

Annex 5: Assessment of steps taken to implement 2009 recommendations

Recommendation	Relevant Treaty Body Recommendations since 2009	Current Status
International instruments		
<p>1. Ratify (Islamic Republic of Iran, Mexico) / Consider the possibility of signing and ratifying (Argentina) the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW);</p>	<ul style="list-style-type: none"> • Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying international human rights treaties which it has not yet ratified, in particular treaties with provisions that have a direct relevance to communities that may be the subject of racial discrimination, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the ILO Convention No. 169 on Indigenous and Tribal Peoples, 1989 (2013) CERD/C/NZL/CO/18-20 at 22. • The Committee encourages the State party to consider signing and ratifying the Convention on the Protection of the Rights of all Migrant Workers and Members of their Families.... (2012) E/C.12/NZL/CO/3 at 32. • The Committee therefore encourages the State party to consider ratifying the treaties to which it is not yet a party, ie:... the Convention on the Protection of the Rights of all Migrant Workers and Members of their Families. (2012) CEDAW/C/NZL/CO/7 at 42. • The Committee encourages the State party to consider ratifying the international human rights instruments to which it is not yet a party, 	<p>New Zealand did not accept Recommendation 1 and no concrete steps have been taken towards ratification of the ICRMW.</p>

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	<p>namely the International Convention on the Protection of the Rights of All Migrant Workers and Members of their families... (2011) CRC/C/NZL/CO/3-4 at 60.</p>	
<p>2. Strengthen the Government's strategy on new migrants by considering the possibility of ratifying ICRMW (Algeria);</p>	<p>Same as for Recommendation 1.</p>	<p>Same as for Recommendation 1.</p>
<p>3. Consider the possibility of signing and ratifying (Argentina) / Accelerate the ratification of (Azerbaijan) the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography;</p>	<ul style="list-style-type: none"> The Committee recommends that the State party swiftly proceed with the ratification of the Optional Protocol on the sale of children, child prostitution and child pornography. (2011) CRC/C/NZL/CO/3-4 at 59. 	<p>New Zealand accepted the Recommendation to consider ratifying the Optional Protocol to UNCROC relating to the sale of children, child prostitution and child pornography. NZ ratified the Optional Protocol to UNCROC relating to the sale of children, child prostitution and child pornography on 20 September 2011.</p>

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Recommendation	Relevant Treaty Body Recommendations since 2009	Current Status
<p>4. Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (Brazil);</p>	<ul style="list-style-type: none"> • The Committee encourages the State party to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. (2012) E/C.12/NZL/CO/3 at 31. • The Committee encourages the State party to consider ratifying the international human rights instruments to which it is not yet a party, namely... and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. (2011) CRC/C/NZL/CO/3-4 at 59. 	<p>New Zealand did not accept Recommendation 4.</p> <p>While New Zealand engaged constructively in the negotiation of the Optional Protocol, it has not agreed to ratification although it has indicated it may consider reviewing this position– along with the Optional Protocol to the Convention on the Rights of Persons with Disabilities (CRPD) – in due course.¹</p>
<p>5. Ratify International Labour Organization (ILO) fundamental conventions (Brazil, Islamic Republic of Iran), and in particular the Indigenous and Tribal Peoples Convention No. 169 (Islamic Republic of Iran);</p>	<ul style="list-style-type: none"> • Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying international human rights treaties which it has not yet ratified, in particular treaties with provisions that have a direct relevance to communities that may be the subject of racial discrimination, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the ILO Convention No. 169 on Indigenous and Tribal Peoples, 1989 (2013) CERD/C/NZL/CO/18-20 at 22. 	<p>New Zealand did not accept Recommendation 5.</p> <p>The provisions of Convention No. 169 and the Declaration on the Rights of Indigenous Peoples are compatible and mutually reinforcing. The Declaration's provisions deal with all the areas covered by the Convention. In addition, the Declaration addresses a number of subjects that are not covered by the Convention.</p> <p>In 2010 the New Zealand Government indicated its support for the Declaration. In light of this support the New Zealand Government should reconsider its position in relation to ILO Convention No. 169.</p>

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

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6. Ratify (Mexico) / Consider ratifying and implementing the Indigenous and Tribal Peoples Convention No. 169 (Norway);	Same as for Recommendation 5.	Same as for Recommendation 5.
7. Consider ratifying ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries and applying international standards with respect to the rights of indigenous peoples (Argentina);	Same as for Recommendation 5.	Same as for Recommendation 5.
8. Support (Austria, Pakistan) and implement (Pakistan) the United Nations	N/A: in 2010 the New Zealand Government indicated its support for UNDRIP.	In 2010 the New Zealand Government 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. However, little has been done to implement and imbed UNDRIP across Government.

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Declaration on the Rights of Indigenous Peoples;		
9. Join the favourable momentum generated by the adoption of the United Nations Declaration on the Rights of Indigenous Peoples and give its support to this instrument (Mexico);	Same as for Recommendation 8.	Same as for Recommendation 8.
10. Revisit its decision not to support the United Nations Declaration on the Rights of Indigenous Peoples, with a view to protecting the rights of indigenous peoples	Same as for Recommendation 8.	Same as for Recommendation 8.

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<p>in the country, and engage with the Māori and the wider community to promote the realization of indigenous rights (Islamic Republic of Iran);</p>		
<p>11. Sign and ratify (France) / Consider signing and ratifying (Argentina) the International Convention for the Protection of All Persons from Enforced Disappearance; and consider accepting the competence of the Committee on Enforced Disappearances (Argentina);</p>	<ul style="list-style-type: none"> • The Committee encourages the State party to consider signing and ratifying ...the International Convention for the Protection of all Persons from Enforced Disappearance... (2012) E/C.12/NZL/CO/3 at 32. • The Committee therefore encourages the State party to consider ratifying the treaties to which it is not yet a party, ie:.... the International Convention for the Protection of all Persons from Enforced Disappearance (2012) CEDAW/C/NZL/CO/7 at 42. • The Committee encourages the State party to consider ratifying the international human rights instruments to which it is not yet a party, namely ... the International Convention for the Protection of all Persons from Enforced Disappearance... (2011) CRC/C/NZL/CO/3-4 at 60. 	<p>New Zealand accepted Recommendation 11. However, New Zealand has still not ratified the International Convention for the Protection of All Persons from Enforced Disappearance.</p>

