

**Submission of the New Zealand Human Rights Commission to the 18th session of the Human Rights Council;
New Zealand's Second Universal Periodic Review.**

A. Introduction

1. This year the Commission has worked with a variety of organisations¹ to provide information about New Zealand's second Universal Periodic Review (**UPR**) to civil society in order to encourage their active and productive participation in the process. In addition the Commission worked with the Ministry of Foreign Affairs in Trade to deliver appropriate and transparent consultation on the State's report.
2. The Commission has sought input and comments from NGOs, human rights experts, Māori organisations and members of the community on its proposed submission to the UN Human Rights Council (**HRC**). The Commission has also worked together with various groups to contribute to the preparation of submissions including:
 - the organisations responsible for monitoring places of detention in New Zealand under the Optional Protocol to the Convention Against Torture: the Office of the Ombudsman, the Office of the Children's Commissioner, the Independent Police Conduct Authority, and the Inspector of Service Penal Establishments (**the OPCAT National Preventative Mechanism**);
 - the organisations mandated to monitor the implementation of the Convention on the Rights of Persons with Disabilities (**CRPD**): the Office of the Ombudsman and the New Zealand Convention Coalition (**the CRPD Monitoring Mechanism**); and
 - the non-government sector group established by the Children's Commissioner in February 2011 to monitor the implementation of the Convention on the Rights of the Child (**UNCROC**): the Office of the Children's Commissioner, UNICEF NZ, Save the Children NZ, Action for Children and Youth Aotearoa, the Child Poverty Action Group, and Every Child Counts (**the UNCROC Monitoring Group**).

Attached as **Annexes 2 to 4** are copies of these submissions. The Commission endorses the recommendations made in these submissions.

B. Follow up to UPR and Treaty Body recommendations

3. During New Zealand's first UPR the HRC recommended that New Zealand "ensure regular consultation with civil society in the follow-up to the UPR recommendations."²
4. Since New Zealand's first UPR, New Zealand has been reviewed by the Human Rights Committee,³ the Committee on the Rights of the Child (**CRC**),⁴ the Committee on Economic Social and Cultural Rights (**CESCR**),⁵ the Committee on the Elimination of Discrimination Against Women (**CERD**),⁶ and the Committee on the Elimination of Racial Discrimination (**CEDAW**).⁷
5. New Zealand continues to actively engage in these processes. There has, however, been an absence of a coordinated system that includes all levels of government and representatives of civil society (including Rangatira) to monitor and report on the implementation of the UPR⁸

and/or treaty body recommendations on a systematic and ongoing basis.

6. **The Commission recommends that the Government establish a comprehensive UPR and Treaty body reporting process, linked to the Government's own planning process and periodic development of National Plans of Action for Human Rights, that includes engagement with civil society, greater integration across public agencies, and clearer accountability for coordinating and publicising reports and following up on their recommendations.**
7. Attached as **Annex 5** is a table setting out the Commission's assessment of the steps New Zealand has taken to implement the 64 recommendations from its first UPR.

C. Achievements, best practice and challenges

8. New Zealand generally has high levels of human rights realisation. Since New Zealand's first UPR there have been a number of human rights related initiatives and achievements, including:
 - supporting the United Nations Declaration on the Rights of Indigenous Peoples (**UNDRIP**);
 - ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography;
 - the recent passage of the Marriage (Definition of Marriage) Amendment Act 2013;
 - evidence of improvements in education for all ethnic groups in some key indicators;
 - the establishment of a Ministerial Committee on Poverty to support New Zealanders from all backgrounds to move out of long-term poverty.⁹
 - recognition of the importance of addressing inequalities. The *Better Public Services* programme sets high-level targets for the delivery of value-for-money public services. These targets are underpinned by Action Plans in each key result area. The adoption of specific policy targets that include some recognition of the need to reduce inequalities in education, health and employment is a welcome step towards accountability for outcomes by government. Considerable innovation will still be required, however, if targets are going to be reached;
 - significant progress in settling historic breaches of the Treaty of Waitangi. Since 2009, 19 Bills have been passed by Parliament giving effect to Treaty settlements.¹⁰ As Māori and the Crown continue to make progress with Treaty settlements, innovative forms of redress have emerged. These have related to things such as recognition of mana and recognition of cultural taonga; and
 - initiatives which aim to give better effect to cultural expertise and the principle of self determination. Examples of this approach are *Ka Hikitia – Managing for Success: The Māori Education Strategy 2008-2012* and the introduction of ten marae-based courts and two Pasifika courts for Māori and Pacific young people involved in the youth justice system.
9. Challenges remain, however, to fully realising human rights for everyone in New Zealand. Two major earthquakes and numerous aftershocks struck the Canterbury region in September 2010 and February 2011. The earthquakes resulted in significant loss of life and destruction of homes, businesses, community¹¹ and city infrastructure. The State has invested a large amount of

