

24 September 2009

**Human Rights Council 12th session: Item 6: Consideration of Universal Periodic Review reports: Adoption of the outcome for New Zealand**

**Opening Address: H.E Dell Higgle, Permanent Representative of New Zealand**

Mr President,

It is an honour for me, as New Zealand's Permanent Representative to the United Nations in Geneva, to address the Human Rights Council during the adoption of New Zealand's first Universal Periodic Review.

When the institutions of the new Human Rights Council were being designed, New Zealand strongly supported the introduction of a Universal Periodic Review because we believed that it had the potential to be a positive and useful component of the Council's work.

This is a unique mechanism, embracing civil society, the Office of the High Commissioner for Human Rights, the treaty bodies and special procedures, as well as all States. Our own review took place relatively early in the process, and we have continued to watch the evolution of the UPR mechanism very closely. We are pleased that it has lived up to our expectations.

Mr President

On 7 May this year our Minister of Justice, the Honourable Simon Power, addressed the Working Group of the Human Rights Council and spoke about the seriousness of New Zealand's commitment to human rights. He was supported by a large delegation including senior officials from the New Zealand Ministries of Justice and Foreign Affairs and Trade, the Crown Law Office and the Departments of Labour and Corrections.

New Zealand's national report was the product of an open and consultative process, involving many groups both inside and outside government. In presenting it to the Working Group in May, Minister Power outlined the place of Maori, the indigenous people of New Zealand, in our society and described the protections for human rights contained in our national legislation. He spoke about the position of women and children, and our compliance with international human rights instruments.

Minister Power greatly enjoyed his interaction with the Human Rights Council in the UPR Working Group. In an address this month to an audience of mainly

human rights practitioners, he observed that presenting the New Zealand UPR in Geneva had been a major highlight of his term as Minister of Justice.

During the course of the Working Group discussion, on which 36 countries took the floor, New Zealand received 64 recommendations. We have given serious consideration to all of them.

Our Government's response to all the recommendations has been lodged with the Council secretariat and published on the Council's website. Of the 64 recommendations, New Zealand has accepted 33 unreservedly. An additional twelve are agreed to with further discussion. We have given a qualified response to eleven, and rejected only eight.

I would like to highlight some of the significant features of our responses. Many of the recommendations focus on challenging areas which the Government itself recognises as requiring further attention. These include:

- the social disparities between non-Māori and Māori within New Zealand;
- the status of the Treaty of Waitangi in domestic legislation;
- family violence;
- equality of opportunity;
- over-representation of Maori in the criminal justice system, and
- ratification of human rights treaties to which New Zealand is not party.

Maori, the indigenous people of New Zealand, are integral to our national identity and represent about 15 percent of the population. Maori hold a unique place in New Zealand society. ~~But~~ at the same time, we acknowledge there are a number of areas where improvements are needed.

New Zealand is committed to the achievement of Māori potential. A wide range of measures to reduce social inequalities between Maori and non-Maori are ~~taking~~ taking place in New Zealand.

*Underway*

Several countries recommended that New Zealand should give its support to the UN Declaration on the Rights of Indigenous Peoples. In May, the Minister of Justice said that New Zealand would like to move to support the Declaration, provided that New Zealand could protect the unique and advanced domestic framework that has been developed for the resolution of issues related to indigenous rights. That framework has been developed within the context of New Zealand's existing legal arrangements and democratic processes and

includes our Treaty settlements process. The Treaty settlement process recognises the interests of Māori in relation to land and natural resources, and provides redress where these interests have been abrogated. New Zealand has some of the most extensive consultation mechanisms in the world and the historical Treaty settlements process is an unparalleled system of redress, accepted both by Māori and non-Māori.

New Zealand's position on the Declaration is still under active consideration by the New Zealand Government.

New Zealand recognises the concerns that have been raised about the Foreshore and Seabed Act 2004. An expert and independent ministerial review panel was established in March 2009 to review whether the Foreshore and Seabed Act 2004 effectively recognises and provides for customary and public interests in the coastal marine area. The review provided opportunities for Māori and other people and groups with interests in the foreshore and seabed to provide their views and proposals. After an extensive consultation process, the independent review panel reported to the Attorney-General in June and the Government is currently considering how it will respond to the Panel's recommendations.

Mr President,

We have not accepted the recommendation to ratify the Convention on the Rights of Migrant Workers, ILO Convention 169 or the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. We have, however, undertaken to ratify the Second Optional Protocol to the Convention on the Rights of the Child. The work to fulfill this undertaking is under way. We are also examining what changes to our laws will be required to in order to move to become party to the Convention for the Protection of all Persons from Enforced Disappearance.

As the Minister stated in May, it is the policy of the New Zealand Government to ensure existing legislation, policy and practice is compliant with an international human rights treaty before ratifying it. Doing this ensures that we are able to comply with international obligations from the date of our ratification and enables us to seek fewer reservations when ratifying. New Zealand is committed to working progressively towards a withdrawal of its few remaining reservations to human rights treaties.

During the past three years, New Zealand has been able to ratify the Convention on the Reduction of Statelessness, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of Persons with Disabilities.

A number of recommendations called for New Zealand to ensure that both its legislation and its policies should give effect to its human rights obligations. We note that some rights are given effect in New Zealand through a variety of appropriate measures, including, but not exclusively, legislative measures. This is a subject under regular review, and so we accept these recommendations.

In the case of the Treaty of Waitangi, the foundation document for the continuing partnership between Maori and the Government, the public discussion of its status certainly will continue. Entrenchment as a constitutional norm is a possible outcome of that discussion, but not the only one.

In April this year, the Minister of Justice and the Minister of Māori Affairs co-hosted a Ministerial Meeting on the "Drivers of Crime". This signalled the development of a new approach to reducing offending and victimisation looking beyond justice sector interventions and solutions. This approach adopts a broad-based approach to addressing the individual, family, community and justice sector factors that contribute to offending and victimisation. Mindful of the over-representation of Maori in the criminal justice system as both offenders and victims, New Zealand is committed to addressing these factors in a concerted way. Following this recent Ministerial initiative, in the coming months, the Government will consider a number of priorities to address this issue.

The Child and Family Protection Bill was introduced into Parliament in August 2009. This Bill introduces changes to ensure that the courts can act to protect children and families from all forms of violence and abuse. The Bill also contains the last legislative amendment required for New Zealand to ratify the Optional Protocol to the United Nations Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

Mr President,

These remarks touch on just a few of the topics covered during the Working Group in May. A comprehensive account of New Zealand's position on the recommendations is contained in the full set of responses provided by my Government.

I noted at the beginning of my statement that New Zealand has been a strong supporter of the Universal Periodic Review since its inception. We have engaged actively in the UPRs of other states, and intend to continue doing so.

Our own UPR in May this year has given us the opportunity to subject our own human rights record to scrutiny, and to invite the membership of the UN to join us in that process. We have greatly appreciated the efforts of all those who have contributed so positively to New Zealand's review, including the hard working team in the UPR Secretariat, and our troika members.

We have learned a great deal from our involvement with the Universal Periodic Review. Our own participation has reinforced our contacts with our wide human rights constituency, and given us a greater understanding of our own human rights situation – what we are doing well and what we can do better. We look forward to continuing that dialogue with you all.

Thank you, Mr President.