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<p>12. Consider accepting the individual complaint procedure under article 14 of the International Convention on the Elimination of all Forms of Racial Discrimination (Republic of Korea);</p>	<ul style="list-style-type: none"> The Committee notes that the State party has not made the optional declaration provided for in article 14 of the Convention... The Committee ... invites the State party to make the declaration as soon as possible. (2013)CERD/C/NZL/CO/18-20 at 24. 	<p>New Zealand accepted Recommendation 12.</p> <p>Under Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination (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. New Zealand has yet to opt into this process. As at May 2013, the Government was still reviewing this position.</p> <p>In 2013 the Government stated that it intends to consider making a declaration under article 14 at a stage that will coincide with the UPR. (CERD/C/NZL/CO/18-20 at 24).</p>
<p>13. Adopt (Mexico) / Endorse (Algeria, Russian Federation) the final outcome document approved during the Durban Review Conference, in view of its unanimous</p>	<ul style="list-style-type: none"> In the light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the Outcome Document of the Durban Review Conference, held in Geneva in April 2009, when implementing the Convention in its domestic legal order. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level. 	<p>New Zealand did not accept Recommendation 13 stating that as it did not attend the Durban Review Conference in April 2009, it is not in a position to adopt or endorse the final outcome document</p> <p>It is unlawful to discriminate on the basis of race, colour, descent or national or ethnic origin. This prohibition extends to the provision of goods and services by both the State and private parties. It is a criminal offence to incite racial disharmony. In addition, it is an aggravating factor in sentencing for a criminal offence where the offence is motivated by hostility by race, colour, nationality or other enduring characteristics.</p> <p>However, there is no mechanism in place in NZ for systematically</p>

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adoption (Algeria);	(2013)CERD/C/NZL/CO/18-20 at 23.	recording racially motivated crime which means there is no way to know whether racially motivated crime is increasing or decreasing.
14. Accomplish progressively the human rights goals set forth in Human Rights Council resolution 9/12 (Brazil);	N/A	<p>New Zealand accepted Recommendation 14.</p> <p>New Zealand has a good record of ratifying human rights treaties, after checking for any inconsistencies in New Zealand law. It has ratified seven of the nine core human rights treaties.</p> <p>However, 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:</p> <ul style="list-style-type: none"> • under Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination (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. New Zealand has yet to opt into this process. As at May 2013, the Government was still reviewing this position; • the Optional Protocol to the International Covenant on Economic Social and Cultural Rights (ICESCR) was adopted by the UN General Assembly in 2008. While New Zealand engaged constructively in the negotiation of the Optional Protocol, 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;² and

² National Report Submitted in Accordance with Paragraph 15(A) of the Annex to Human Rights Council, Resolution 5/1 at para 2.1.

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		<ul style="list-style-type: none"> • the Optional Protocol (on a communications procedure) to the CRC gives competence to the Committee on the Rights of the Child (CRC) to receive and consider individual communications alleging violations of the Convention and its Protocols. As at May 2013, the Government had taken no steps to ratify the Optional Protocol. <p>Even in areas where law and policy are well developed and consistent with international human rights standards, they are still not always applied in practice. New Zealand's International obligations are well understood by Government yet the Cabinet Manual requirements that Ministers advise the Cabinet of the implications to those obligations of proposed legislation is rarely complied with.</p> <p>The New Zealand Human Rights Commission 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 NPA will set targets and propose realistic activities for Government, the Commission and civil society to improve the realisation of human rights for all New Zealanders. 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.</p>
Constitutional and legislative framework		
15. Further incorporate, as appropriate, its international	<ul style="list-style-type: none"> • The Committee urges the State party to take the necessary measures, in the context of the ongoing constitutional review process, to give the Covenant full effect in its domestic legal order. The Committee also calls on the State party to ensure that redress 	<p>New Zealand accepted Recommendation 15.</p> <p>Despite New Zealand's commitment to its international obligations, some significant gaps continue to exist in how New Zealand has incorporated</p>

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<p>human rights obligations into domestic law (Jordan);</p>	<p>for violations of the Covenant rights can be sought through the State party's various recourse mechanisms... (2012) E/C.12/NZL/CO/3 at 9</p> <ul style="list-style-type: none"> • The Committee urges the State party to incorporate economic, social and cultural rights into the 1990 Bill of Rights. The Committee also calls upon the State party to take steps so that the competent authorities review draft laws, regulations and policies to ensure their compatibility with the provisions of the Covenant. The Committee recommends that the State party make additional efforts to raise awareness of economic, social and cultural rights among parliamentarians and policy-makers. (2012) E/C.12/NZL/CO/3 at 10. • The Committee calls on the State party to ensure that the inalienable rights of Māori to their lands, territories, waters and marine areas and other resources as well as the respect of the free, prior and informed consent of Māori on any decisions affecting their use are firmly incorporated in the State party's legislation and duly implemented... (2012) E/C.12/NZL/CO/3 at 11. • The Committee recalls the obligation of the State party to systematically and continuously implement all the provisions of the 	<p>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. 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:</p> <ul style="list-style-type: none"> • 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);³ • 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. However, there is no specific statutory recognition of the right to property in the BORA; • while aspects of social and economic rights are addressed in New Zealand through some legislation, at present economic

³ 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.

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	<p>Convention... The Committee calls on the State party to submit the present concluding observations to all relevant ministries, to the Parliament, and to the judiciary, so as to ensure their full implementation. (2012) CEDAW/C/NZL/CO/7 at 8.</p> <ul style="list-style-type: none"> • The Committee urges the State party: To ensure that all existing domestic legislation relating to children is consistent and is brought into compliance with the Convention... (2011) CRC/C/NZL/CO/3-4 at 11. • The State party should enact legislation giving full effect to all Covenant rights and provide victims with access to effective remedies within the domestic legal system. It should also strengthen the current mechanism to ensure compatibility of domestic law with the Covenant. (2010) CCPR/C/NZL/CO/5 at 7. • The State party should: <ul style="list-style-type: none"> (a) Enact comprehensive legislation to incorporate into domestic law all the provisions of the Convention; (b) Establish a mechanism to consistently ensure the compatibility of domestic law with the Convention; and... (2009) CAT/C/NZL/CO/5 at 4. 	<p>social and cultural rights are not recognised as fundamental, justiciable rights.⁴</p> <p>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 (No 2) under urgency⁵ 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.⁶</p>

⁴ 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.

⁵ Meaning that despite there being significant human rights implications, neither the Commission nor the public were able to make submissions on the Bill.

⁶ 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.