**Submission of the New Zealand Human Rights Commission to the 18th session of the Human Rights Council;
New Zealand's Second Universal Periodic Review.**

resources and efforts in the Canterbury earthquake recovery process. However, significant issues have emerged relating to rights to property, health, housing and participation by affected people in decision making. The secondary stressors of community dislocation, financial distress, insurance issues being unresolved and poor or insecure housing are resulting in high levels of psychosocial harm. The Canterbury earthquake recovery process has brought renewed attention to a number of enduring human rights challenges for New Zealand and highlighted the fragility of some human rights protections.

10. The earthquake recovery has clearly shown the importance of private sector actors respecting the rights of affected people. Health and housing, for example are two areas of post-natural disaster recovery where businesses may find themselves in breach of human rights law standards. **The Commission urges the Government to commit to ensuring that all businesses operating or registered in New Zealand understand and apply the *Guiding Principles on Business and Human Rights* (the Ruggie Principles) in all their activities.**
11. The Commission has been designated the responsibility to periodically develop a National Plan of Action for Human Rights (NPA) for the promotion and protection of human rights in New Zealand, in consultation with interested parties. The Government has agreed to work with the Commission to develop New Zealand's second NPA. It is intended that the NPA will be developed as a follow on from, and be directly informed by, New Zealand's second UPR. As noted by CESCR in 2012, it should also take into account the concluding observations from treaty bodies.¹²
12. **The Commission recommends that the HRC note the government's commitment to work with the Commission as well as with non-governmental organizations and other members of civil society to develop and actively monitor and implement New Zealand's second NPA.**¹³

D. Background and Framework

Scope of International Obligations

13. New Zealand has a good record of ratifying human rights treaties, after checking for any inconsistencies in New Zealand law. However, despite repeated recommendations from treaty bodies¹⁴ and through the UPR, New Zealand has failed to give effect to a number of individual complaints mechanisms under the Conventions and Covenants to which it is a State Party:
 - New Zealand has yet to opt into the Article 14 individual complaints process under the International Convention on the Elimination of All Forms of Racial Discrimination (**CERD**).¹⁵ As at May 2013, the government was still reviewing this position;
 - whilst New Zealand engaged constructively in the negotiation of the Optional Protocol to the International Covenant on Economic Social and Cultural Rights (**ICESCR**), it has not agreed to ratification although it has indicated it may consider reviewing this position once the costs of the process are understood (along with the Optional Protocol to the CRPD) in due course;¹⁶ and
 - New Zealand has not taken any steps to ratify the Optional Protocol to UNCROC.¹⁷

**Submission of the New Zealand Human Rights Commission to the 18th session of the Human Rights Council;
New Zealand's Second Universal Periodic Review.**

14. New Zealand has still not ratified the International Convention for the Protection of All Persons from Enforced Disappearance (CED) or the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW).

15. **The Commission recommends that the Government:**

(a) commit to working with the relevant treaty bodies to explore ways in which New Zealand's alternative human rights disputes resolution (ADR) mechanisms could be used to reduce the potential costs of acceding to individual complaints procedures relating to ratified conventions and covenants; and

(b) ratify both the CED and CMW.

Constitutional and Legal Framework

16. The Treaty of Waitangi (1840) is New Zealand's founding document and has major significance for human rights and harmonious race relations in New Zealand. The four articles of the Treaty reflect fundamental human rights principles.¹⁸

17. A Constitutional Review is underway, initiated by the Government in 2011. The place of the Treaty of Waitangi in New Zealand's constitutional arrangements is being considered through the Constitutional Review.¹⁹ The Commission endorses greater recognition of the Treaty of Waitangi in New Zealand's constitutional arrangements.

