopted 2012, published 102nd ILC session (2013), available at http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3081261:YES. See also CRC/C/NZL/CO/3-4, para. 49.
111 E/C.12/NZL/CO/3, para. 16.
112 CEDAW/C/NZL/CO/7, para. 33 (c).
113 CRC/C/NZL/CO/3-4, paras. 43-44.
114 E/C.12/NZL/CO/3, para. 20.
115 Ibid., para. 17.
116 CEDAW/C/NZL/CO/7, para. 37.
117 E/C.12/NZL/CO/3, para. 21.
118 Ibid., para. 22.
119 Ibid., para. 23.
120 CEDAW/C/NZL/CO/7, paras. 34-35.
121 Ibid., para. 35 (c) and (f). See also CRC/C/NZL/CO/3-4, para. 42.
122 A/HRC/18/35/Add.4, para. 82.
123 CRC/C/NZL/CO/3-4, para. 38.
124 A/HRC/18/35/Add.4, para. 82.
125 CEDAW/C/NZL/CO/7, para. 35,(d), (e) and (g).

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- ¹²⁶ E/C.12/NZL/CO/3, para. 25.
¹²⁷ CRC/C/NZL/CO/3-4, para. 45. See also E/C.12/NZL/CO/3, para. 19.
¹²⁸ CRC/C/NZL/CO/3-4, para. 45.
¹²⁹ CEDAW/C/NZL/CO/7, para. 30. See also CRC/C/NZL/CO/3-4, para. 46 (e).
¹³⁰ CEDAW/C/NZL/CO/7, para. 31.
¹³¹ UNESCO, submission to the UPR on New Zealand, p. 12.
¹³² E/C.12/NZL/CO/3, para. 13.
¹³³ A/HRC/18/35/Add.4, para. 66.
¹³⁴ *Ibid.*, para. 67.
¹³⁵ CCPR/C/NZL/CO/5, para. 20.
¹³⁶ A/HRC/18/35/Add.4, para. 73.
¹³⁷ *Ibid.*, para. 74.
¹³⁸ *Ibid.*, para. 75.
¹³⁹ CERD/C/NZL/CO/18-20, para. 14.
¹⁴⁰ *Ibid.*, para. 19.
¹⁴¹ *Ibid.*, para. 13.
¹⁴² E/C.12/NZL/CO/3, para. 11. See also CERD/C/NZL/CO/18-20, para. 18.
¹⁴³ A/HRC/18/35/Add.4, para. 68.
¹⁴⁴ CERD/C/NZL/CO/18-20, para. 17.
¹⁴⁵ CCPR/C/NZL/CO/5, para. 16.
¹⁴⁶ CERD/C/NZL/CO/18-20, para. 20.
¹⁴⁷ UNHCR, submission to the UPR on New Zealand, p. 4.
¹⁴⁸ CERD/C/NZL/CO/18-20, para. 21.
¹⁴⁹ UNHCR, submission to the UPR on New Zealand, p. 6.
¹⁵⁰ E/C.12/NZL/CO/3, para. 29.
¹⁵¹ CCPR/C/NZL/CO/5, para. 14.
¹⁵² CCPR/C/NZL/CO/5/Add.2, paras. 13–17.
¹⁵³ CCPR/C/NZL/CO/5, para. 13.
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