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<p>16. Ensure that the Bill of Rights Act appropriately reflects all of New Zealand's international human rights obligations and that all subsequent legal provisions, including immigration laws, are in accordance with it and cannot limit its scope (Czech Republic);</p>	<p>Same as for Recommendation 15</p>	<p>New Zealand agreed that all international human rights obligations should be appropriately implemented in domestic legislation, policies and practices. However, it did not accept that all obligations should be incorporated into the Bill of Rights Act 1990, which is concerned only with primary civil and political rights.</p> <p>New Zealand's International obligations are well understood by Government yet the Cabinet Manual requirements that Ministers advise the Cabinet of the implications to those obligations of proposed legislation is rarely complied with.</p> <p>The Bill of Rights vetting process undertaken by the Ministry of Justice and/or the Crown Law Office does not consider human rights beyond those contained in the New Zealand Bill of Rights Act 1990 (BORA). The rights and freedoms protected by NZBORA are set out in Part 2 and reflect some, but not all, of those incorporated in the ICCPR. The BORA does not recognise the economic, social and cultural rights contained in ICESCR and reflected in other international human rights instruments.</p> <p><i>Immigration Law and Policy</i></p> <p>The number of asylum seekers in New Zealand continues to steadily decline. This trend is directly correlated to policy and legislative developments. In 2012, the Government announced a new sanctions regime for airlines breaching their obligations under the Immigration Act 2009 to ensure passengers possess the correct documentation for travel to New Zealand. The new regime entered into force in July, enabling the immediate imposition of penalties ranging from \$500-5,000, removing the previous requirement for Court prosecution.</p>

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		<p>The Government has introduced an Immigration Amendment Bill to Parliament to deter boat people from arriving in New Zealand. The provision for the detention of groups asylum seekers arriving together by boat has been widely criticised, including by the Commission, as being in breach of New Zealand's obligations under the Refugee Convention and undermining the principle of asylum.</p>
<p>17. Consider integrating the provisions of the International Covenant on Economic, Social and Cultural Rights into domestic legislation to ensure the justiciability of these rights (South Africa);</p>	<ul style="list-style-type: none"> The Committee urges the State party to incorporate economic, social and cultural rights into the 1990 Bill of Rights. The Committee also calls upon the State party to take steps so that the competent authorities review draft laws, regulations and policies to ensure their compatibility with the provisions of the Covenant. The Committee recommends that the State party make additional efforts to raise awareness of economic, social and cultural rights among parliamentarians and policy-makers. (2012) E/C.12/NZL/CO/3 at 10 	<p>New Zealand agreed with the premise that economic, social and cultural rights should be appropriately implemented in domestic law but only accepted in part that these rights are to be implemented by justiciable legislative incorporation.</p> <p>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. 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.</p>
<p>18. Take appropriate measures to bring domestic law into full compliance with the International Covenant on Civil</p>	<ul style="list-style-type: none"> The State party should enact legislation giving full effect to all Covenant rights and provide victims with access to effective remedies within the domestic legal system. It should also strengthen the current mechanism to ensure compatibility of domestic law with the Covenant. (2010) CCPR/C/NZL/CO/5 at 7. 	<p>New Zealand did not agree that its domestic laws are not fully compliant with ICCPR.</p> <p>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 international bill of rights are given</p>

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and Political Rights (Algeria);		<p>explicit domestic legal expression or protection.</p> <p>The long title of the New Zealand Bill of Rights 1990 (NZBORA) states that the purpose of the Bill of Rights is to affirm, protect, and promote human rights and fundamental freedoms in New Zealand and to affirm New Zealand's commitment to the International Covenant on Civil and Political Rights (ICCPR). The rights and freedoms protected by NZBORA are set out in Part 2 and reflect some, but not all, of those incorporated in the ICCPR. 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." Nor, for example, is there a right to found a family,⁷ a general right of equality before the law,⁸ or additional rights protecting children.⁹</p>
19. Take further measures to ensure full and consistent protection of human rights in domestic law and policies, taking into account recommendations made by several United Nations	<p>Same as for recommendations 15 -18. In addition:</p> <ul style="list-style-type: none"> • In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information within one year of the adoption of the present conclusions.... (2013) CERD/C/NZL/CO/18-20 at 27. • The Committee recommends that the State party take these concluding observations into account in its next national human rights action plan ... 	<p>New Zealand agreed to consider the recommendations made by UN treaty bodies.</p> <p>The Government is generally committed to the international treaty body reporting process. However, 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.</p>

⁷ Article 23, ICCPR.

⁸ Article 26, ICCPR.

⁹ Article 24, ICCPR.

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<p>human rights bodies in this regard (Netherlands);</p>	<p>(2012) E/C.12/NZL/CO/3 at 33.</p> <ul style="list-style-type: none"> • The Committee requests the state party to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraphs 36 and 38 above. (2012) CEDAW/C/NZL/CO/7 at 43. • The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations by, inter alia, transmitting them to the Head of State, the Supreme Court, Parliament, relevant ministries and local authorities for appropriate consideration and further action. (2011) CRC/C/NZL/CO/3-4 at 61. 	
<p>20. In line with the concern expressed by a number of treaty bodies, take action to provide constitutional protection to both national and international human rights acts and standards (Pakistan);</p>	<p>Same as for Recommendation 15.</p>	<p>Same as for Recommendation 15.</p> <p>Despite New Zealand's commitment to its international obligations, there continue to be some significant gaps in how New Zealand has incorporated these rights into domestic law and how they have been implemented in policy and practice.</p> <p>A Constitutional Review is underway, initiated by the Government in 2011. Public consultation is being undertaken during 2013. The Commission welcomes the ongoing dialogue about New Zealand's constitutional arrangements.</p>
<p>21. Continue the public discussion over the status of</p>	<ul style="list-style-type: none"> • The Committee recalls its previous recommendation (CERD/C/NZL/CO/17, para 13), and urges the State party to ensure that public discussions and consultations are held on the status of 	<p>New Zealand agreed with the underlying premise of this recommendation to continue the public discussion on the status of the Treaty of Waitangi.</p>

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<p>the Treaty of Waitangi, with a view to its possible entrenchment as a constitutional norm (Norway);</p>	<p>the Treaty of Waitangi within the context of the on-going constitutional review process. In particular, the Committee recommends that public discussions and consultations should, inter alia, focus on whether the Treaty of Waitangi should be entrenched as a constitutional norm... (2013) CERD/C/NZL/CO/18-20 at 7.</p> <ul style="list-style-type: none"> The State party should continue its efforts to review the status of the Treaty of Waitangi within the domestic legal system, including the desirability to incorporate it into domestic law, in consultation with all Māori groups. (2010) CCPR/C/NZL/CO/5 at 20. 	<p>The Treaty of Waitangi is New Zealand's founding document and has a major significance for human rights and harmonious race relations in New Zealand. The three articles of the Treaty reflect fundamental human rights principles. Evidence shows that more New Zealanders now recognise the relevance and importance of the Treaty of Waitangi to New Zealand and its peoples.</p> <p>The extent to which the Treaty currently influences the exercise of public power in New Zealand's constitutional arrangements is primarily through: references to the Treaty in specific legislation; Māori representation in central Government and a mechanism for local Government; establishment of the Waitangi Tribunal; and enforcement of statutory references to the Treaty by the Courts and Waitangi Tribunal.¹⁰</p> <p>A Constitutional Review is underway, initiated by the Government in 2011. Public consultation is being undertaken during 2013. The place of the Treaty of Waitangi in New Zealand's constitutional arrangements is being considered through the Constitutional Review.</p>
<p>Human rights policy measures</p>		
<p>22. Consider adopting its National Plan of Action for Human Rights (South Africa);</p>	<ul style="list-style-type: none"> The Committee urges the State party to adopt a National Action Plan on Human Rights and ensure that it includes plans on how to combat racial discrimination in line with the Durban Declaration and Programme of Action. The Committee further recommends that the State party undertake adequate consultation with relevant stakeholders in developing the Action Plan. 	<p>New Zealand accepted this Recommendation in part.</p> <p>The Commission has been designated the responsibility to periodically develop a NPA for the promotion and protection of human rights in New Zealand in consultation with interested parties. The NPA will set targets and propose realistic activities for Government, the Commission and civil society to improve the realisation of human rights for all New</p>

¹⁰ Constitutional Advisory Panel, *New Zealand's Constitution: the Conversation so far* (2012), pp 52-3. Accessed online at <http://www2.justice.govt.nz/cap-interim/Resources.html> on 21 November 2012.