Incorporation of international obligations into domestic law

18. Despite New Zealand's commitment to its international obligations, some significant gaps continue to exist in how New Zealand has incorporated these rights into domestic law. New Zealand's policy of not ratifying a treaty until the necessary laws are already in place, together with a longstanding commitment to social welfare rights, has meant that its domestic law has generally provided an adequate framework for enforcing the international standards without further change being necessary. However, in practice this can mean that not all of the rights contained in the various international treaties to which New Zealand is a party are given explicit domestic legal expression or protection. For example:

- the rights and freedoms protected by the New Zealand Bill of Rights Act 1990 (BORA) are set out in Part 2 of the BORA and reflect some, but not all, of those incorporated in the International Covenant on Civil and Political Rights (ICCPR);²⁰
- the Canterbury earthquake recovery has highlighted the importance of the right to be free of arbitrary interference with home and property. The right to property links to the realisation of many economic, social and cultural rights as and to the guarantee of rangatiratanga under Article 2 of the Treaty of Waitangi. It can be traced back to the Magna Carta which became part of New Zealand's law in 1840.²¹ Property rights are protected to some extent by the common law and legislation,²² but are not among the rights and freedoms in BORA;

**Submission of the New Zealand Human Rights Commission to the 18th session of the Human Rights Council;
New Zealand's Second Universal Periodic Review.**

- while aspects of social and economic rights are addressed in New Zealand through some legislation, at present economic social and cultural rights are not recognised as fundamental, justiciable rights.²³

19. The Commission recommends the full and effective incorporation of ratified international human rights standards into domestic legislation including through:

- (a) protection of property rights in the BORA;**
- (b) explicit statutory recognition²⁴ of economic, social and cultural rights, including the availability of judicial and ADR remedies where appropriate.²⁵**

Parliamentary Processes

20. Although New Zealand has a longstanding commitment to the development of international human rights standards, it is less consistent in fully incorporating those standards in the development of legislation and policy. Human rights considerations are generally not at the heart of public policy decision making. New Zealand has no overarching cross government strategy to ensure that human rights are known and understood by all duty bearers and rights holders, and that a human rights approach to legislative and policy development is routinely applied.

21. The Commission recommends that the Government commit to developing and implementing a human rights education strategy,²⁶ including capacity-building programmes for parliamentarians and senior civil servants, to ensure rights holders and duty bearers know their human rights and responsibilities, the development of policy and legislation is informed by a human rights approach, and decision making is consistent with New Zealand's human rights obligations.

22. The New Zealand Cabinet Manual expressly requires Ministers to advise the Cabinet of any "international obligations" affected by proposed legislation.²⁷ However, this requirement is consistently overlooked and there is seldom any transparent assessment of New Zealand's international human rights obligations in the development of legislation.

23. The Commission recommends that:

- a) the requirement set out in section 7.60 of the Cabinet Manual be more explicit in requiring identification of implications in relation to international human rights commitments and extended to apply to all policy and legislation (both primary and secondary); and**
- b) Ministers and officials be directed to strictly adhere to current and extended Cabinet Manual requirements.**

**Submission of the New Zealand Human Rights Commission to the 18th session of the Human Rights Council;
New Zealand's Second Universal Periodic Review.**

24. Select committees are regarded as an important check and balance on the Executive, particularly in a Parliament that lacks an upper house or revising chamber, as is the case in New Zealand. Examination of bills for consideration after the first reading – except for those to which urgency is accorded – is a primary function of select committees. Public participation in providing feedback on the content of legislation through the select committee process is a positive feature of the New Zealand legislative process.
25. Since 2008, the Government has passed over 70 Bills²⁸ through at least one legislative stage under urgency. The use of urgency has decreased since 2011 with the introduction of a process by which Parliament can agree to extended sitting hours. Nevertheless it continues to be used in situations which have significant implications for the realisation of human rights.
26. Although the use of urgency can arguably be justified for some of the Bills, for others it cannot. Neither the Commission nor the public was able to submit on a number of significant pieces of legislation that had fundamental human rights implications because they were passed under urgency. These included the Environment Canterbury legislation which was introduced under urgency and forced through all three readings in one sitting,²⁹ the Canterbury Earthquake Response and Recovery Act 2010,³⁰ and the Employment Relations (Film Production Work) Amendment Act 2010.³¹ The New Zealand Public Health and Disability Amendment Act (No 2) is arguably the most stark example of legislation being passed under urgency and this is discussed further below at paragraphs 31-32.
27. **The Commission recommends that parliamentary democracy in New Zealand be strengthened by:**
- a) **limiting the use of urgency to exceptional circumstances and subject to bi-partisan support; and**
 - b) **ensuring greater discipline in limiting the legislative programme to allow for sound parliamentary practice.**
28. There is no formal mechanism that currently allows treaty body reporting or concluding observations from UN bodies to be reported back to the New Zealand Parliament and debated. Nor is there a specific human rights select committee that enhances Parliamentary oversight and strengthens accountability on human rights matters.
29. **To better fulfil New Zealand's international human rights obligations, the Commission recommends that the government commit to:**
- a) **formal tabling of all concluding observations from UN treaty bodies in Parliament; and**

b) establishing a human rights select committee or designating an existing select committee or committees to conduct comprehensive human rights analysis of all legislation both primary and secondary.

30. In 2012 the Court of Appeal affirmed that the policy of not paying family carers to provide disability support services to disabled family members constituted unjustifiable discrimination on the basis of family status. In direct response to this decision the Government passed the New Zealand Public Health and Disability Amendment Act under urgency³² on 17 May 2013. The Act effectively ousts the Commission's jurisdiction and removes any potential domestic remedy for unlawful discrimination relating to family care policy.³³ The passage of the Act from introduction to enactment in 24 hours with no opportunity for Select Committee Review, a heavily redacted Regulatory Impact Statement and a report from the Attorney General that the Bill breached BORA was greeted with despondency and despair by disabled people.

31. In its last report to the Universal Periodic Review in 2009 New Zealand advised the HRC that there was a work plan in place to address the systemic and serious abuse of the health of people with intellectual disability. There is currently minimal evidence of a commitment to address this abuse and the Act (including the manner in which it was passed) does little to enable good lives for such individuals.

32. The Commission recommends that the Government:

(a) urgently reconsider the New Zealand Public Health and Disability Amendment Act and in particular repeal those sections that limit further legal action and limit the circumstances in which family members can be paid and the categories of family member that can be paid;

(b) ensures that effective domestic remedies are available for breaches of all those rights as set out in the international conventions and covenants to which New Zealand is a state party; and

(c) advise the HRC of the concrete steps it has taken to address the systemic abuse of the health of people with intellectual disability since 2009.

Implementation and Monitoring

33. In 2010, reflecting its commitment to the CRPD, the Government recognised the Human Rights Commission, the Office of the Ombudsman, and the Convention Coalition³⁴ as an independent monitoring mechanism of New Zealand's implementation of the CRPD.

34. The inclusion of a requirement in the CRPD to establish a monitoring body including government officials, members of civil society and national human rights institutions represents international best practice. Although earlier covenants and conventions do not specifically require such a mechanism, establishing equivalent mechanisms in relation to those covenants and

conventions would provide a robust framework to systematically monitor other international instruments to which New Zealand is a state party.

35. The Commission recommends that the Government:

(a) establish mechanisms, drawing on the CRPD model, to independently monitor the Government's implementation of each of the human rights treaties to which it is a state party; and

(b) commit to implementing any recommendations from these mechanisms.

36. In the area of human rights measurement, there remains a distinct lack of data across a number of key indicators. Where data is available, it is often not sufficiently disaggregated to be of use in monitoring the realisation of human rights. For example, *Report Card 11*, the latest in the series from UNICEF's Innocenti Research Centre notes that data for New Zealand is available for less than 75% of the total number of indicators used.

37. A number of United Nations treaty bodies have therefore called for the gathering of systematic, rigorous and robust national human rights data for groups including disabled people, women and sexual and gender minorities. This will have the impact of better informing human rights interventions and highlight gaps for improvement in human rights realisation.

38. The Commission recommends that the government commit to:

(a) developing an agreed set of key human rights indicators;

(b) systemically collecting data across these indicators; and

(c) ensuring that this data is disaggregated sufficiently to measure the impact on groups vulnerable to systemic disadvantage.