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	<p>(2013) CERD/C/NZL/CO/18-20 at 8.</p> <ul style="list-style-type: none"> • The Committee recommends that the State party take these concluding observations into account in its next national human rights action plan and encourages it to continue to work with the Human Rights Commission as well as with non-Governmental organizations and other members of civil society in the development and implementation of this plan. (2012) E/C.12/NZL/CO/3 at 33. • The Committee encourages the State party to adopt a comprehensive policy and corresponding national plan of action for the implementation of the Convention and the Optional Protocol on the involvement of children in armed conflict.... The Committee also recommends that the State party ensure that there are follow-up and evaluation mechanisms that will regularly assess progress achieved and identify possible deficiencies to enable the full implementation of the comprehensive policy and plan of action. (2011) CRC/C/NZL/CO/3-4 at 15. • The State party should engage in the development and the official adoption, as Government policy, of a national human rights action plan 2010-2015. (2010) CCPR/C/NZL/CO/5 AT 6. 	<p>Zealanders. 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.</p>
<p>23. Seriously consider implementing the</p>	<ul style="list-style-type: none"> • In accordance with article 9, paragraph 1, of the Convention and 	<p>New Zealand accepted Recommendation 23.</p> <p>The Government is generally committed to the international treaty body</p>

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<p>observations and recommendations of different treaty bodies (Pakistan);</p>	<p>rule 65 of its amended rules of procedure, the Committee requests the State party to provide information within one year of the adoption of the present conclusions.... (2013) CERD/C/NZL/CO/18-20 at 27.</p> <ul style="list-style-type: none"> • The Committee recommends that the State party take these concluding observations into account in its next national human rights action plan ... (2012) E/C.12/NZL/CO/3 at 33. • The Committee requests the state party to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraphs 36 and 38 above. (2012) CEDAW/C/NZL/CO/7 at 43. • The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations by, inter alia, transmitting them to the Head of State, the Supreme Court, Parliament, relevant ministries and local authorities for appropriate consideration and further action. (2011) CRC/C/NZL/CO/3-4 at 61. 	<p>reporting process. However, 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.</p> <p>In 2010, reflecting its commitment to the CRPD, the Government recognised the Human Rights Commission, the Office of the Ombudsmen, and the Convention Coalition¹¹ as independent monitors of the Government's implementation of the United Nations Convention.</p> <p>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 it would provide a robust framework to systematically monitor other international instruments to which New Zealand is a state party.</p>
<p>24. Consider implementing, as appropriate, the recommendations of human rights</p>	<p>Same as for Recommendation 23.</p>	<p>Same as for Recommendation 23.</p>

¹¹ 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).

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treaty bodies and special procedures on indigenous people (Jordan);		
Equality and non-discrimination		
25. Pursue efforts to combat all forms of discrimination, in particular those based on ethnic origin (Switzerland);	<ul style="list-style-type: none"> • The Committee recommends that the State party ensure the full and effective enforcement of the measures taken to protect Asian migrants, including targeted measures to strengthen equal access to the labour market in order to alleviate the concentration of qualified individuals in low paying jobs. (2013) CERD/C/NZL/CO/18-20 at 16. • The Committee recommends that the State party develop a comprehensive legislative framework for addressing the problem of incitement to racial hatred on the internet in conformity with article 4 of the Convention. (2013) CERD/C/NZL/CO/18-20 at 9. • The Committee urges the State party to intensify its efforts to promote ethnic harmony through, inter alia, raising awareness in order to combat existing stereotypes and prejudices against certain ethnic and religious groups. (2013) CERD/C/NZL/CO/18-20 at 10. • The Committee calls on the State party to strengthen its efforts aimed at eliminating the disadvantages faced by Māori and Pasifica in the enjoyment of economic, social and cultural rights by addressing structural factors and ensuring that relevant measures 	<p>New Zealand accepted Recommendation 25.</p> <p>A Statistics New Zealand report published in 2012 found that racial discrimination was the most common form of discrimination experienced by New Zealanders in 2008 and 2010. Drawing on data collected from over 17,000 respondents in 2008 and 2010, the report found that six per cent of New Zealanders (187,000) had experienced racial discrimination in the previous twelve months. People who identified as Asian reported the highest levels of racial discrimination, followed by Māori and Pacific peoples. The highest levels of discrimination occurred in employment settings, on the street, or in a public place.</p> <p>Complaints to the Human Rights Commission about racial discrimination, incitement and harassment bear out the Statistics New Zealand report, with such complaints representing a third of all unlawful discrimination complaints received by the Commission. Employment settings were likewise the most common place for discrimination and harassment to occur.</p> <p>The Commission's annual survey of perceptions of discrimination, taken in November, also confirms that Asian New Zealanders continue to experience the highest levels of direct racial discrimination. However, New Zealanders generally observed there to be less discrimination</p>

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	<p>effectively benefit the most disadvantaged. The Committee also recommends that the State party set specific equality targets by year and closely monitor their achievement.... (2012) E/C.12/NZL/CO/3 at 12.</p> <ul style="list-style-type: none"> • The Committee recommends that the State party ensure full protection against discrimination on any grounds, including by: <ul style="list-style-type: none"> a. taking urgent measures to address disparities in access to services by Māori children and their families; b. strengthening its awareness-raising and other preventive activities against discrimination and, if necessary, taking affirmative action for the benefit of children in vulnerable situations, such as Māori and Pacific children, refugee children, migrant children, children with disabilities and lesbian, bisexual, gay and transgender children and children living with persons from these groups; c. taking all necessary measures to ensure that cases of discrimination against children in all sectors of society are addressed effectively, including with disciplinary, administrative or – if necessary – penal sanctions. <p>(2011) CRC/C/NZL.CO/3-4 at 25.</p>	<p>against Asians in 2012 than in previous years. People on welfare were seen to be the group most discriminated against.</p> <p>There were few reports of racially motivated crime, but those incidents that did occur were of a serious nature. They included the desecration of the Jewish quarter of a cemetery in Auckland, a violent attack on a Korean family in Dunedin, and violent attacks on a Vietnamese man, a Japanese woman and a Filipino man in Christchurch. The courts continue to take a very dim view of racially motivated crimes and impose deterrent sentences.</p> <p>There is still no mechanism in place in NZ for systematically recording racially motivated crime which means there is no way to know whether racially motivated crime is increasing or decreasing.</p>
<p>26. Continue to take targeted action to eliminate the socio-economic disparities that persist among its population,</p>	<p>Same as Recommendation 25.</p>	<p>New Zealand accepted Recommendation 26.</p> <p>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 are women, disabled people, Māori, Pacific people and other minority groups.</p>