E. Promotion and protection of human rights on the ground: domestic implementation of international human rights obligations

Participation

39. Despite having a strong commitment to democratic principles, the Canterbury earthquake recovery has highlighted the fragility of some human rights protections. People affected by the earthquakes are limited in their opportunities to participate in problem identification, solution design and decision-making in issues which affect their lives. Difficulties are faced in the provision of full and timely information relevant to decision-making, and clear timeframes and transparency from decision-making authorities. Limitations on meaningful participation and the uncertainty faced by many Cantabrians are factors contributing towards deteriorating standards of mental health and wellbeing. The Canterbury experience is symptomatic of a wider trend to

**Submission of the New Zealand Human Rights Commission to the 18th session of the Human Rights Council;
New Zealand's Second Universal Periodic Review.**

move towards centralised governance, progressively removing the voice of those affected from the decision making process.

40. Participation issues overlap with accessibility issues. The Canterbury context shows there is a gap in understanding and effort in New Zealand to ensure that minimum standards are in place to provide accessibility for everyone, regardless of their physical abilities. Consistent with Article 9 of the CRPD, this means accessibility to the physical environment, transport, to information, communications and technology systems, and to both rural and urban public facilities and services.
41. Since the official launch of the *Open Government Partnership* in 2011, over 50 governments have come together with civil society and the private sector to further to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance and support the implementation of multilateral commitments. New Zealand remains notably absent from this initiative.
42. **The Commission recommends that New Zealand:**
 - (a) **commit to open, transparent and participatory governance and actively engage with the Open Government Partnership; and**
 - (b) **ensure active participation from communities and individuals in all decision making about them at both a local and national level by developing, implementing and actively monitoring appropriately tailored systems and processes.**

Equality and non-discrimination

43. Despite the many efforts of communities and successive governments, discrimination, social and economic exclusion and entrenched inequalities remain a reality for certain groups of people living in New Zealand. Those seriously affected include women, children, disabled people, Māori, Pacific people, migrants and refugees, older people, and other minority groups.
44. Particularly concerning are growing disparities between Māori and Pacific people and European New Zealanders. These are reflected in child poverty and incarceration rates, education achievement levels, health outcomes, and housing. In 2012, CESCR specifically urged the government to eliminate these disadvantages by addressing the underlying structural discrimination in the delivery of public services.³⁵ It also recommended that the government develop specific equality targets for these groups and that it closely monitor progress.³⁶
45. Some agencies have now acknowledged that the way certain groups are managed is a significant driver for poor outcomes across a range of indicators. For example, Iwi and Police are now joining together to implement an innovative strategy aimed at reducing victimisation among Māori.³⁷

46. **The Commission recommends that strategies be established across all sectors including health, education, and justice to identify and address structural discrimination. These strategies should set specific timelines and targets and be monitored and reported on regularly.**
47. Despite government committing to a target of 50% women representation on Government Boards by 2000³⁸, this has still not been achieved. In 2012, the Government introduced a sliding, lower target, which is of considerable concern to the Commission. The gender pay gap between women and men persists and there is considerable variation by ethnicity, with Māori and Pacific women earning considerably less per hour than women of European descent.
48. Recently the Commission used its Inquiry powers under Section 5 (2) (h) of the Human Rights Act 1993 to examine equal employment opportunities in the aged care sector. In 2012 it released the inquiry report, *Caring Counts, Tautiaki tika*.³⁹
49. The Inquiry concluded that carers in the aged care sector are one of the lowest paid groups in the country with many receiving the minimum wage for physically, mentally and emotionally demanding work. The workforce is predominantly female and the Commission came to the conclusion that the low value placed on care work and consequent low remuneration is undoubtedly gendered. Recommendations included redressing pay inequity.
50. **The Commission recommends that the Government:**
- (a) **reset targets for women's representation that expressly acknowledge gender equality and commit to progressively eliminate the gender pay gap across all groups and ethnicities by 2019 by using demonstrated effective mechanisms including intensive monitoring processes and legislative levers;**⁴⁰ and
 - (b) **commit to implementing the recommendations from *Caring Counts*.**

Child Poverty

51. Child poverty remains a significant issue in New Zealand, affecting 270,000 children and young people. 230,000 children of the poorest children are discriminated against on the basis of their parents' work status because of the way the *In Work Tax Credit* has been designed and applied. This is currently the subject of litigation before the Court of Appeal.⁴¹
52. An Expert Advisory Group on Solutions to Child Poverty was established by the Children's Commissioner in March 2012. The Group has developed a series of proposals to reduce child poverty and mitigate its effects. **The Commission recommends that the Government commit to a timetable for implementing the recommendations in the Experts Advisory Group's report on Solutions to Child Poverty.**⁴²

Right to life, liberty and security of the person

53. Violence, abuse and harassment continue to occur at unacceptably high levels in New Zealand, despite wide recognition of the problem and wide-ranging efforts to address it. Globally, disabled

**Submission of the New Zealand Human Rights Commission to the 18th session of the Human Rights Council;
New Zealand's Second Universal Periodic Review.**

people are up to three times more likely to be victims of physical and sexual abuse and rape, and have less access to physical and psychological and judicial interventions.

54. Violence against women in New Zealand is pervasive and as Kofi Annan has noted, perhaps the most shameful human rights violation.⁴³ Studies quoted by the Ministry of Women's Affairs show the gender of victims of sexual violence as being between 92 and 95 percent female.⁴⁴ The groups most at risk of sexual violence are young women, Māori women, women who have been victimised before and people with disabilities.⁴⁵ Young women between the ages of 16 and 30 comprise 66-70 percent of victims of sexual violence. Just under half of all victims are New Zealand European, just under one third are Māori, and just over one tenth are Pacific. Urgent and ongoing attention is required to address violence in the home and the wider community.
55. New Zealand has the fifth worst child abuse record of 31 OECD countries. A 2008 report⁴⁶ for Every Child Counts highlighted the extremely limited resources made available for prevention and treatment of child abuse and neglect.
56. In schools, violence and bullying is concerning, and the lack of a comprehensive national policy on violence and bullying in the education sector is problematic. Disabled children and young people, and same-sex attracted, both sex-attracted, trans and intersex children and young people are disproportionately affected by violence in schools. In 2012 the CESCR recommended (among other things in this area) that the government systematically collect data on violence and bullying in schools.⁴⁷
- 57. Drawing on the recommendations of the CRC, CEDAW and CESCR, the Commission recommends that interventions to reduce violence be actively monitored, adjusted and extended on the basis of robust empirical evidence.**

Right to Housing

58. There have been long standing problems with housing in NZ particularly in relation to the right to habitable and affordable housing.⁴⁸ These problems have been highlighted in the Canterbury earthquake recovery context where a significant proportion of people are struggling with unaffordable rent and house prices, un-repaired, damp and cold homes and over-crowded living conditions. In addition, eligibility for social housing has been restricted to those in greatest need which denies many vulnerable people of their right to adequate housing, particularly people on low and fixed incomes. The Commission has advocated for a cross-party accord on a broad-based national strategy based on CESCR General Comment 4⁴⁹ on the right to adequate housing.
- 59. The Commission recommends that the Government:**
- (a) ensure provision of adequate housing including social housing for people in need and particularly for vulnerable groups;⁵⁰**
 - (b) develop a national housing plan which addresses the rights of people in New Zealand to adequate housing and prioritises the needs of vulnerable people in all tenure types; and**

- (c) **adopt a human rights approach to the Canterbury earthquake recovery ensuring appropriate consideration of the adequacy of housing⁵¹ including for temporary housing.⁵²**

Indigenous Rights

60. In 2010 New Zealand indicated its support for UNDRIP and acknowledged that Māori hold a special status as tangata whenua, the indigenous people of New Zealand and have an interest in all policy and legislative matters. The following year the Waitangi Tribunal released its *Wai 262* decision regarding Māori intellectual and cultural property rights. It made a number of recommendations for the reform of laws, policies and practices relating to health, education, science, intellectual property, indigenous flora and fauna, resource management, conservation, the Māori language, arts and culture, heritage, and the involvement of Māori in the development of New Zealand's position on international instruments affecting indigenous rights.
61. However, as noted by CERD in 2012, the government has not yet announced a timetable for implementing this decision.⁵³ **The Commission recommends that the Government commit to fully protecting and promoting indigenous rights through appropriate measures in law, policy and practice, and promptly announce a timetable to implement the Waitangi Tribunal's decision.**
62. Water and water related issues – rivers, lakes, springs, riverbeds, lakebeds, wetlands, geothermal resources, marine fisheries, the foreshore and seabed, aquaculture, marine reserves, fresh water fish, deep sea drilling – have been a prominent feature of Crown-Māori relations in the past two decades. Some communities continue to voice concerns about the adequacy of consultations with affected groups and individuals around these issues.
63. **As recommended by CERD in 2013, the Commission urges the Government to enhance appropriate mechanisms for effective consultation with indigenous people around all policies affecting their ways of living and resources.⁵⁴**

¹ Including the New Zealand Centre for Human Rights Law, Policy and Practice; Action for Children and Youth Aotearoa; the Human Rights Foundation; Amnesty International; the Salvation Army; the Human Rights Lawyers Association; Wellington Community Justice Project; Law for Change and the Equal Justice Project. Support for hosting information events was also received from University law faculties throughout the country.