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<p>including those affecting Māori, Pacific, Asian and other groups (Turkey);</p>		<p>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, housing and education. In 2012, CESCR specifically urged the Government to eliminate these disadvantages by addressing the underlying structural discrimination in the delivery of public services.¹² It also recommended that the Government develop specific equality targets for these groups and that it closely monitor progress.¹³</p> <p>In 2012 the Human Rights Commission continued its project on structural discrimination – also known as institutional racism – in public systems and services. The project asked whether all New Zealanders, regardless of ethnicity, are able to have their rights to education, health, justice realised in New Zealand's public services. This involved an analysis of the public education, health and criminal justice systems, as well as exploration of the public service as a system in itself. In July 2012, the Commission finalised its discussion paper <i>A Fair Go For All? Addressing Structural Discrimination in Public Services</i> in light of community and agency feedback. The Commission found that the following common elements exist across systems:</p> <ul style="list-style-type: none"> • entrenched ethnic inequalities exist across systems and are not solely caused by socio-economic factors; • structural discrimination has a cumulative effect within systems; • even where culturally-aware and responsive policies are

¹² E/C.12/NZL/CO/3 at 12.

¹³ Ibid.

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		<p>in place, practitioners may exhibit biased practice; and</p> <ul style="list-style-type: none"> • insufficient, patchy or poor data-collection on ethnicity shows a lack of commitment to addressing inequalities for particular population groups. <p>Some agencies have now acknowledged that the way certain groups are managed is a significant driver for the 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.¹⁴ This strategy provides a useful model to improve outcomes in other sectors. Identifying and working to remove any structural or institutional barriers to equal enjoyment of rights for all New Zealanders is a priority.</p> <p>In New Zealand, 270,000 children and young people are affected by poverty. The human rights to health, education, social security and to a safe and secure upbringing for those children are seriously compromised. Child poverty in New Zealand has still not been addressed adequately.</p> <p>The report of the Expert Advisory Group (EAG) on Solutions to Child Poverty released in December 2012 sets out 78 recommendations across a multitude of sectors and provides an important point of reference for considering strategies to address child poverty. These recommendations should be promptly implemented.</p>

¹⁴ 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>

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		<p>Through the In Work Tax Credit, 230,000 children of the poorest children are discriminated against on the basis of their parents' work status. This In Work Tax Credit is the subject of a CPAG challenge in the Court of Appeal.</p> <p>The right to social security is of central importance in guaranteeing human dignity for people when circumstances deprive them of the capacity to fully realise their economic, social and cultural rights. New Zealand has a longstanding commitment to social welfare and has a welfare system that covers all social risks and contingencies identified in the relevant international covenants and conventions.</p> <p>However, there is significant concern about the impact of recent welfare reforms (2011-2012) on disadvantaged and marginalised individuals and groups. The CESCR has expressed concern about the retrogressive nature of these reforms and "urged [New Zealand] to meet its obligations under the Covenant by ensuring that welfare reforms, including those aimed at reducing long-term welfare dependency, protect the right to social security and to an adequate standard of living in respect of disadvantaged and marginalized individuals and groups".</p>
<p>27. Strengthen and further improve the existing measures and strategies and undertake, where necessary, actions to correct the inequalities that</p>	<p>Same as for Recommendation 25.</p>	<p>Same as for Recommendation 26.</p> <p>In 2005, the Commission became concerned about how accessible and approachable it was for people experiencing racial discrimination. Over the years, it has taken steps to become more accessible, giving prominence to the complaint process on its website, employing more bilingual staff, producing the complaint form in plain English and six community languages, publishing case studies to familiarise people with the complaint process, conducting seminars and workshops in</p>

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<p>still exist between the various communities (Morocco);</p>		<p>communities on the Commission's services and having mediators travel widely to provide dispute resolution, engaging interpreters and translators where necessary.</p> <p>It is impossible to measure the effects of efforts to enhance accessibility to the complaint process. Certain ethnic groups are not proportionately represented in the complaints received, and some are not represented at all. NZ Europeans/Pakeha are over-represented in the Commission's demographics of complainants and Pacific are under-represented.</p> <p>There are many reasons people do not make complaints of unlawful race discrimination including lack of knowledge of processes and fear of reprisal. Some communities engage significantly with the Commission on certain human rights activities (e.g. Samoan language week) but do not appear to use the complaint process.</p>
<p>28. Further strengthen its actions to ensure that the economic and social rights of vulnerable persons are protected, especially Māori, people with Pacific background and people with disabilities, and ensure that special</p>	<p>Same as for Recommendation 25. In addition:</p> <ul style="list-style-type: none"> The Committee calls upon the State party to (a) introduce incentives and other special measures to promote employment of persons with disabilities; (b) explicitly regard denial of reasonable accommodation as a form of discrimination; (c) ensure that its primary health system is adequately equipped to provide care to persons with intellectual disabilities. The Committee recommends that the State party collect data to monitor the enjoyment of economic, social and cultural rights by persons with disabilities and provide information and statistical data in this respect in the next periodic report. The Committee also calls on the State party to take all appropriate measures to ensure 	<p>Same as for Recommendation 26.</p> <p>New Zealand law requires that disabled students have the same access to education as non-disabled students in state schools. Despite this, of complaints to the Human Rights Commission about a Government agency, about a third are about education. Complaints to the Commission are dominated by concerns about a lack of reasonable accommodation, unfair expulsions, exclusions and stand downs, bullying and funding issues.</p> <p>While there have been some useful reforms it is difficult to see how the current suite of policies and programmes will result in fully inclusive schools.</p>

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<p>attention is given to these persons with a view to including them fully in society (Netherlands);</p>	<p>that the position of Disability Commissioner is established on a permanent basis.</p> <p>(2012) E/C.12/NZL/CO/3 at 13.</p>	<p>One measure of the success of inclusive schools is educational achievement. Educational achievement is measured in a number of ways including national standards for primary schools, National Certificate of Educational Achievement pass rates at secondary school and international comparative studies. None of these allow a comparison of outcomes between disabled and non-disabled students.</p> <p>Another way of measuring inclusive schools is via the incidence of bullying, harassment and other violence in schools. Evidence suggests that bullying at school is a particular issue for disabled students.</p>
<p>29. Continue to address all forms of political, economic and social discrimination against the Māori by meeting their various demands for constitutional and legal reforms and recognition (Bangladesh);</p>	<p>Same as for recommendations 21, 25 and 26.</p>	<p>New Zealand agreed with Recommendation 29 to address all forms of political, economic and social discrimination against Māori and stated that as part of the Confidence and Supply Agreement between the National Party and the Māori Party, both parties agree to establish a group, by no later than early 2010, to consider constitutional issues.</p> <p>See comments in relation to Recommendation 21, 25 and 26.</p>
<p>30. Continue addressing effectively the socio-economic inequalities affecting the Māori</p>	<p>Same as for Recommendation 25.</p>	<p>Same as for Recommendation 26.</p>

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(Jordan);		
31. Take further measures to correct the gaps in employment, salary, health care and education that exist between Māori and non-Māori peoples (Japan);	Same as for Recommendation 25.	Same as for Recommendation 26.
32. Consider further action to fully understand the causes of inequality faced by indigenous people and take steps to minimize the effects (United Kingdom);	Same as for Recommendation 25.	Same as for Recommendation 26.
33. Commit itself to combating institutional bias that can result in the overrepresentation	<ul style="list-style-type: none"> Recalling its previous concluding observations (CERD/C/NZL/CO/17, para 21) and its general recommendation no. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee urges the State party to intensify its efforts to address the over-representation of members of the Māori and Pasifika 	<p>New Zealand accepted Recommendation 33.</p> <p>Ethnic inequalities in New Zealand's criminal justice system – specifically, the disproportionate representation of Māori and Pasifika – are entrenched, long-standing and complex, and have repeatedly drawn the attention of a range of commentators, lobby groups, and UN human</p>

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<p>of specific groups in the criminal justice system (Canada);</p>	<p>communities at every stage of the criminal justice system. In this regard, the Committee urges the State party to provide comprehensive data in its next periodic report on progress made to address this phenomenon. (2013) CERD/C/NZL/CO/18-20 at 11.</p> <ul style="list-style-type: none"> The State party should strengthen its efforts to reduce the over-representation of Māori, in particular Māori women, in prisons and continue addressing the root causes of the phenomenon. The State party should also increase its efforts to prevent the discrimination against Māori in the administration or justice. Law enforcement officials and the judiciary should receive adequate human rights training, in particular on the principle of equality and non-discrimination. (2010) CCPR/C/NZL/CO/5 at 12. 	<p>rights bodies.</p> <p>Initiated in 2008, the whole-of-Government programme, <i>Addressing the Drivers of Crime</i>, focuses on prevention and early interventions for priority groups. Other initiatives, such as the Rangatahi Courts and Māori Focus Units, focus on individuals once they are already in the system. Substantial work remains to be done to address the monocultural nature of the justice system, providing support for locally-designed, developed and delivered programmes, and addressing the ethnic disparities at a number of 'entry points' into the system e.g. apprehensions, charging, and placement in a youth residence.</p> <p><i>Addressing the Drivers of Crime</i></p> <p>The whole-of-Government approach to Addressing the Drivers of Crime (DOC) is particularly focussed on reducing the disproportionate number of Māori in the criminal justice system. The DOC work programme continued in 2012, focussing on early intervention and prevention programmes in education and health, and the implementation of alcohol and other drug assessments and interventions.</p> <p>The Ministry of Justice reports progress in improving frontline services to priority groups as a result of the DOC work programme. Examples include more participation by at-risk children and families in Well Child checks and parenting programmes; substantial increases in the percentage of school leavers attaining NCEA Level 2 since 2005, with growth highest among both Māori (87%) and Pacific (68%) from schools who draw their students from communities with the highest levels of disadvantage (deciles 1 and 2); and increased access for</p>

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		<p>offenders to alcohol and other drug interventions, restorative justice conferences and pre-release prisoner reintegration services.</p> <p><i>Māori and Police launch The Turning of the Tide Crime Prevention Strategy</i></p> <p>A new crime and crash prevention strategy, The Turning of the Tide, has a bold vision: that all Māori will live full and prosperous lives, free from crime and road trauma. The strategy represents almost six years of work by the Commissioner's National Māori Focus Forum and Police staff. It brings together many years of discussions with Māori leaders, as well as the contents of individual Iwi Crime and Crash Prevention Plans, into one national plan that will set the framework for local initiatives and interventions.</p> <p>The Turning of the Tide sets the following targets to be reached by June 2018:</p> <ul style="list-style-type: none"> • 10 percent decrease in the proportion of first-time youth and adult offenders who are Māori. • 20 percent decrease in the proportion of repeat youth and adult victims and offenders who are Māori. • 25 percent decrease in police apprehensions of Māori that are resolved by prosecution. • 20 percent reduction in the proportion of casualties in fatal and serious crashes who are Māori. <p><i>Kooti Rangatahi initiative expands and a Mātāriki Court is established</i></p>

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		<p>Ten judicially-led Rangatahi Courts are now operating, along with two Pasifika Courts. The courts are well supported by their respective marae and local communities. As at August 2012, 845 cases had been seen in either a Rangatahi or Pasifika Court. The sustainability of the Rangatahi and Pasifika Courts relies on ongoing collaboration across Government, marae, Government agencies and service providers, community and whānau.</p> <p>A Mātāriki Court has been operating in Kaikohe since late February 2012. The Mātāriki Court offers all offenders an opportunity to have a section 27 Sentencing Act 2002 sentence hearing to hear any person(s) they call to speak, on the personal, family, whānau, community, and cultural background of the offender and the way in which that background may have related to the commission of the offence. The Court also facilitates offender access to wrap around services and alternative pathways to address the underlying causes of offending via section 25 of the Sentencing Act 2002. To date, the Court has held four section 27 hearings with a further four awaiting reports to be provided to the Judge before the scheduled sentence hearing date.</p>
<p>34. Continue efforts to ensure that people belonging to minority groups are not discriminated against in the criminal justice system (Sweden);</p>	<p>Same as for Recommendation 33.</p>	<p>Same as for Recommendation 33.</p>