² Report of the UPR Working Group A/HRC/12/8, 11 May 2009, recommendation 64.

³ The Human Rights Committee considered the fifth periodic report of New Zealand on 15 and 16 March 2010.

⁴ The CRC considered New Zealand's combined fourth and fifth periodic reports on 19 January 2011.

⁵ The CESCR considered New Zealand's third periodic report on 18 May 2012.

⁶ The CEDAW considered New Zealand's seventh periodic report on 18 July 2012.

⁷ The CERD considered the eighteenth to twentieth periodic reports of New Zealand on 21 and 22 February 2013.

⁸ In 2011 the Ministry of Justice prepared a mid-term review of the steps taken to implement the UPR recommendations. This report was presented to civil society groups at one-off public meetings in the main population centres of New Zealand.

⁹ See <http://www.dpmc.govt.nz/dpmc/publications/mcop>. The establishment of the Ministerial Committee on Poverty is an acknowledgement of the serious poverty issues at the highest political level. Committee is co-chaired by the Deputy Prime Minister and Minister of Finance, giving the Committee senior Cabinet representation.

¹⁰ An unprecedented 11 Bills were passed by Parliament in 2012 giving effect to Treaty settlements.

¹¹ Community infrastructure includes churches, church halls and community centres. The loss of these facilities has been particularly challenging, increasing social isolation for some groups, especially older people and disabled people.

¹² E/C.12/NZL/CO/3 at paragraph 33.

**Submission of the New Zealand Human Rights Commission to the 18th session of the Human Rights Council;
New Zealand's Second Universal Periodic Review.**

¹³ See Recommendation from CESCR in 2012, E/C.12/NZL/CO/3 at para 33.

¹⁴ See Recommendations from the CRC in 2011, CRC/C/NZL/CO/3-4 at 60, from CESCR in 2012, E/C.12/NZL/CO/3 at 31, and from the CERD in 2013, CERD/C/NZL/CO/18-20 at 24.

¹⁵ Under Article 14 of CERD, the Committee on the Elimination of Racial Discrimination may consider complaints from individuals if the individual is within the jurisdiction of a state that has recognised the competence of the Committee to receive such complaints.

¹⁶ National Report Submitted in Accordance with Paragraph 15(A) of the Annex to Human Rights Council, Resolution 5/1 at para 2.1.

¹⁷ The Optional Protocol (on a communications procedure) to UNCROC gives competence to the CRC to receive and consider individual communications alleging violations of the Convention and its Protocols.

¹⁸ Article 1 reflects the right to self-determination for incoming settlers, democratic rights such as citizenship rights and legal rights protected by the rule of law. Article 2 reflects the right to self-determination for tangata whenua, indigenous rights and property rights. Article 3 reflects the rights to equality and non-discrimination in the realisation of civil, political, economic and social rights. Article 4 reflects the right to freedom of religion and beliefs.

¹⁹ Public consultation on the Constitutional Review is being undertaken during 2013.

²⁰ In particular, there is no equivalent of Art. 17 of the ICCPR which guarantees "No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation." The right to found a family, a general right of equality before the law, and additional rights protecting children are other rights which are not included in the BORA.

²¹ Chapter 29 of the Magna Carta provides "No freeman shall be...disseised of his freehold...but ...by the law of the land." This aspect of the Magna Carta has been recognised by the Courts over the years (for example, *Cooper v Attorney-General* [1996] 3 NZLR 480) and is implicit in Article 2 of the Treaty of Waitangi.

²² Such as the Public Works Act 1981 and the Resource Management Act 1991.

²³ In the absence of a comprehensive constitutional document or entrenched legal provisions, economic, social and cultural rights are mainly provided for through policy and practice.

²⁴ Such statutory recognition could be in BORA itself. This would have the added benefit of requiring all new legislation to be assessed for compliance with economic, social and cultural rights in accordance with s7.

²⁵ See Recommendation from CESCR in 2012, E/C.12/NZL/CO/3 at paras 9-10.

²⁶ As envisaged by the World Programme for Human Rights Education (2005), and as recommended in 2003 and 2011 by the CRC.

²⁷ Section 7.60 of the *Cabinet Manual*, Cabinet Office, 2008.

²⁸ Attached as annex 6 is a list of the Bills which passed all stages under urgency since 2008.

²⁹ Joseph, P "Environment Canterbury Legislation" [2010] NZLJ at 193.

³⁰ The Act was passed under extended sitting hours adopted by leave of Parliament, rather than under urgency.

³¹ The Act changed the status of film workers to independent contractors and removed their right to collectively bargain. It was passed under urgency and no regulatory impact statement was prepared. Nor were any public submission heard.

³² Meaning that despite there being significant human rights implications, neither the Commission nor the public were able to make submissions on the Bill.

³³ It stops people from bringing unlawful discrimination complaints about a family care policy to the Commission. Nor will any proceedings be able to be commenced or continued in any court in relation to discrimination.

³⁴ The Convention Coalition consists of the Disabled Persons Assembly (DPA), the Association of Blind Citizens, People First, Deaf Aotearoa, Ngāti Kāpo, and Ngā Hau E Whā (a network of organisations of people with experience of mental illness).

³⁵ E/C.12/NZL/CO/3 at 12.

³⁶ Ibid.

³⁷ See New Zealand Police (2012), 'The Turning of the Tide - a Whanau Ora Crime and Crash Prevention Strategy' <http://www.police.govt.nz/featured/new-strategy-aims-turn-tide-maori-victimisation-and-offending>

³⁸ In 1995 New Zealand's former Prime Minister Jenny Shipley committed to a target of 50 percent women's representation by 2000.

³⁹ New Zealand Human Rights Commission (2012) *Caring Counts Tautiaki tika* New Zealand Human Rights Commission Wellington New Zealand.

⁴⁰ CEDAW/C/NZL/CO/7 at 27-28.

⁴¹ <http://www.cpag.org.nz/in-focus/cpag-in-the-court-of-appeal-1/>

⁴² http://www.occ.org.nz/publications/child_poverty

**Submission of the New Zealand Human Rights Commission to the 18th session of the Human Rights Council;
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⁴³ Kofi Annan (1999), quoted in "Violence Against Women in Aotearoa New Zealand 2009", Herbert, R., Hill, A. and Dickson, S. Published online at <http://.roundtablevaw.org.nz/Integrated.pdf>

⁴⁴ Restoring Soul (2009), Ministry of Women's Affairs. (Wellington New Zealand) p84

⁴⁵ V Kingi and J Jordan 2009 and S Triggs et al 2009 quoted in Restoring Soul (2009) Ministry of Women's Affairs (Wellington New Zealand) p12

<http://www.mwa.govt.nz/news-and-pubs/publications/restoring-soul-pdf>

⁴⁶ Every Child Counts *The nature of economic costs of child abuse and child neglect in New Zealand: a report prepared by Infometrics Ltd for Every Child Counts* (2008) available at <http://www.everychildcounts.org.nz>

⁴⁷ See Recommendations from CESCR in 2012, E/C.12/NZL/CO/3 at 18-19. See also Recommendations from CEDAW in 2012, CEDAW/C/NZL/CO/7 at 22-24, and CRC in 2011, CRC/C/NZL/CO/3-4 at 30 and 36.

⁴⁸ See for example New Zealand Productivity Commission, *Housing affordability inquiry* (2012).

http://www.productivity.govt.nz/sites/default/files/Final%20Housing%20Affordability%20Report_0_0.pdf.

⁴⁹ As set out in CESCR General Comment 4 *The right to adequate housing*, Contained in document E/1992/23.

⁵⁰ See Recommendations from CESCR in 2012, E/C.12/NZL/CO/3 at 21-22.

⁵¹ As set out in CESCR General Comment 4 *The right to adequate housing*, Contained in document E/1992/23.

⁵² Ibid.

⁵³ CERD/C/NZL/CO/18-19, at 14.

⁵⁴ CERD/C/NZL/CO/18-20 at 18.