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<p>35. Take further steps to eradicate all remaining expressions of racism, racial discrimination, xenophobia and related intolerance (Algeria);</p>	<ul style="list-style-type: none"> • The Committee recommends that the State Party develop a comprehensive legislative framework for addressing the problem of incitement to racial hatred on the internet in conformity with article 4 of the Convention. (2013) CERD/C/NZL/CO/18-20 at 9. • The Committee urges the State party to intensify its efforts to promote ethnic harmony through, inter alia, raising awareness to combat existing stereotypes and prejudices against certain ethnic and religious groups. (2013) CERD/C/NZL/CO/18-20 at 10. 	<p>New Zealand accepted Recommendation 35.</p> <p>It is unlawful for anyone in New Zealand to publish or distribute or use words in public to excite hostility against, or bring into contempt, any group of persons in or who may be coming to New Zealand on the ground of the colour, race or ethnic or national origins of that group of persons.</p> <p>The number of complaints to the Human Rights Commission about race hate speech on social media sites has been a rising phenomenon that reflects the broad adoption of social media as a communications medium.</p> <p>The Commission's experience is supported by research conducted on behalf of the Law Commission. In a nationwide survey this year of 750 New Zealanders aged 18-70, 10 per cent reported 'personal experience of harmful speech on the Internet. Māori and Pacific people reported much higher incidents, at 19 and 17 per cent respectively. Twenty per cent of those surveyed said they were "extremely concerned" about harmful speech on the Internet, with the figure rising to 32 per cent for Māori and Pacific people. Asked if they knew what to do in response, two fifths or 42 per cent said they did not know.</p> <p>Like any communications channel, social media are the medium and not the message. However unlike traditional communication channels television, radio and newspapers, the regulation of content is self-managed with little or no direct engagement with those complaining about content considered offensive or racist or both. The major social media companies operate from countries outside New Zealand and the jurisdiction of New Zealand legislation, further complicating the</p>

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		<p>response to pages that contain offensive or racially divisive content.</p> <p>The Commission can only progress complaints of this nature where the published comment is considered likely to incite racial disharmony. Section 61 of the Human Rights Act, 1993 identified such comment as being “threatening, abusive, or insulting” and “likely to excite hostility against or bring into contempt any group of persons in or who may be coming to New Zealand on the ground of colour, race, or ethnic or national origins of the group of persons.”</p> <p>In practice a race-related comment widely regarded as offensive, can only be progressed as a complaint under the Human Rights Act if it can be seen as a probable cause of exciting racial hostility or contempt. How hostility and contempt are interpreted must also be balanced alongside the right to freedom of speech set out in the New Zealand Bill of Rights Act, 1990.</p> <p>Concern about the issue is widespread and in May Justice Minister Judith Collins requested the Law Commission to provide advice. Released in August the Law Commission’s Ministerial briefing paper supported a tougher stance on social media. The paper’s main recommendations were:</p> <ul style="list-style-type: none"> · creating a new criminal offence tailored for digital communication · amendments to the Harassment Act 1997, the Human Rights Act 1993, the Privacy Act 1993 and the Crimes Act 1961 to ensure the provisions of these acts can be readily applied to

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		<p>digital communications.</p> <ul style="list-style-type: none"> · setting up a Communications Tribunal “to provide citizens harmed by digital communications with speedy, efficient and cheap access to remedies such as takedown orders and ‘cease and desist’ notices.” · new legal requirements for all New Zealand schools to help combat bullying or all kinds.
<p>36. Include the fight against xenophobia and racism in the education curricula (Brazil);</p>	<p>N/A</p>	<p>New Zealand accepted this Recommendation.</p> <p>Support has been provided for schools as they develop their own curricula aligned to the New Zealand Curriculum (NZC). This support includes information provision in print and online, in-school professional development support, monitoring & evaluation.</p> <p>However, there is no overarching strategy to embed human rights and race relations into the education curricula across New Zealand.</p>
<p>37. Protect the interest of migrants and minority groups, including the Asian and Pacific people, from all forms of racial stereotyping and derogatory treatment</p>	<p>Same as for Recommendation 25.</p> <ul style="list-style-type: none"> • The Committee recommends that the State party ensure the full and effective enforcement of the measures taken to protect Asian migrants, including targeted measures to strengthen equal access to the labour market in order to alleviate the concentration of qualified individuals in low paying jobs. The Committee further urges the State party to support a system for the objective assessment of their educational qualifications. (2013) CERD/C/NZL/CO/18-20 at 16. 	<p>Same as for Recommendation 25.</p> <p>Annual UMR Research surveys on perceived discrimination, undertaken since 2001, have consistently shown Asian people to be perceived as the most discriminated against. An average of around 75 per cent of survey respondents identified Asian people as suffering “a great deal” or “some” discrimination. The 2012 survey confirmed that Asian New Zealanders continue to experience the highest levels of direct racial discrimination. However New Zealanders generally observed there to be less discrimination against Asians in 2012 than in previous years (people on</p>

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(Bangladesh);		welfare were seen to be the group most discriminated against).
38. Consider accepting the recommendation of the Committee on the Elimination of Racial Discrimination to study ways and means of assessing the extent to which complaints for racially motivated crimes are addressed in an appropriate manner within the criminal justice system (Malaysia);	<ul style="list-style-type: none"> The Committee recommends that the State party include in its next periodic report data concerning such cases considered by the judiciary and other competent authorities in accordance with the provisions of the Convention. (2013) CERD/C/NZL/CO/18-20 at 12. 	<p>New Zealand accepted Recommendation 38 but noted that it would not be able to make process in the medium term.</p> <p>There is still no mechanism in place in NZ for systematically recording racially motivated crime which means there is no way to know whether racially motivated crime is increasing or decreasing.</p>
39. As recommended by the Committee on the Elimination of Racial Discrimination, pursue means of recording	Same as for Recommendation 38.	Same as for Recommendation 38.

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<p>complaints, prosecutions and sentences related to racially motivated crimes and investigate how such issues are addressed through the criminal justice system (United Kingdom);</p>		
<p>40. Consider amending or repealing its legislation to close the gaps in the protection of women against discrimination (South Africa);</p>	<ul style="list-style-type: none"> • The Committee recommends that, in the context of the current constitutional review, the State party ensure full incorporation into the constitution and/or other legislation, of the principle of equality between women and men in accordance with article 2(a) of the Convention. The State party is urged to establish a legal definition of discrimination on the basis of sex in line with article 1 of the Convention, and to extend state responsibility for acts of discrimination by both public and private actors in accordance with article 2(e) of the convention, with a view to achieving formal and substantive equality between women and men. (2012) CEDAW/C/NZL/C0/7 at 11. • The Committee encourages the State party to study, review and reconsider the relevance and usefulness of temporary special measures, in accordance with article 4, paragraph 1, of the Convention, and the Committee's general recommendation No. 25. It also recommends that the State party include in its equality 	<p>New Zealand accepted Recommendation 40.</p> <p>The New Zealand Government has stated that it is not aware of any legislation that discriminates against women. New Zealand withdrew its last reservation under the Convention on the Elimination of all forms of Discrimination Against Women in July 2007.</p> <p>Domestic legislation includes the Human Rights Act 1993 (HRA) and the Bill of Rights Act 1990 (BORA). The HRA includes the following prohibited grounds of discrimination: sex, which includes pregnancy and childbirth; marital status, which includes being single, married, in a civil union, or in a de facto relationship, as well as being the surviving or separated spouse or partner of any one of those relationships, or a party to one of those relationships which has ended; and family status, which includes having responsibility for children or not, being a relative of a person or being in a marriage, de facto relationship or civil union with a particular person.</p>

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	<p>legislation provisions to encourage the use of temporary special measures, in both the public and private sectors, in order to accelerate the realization of women's de jure and de facto equality with men in all areas and sectors of the State party. (2012) CEDAW/C/NZL/CO/7 at 19.</p>	<p>In 2001 the HRA was amended to include an Equal Employment Opportunities Commissioner. The mandate of the EEO Commissioner includes responsibility for providing leadership, advice and guidance on equal employment opportunities, including pay equity (equal pay for work of equal value).</p> <p>The HRA and the BORA both protect the right to freedom from discrimination. The BORA applies to the public sector, the legislature, the executive, and the judiciary. The HRA applies to both public and private sectors. A publicly funded, free dispute resolution service is available for complaints of discrimination in the public and private sectors and public-sector employers are required to meet the same non-discrimination standards as private-sector employers.</p> <p>Special measures are permissible in both the HRA and the BORA. Although the wordings of section 73 (1) of the HRA and section 19 (2) of the BORA differ, both are designed to ensure equal outcomes by addressing disadvantage that is the result of unlawful discrimination. There are limits to introducing special measures. The measure must be tailored to reduce the actual disadvantage of the group it is aimed at; the impact of the measure on those to whom it does not apply should be considered; the measure should be proportional to the degree of disadvantage; and measures to ensure equality should be temporary, that is, until the disadvantage is resolved.¹⁵</p> <p>New Zealand women are not a homogenous grouping, and indigenous</p>

¹⁵ Human Rights Commission 2007, *Guidelines on Measures to Ensure Equality* (Auckland: HRC). Accessible online at http://www.hrc.co.nz/hrc_new/hrc/cms/files/documents/18-Mar-2007_18-54-53_Special_Measures_A4_Final_PDF.pdf

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		women, migrant women, rural women, older women and disabled women often face multiple barriers to full and equal participation.
41. Establish targets for improving the representation of women in senior management in the public service and set measurable targets for realizing gender pay equality (Canada);	<ul style="list-style-type: none"> • The Committee recommends that the State party continue to educate men and women about equal career opportunities with a view to promoting their pursuance of education and training in fields other than those traditionally dominated by either sex and take specific measures to promote women's advancement in the labour market. The Committee also calls upon the State party to amend its legislation on equality in employment so as to effectively provide for equal pay for work of equal value and apply the Job Evaluation Tool to this effect. Moreover, the Committee urges the State party to take steps, with a clear timeline, to correct the gender wage gap in the public sector... (2012) E/C.12/NZL/CO/3 at 14. • The Committee encourages the State party: <ul style="list-style-type: none"> (a) to mainstream gender in all national plans and Government institutions; (b) to strengthen the existing national machinery by providing adequate authority, visibility and human and financial resources at all levels and enhancing coordination among existing mechanisms for the advancement of women and the promotion of gender equality by increasing the resources for the Ministry of Women's Affairs; (c) to conduct a comprehensive study on how to improve the situation of women in the State party and develop a national plan for women accordingly. 	<p>New Zealand agreed with the goal of reinforcing the rights of women in society and the labour market.</p> <p>The Commission has produced for the past ten years a biennial Census which shows that representation of women at governance level in Government appointed statutory bodies has slipped slightly to 41.5 percent, down from 42 percent.¹⁶ This follows New Zealand's commitment at Beijing in 1995 by former Prime Minister Jenny Shipley of a target of 50 percent women's representation by 2000. Because this was not achieved, the target for Government appointments of women was then extended by the Government to 2010.</p> <p>However, in 2012 the Government introduced a sliding, lower target which is of considerable concern to the Commission. The Ministry of Women's Affairs Statement of Intent 2012-2015 states that the percentage of appointees to state sector boards who are women will increase from 41 percent to 45 percent by 2015.</p> <p>The New Zealand Government committed to gender equality of 50/50 at Beijing more than 12 years ago, but is now targeting five percent less.</p> <p>Other areas of concern about women's participation and representation are local Government where women have yet to reach the Commonwealth target of 30 percent representation (28.3 percent) and where there is slight slippage, the judiciary which remains static at around 26.3 percent women's representation despite the Committee's</p>

¹⁶ New Zealand Census of Women's Participation 2010 accessed from www.neon.org.nz

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	<p>(2012) CEDAW/C/NZL/CO/7 at 17.</p> <ul style="list-style-type: none"> • The Committee recommends that the State party: <ol style="list-style-type: none"> (a) take measures to increase the number of women in decision-making positions at all levels and in all areas, in the light of the Committee's general recommendation No 23 on women in political and public life; (b) make every effort to disseminate information on the Convention among both private and public actors to increase awareness and understanding of the meaning and content of substantive equality of women and men; (c) review the targets, goals and time frames set for the advancement of women in decision-making positions to ensure that they sufficiently enhance progress in women's representation. <p>(2012) CEDAW/C/NZL/CO/7 at 28.</p> <ul style="list-style-type: none"> • The Committee recommends that the State party: <ol style="list-style-type: none"> (a) enact appropriate legislation that guarantees the operationalization and implementation of "equal pay for work of equal value", in line with article 11(d) of the Convention; (b) effectively enforce the principle of equal pay for work of equal value, through establishing specific measures and indicators, identifying time frames to redress pay inequality in different sectors and reviewing the accountabilities of public service chief executives for pay policies; (c) introduce appropriate legal measures to ensure parental leave, 	<p>repeated urgings to the State Party, and national politics at 32 percent down from 33 percent previously¹⁷. The initial gains in diversity of a changed electoral system from First Past the Post to Mixed Member Proportional have not translated into continuing progress for women. A particularly worrying trend in women's representation is that despite women making up 59 percent of all public servants, only 17.6 percent are chief executives of public service departments and 37.8 percent of senior management is female¹⁸. The figure for chief executives is expected to fall further with pending retirements.</p> <p><i>Pay equity</i></p> <p>Pay and employment equity reviews across the public service and the public health and public education sectors, as well as two local councils and three Crown entities were carried out in 2004-2009. The reviews found gender pay gaps for all but one of the public service departments of between 3-35 percent. Common findings included unequal starting salaries for the same job; female dominated jobs being paid lower than male dominated jobs; gender disparities in pay progression and performance pay; women dominating the lowest paid staff and few in the best paid jobs; women having a smaller share of additional rewards and significant gender differences in participation opportunities at all levels.</p> <p>These reviews and response plans were driven by the work of the Pay</p>

¹⁷Ibid

¹⁸Ibid

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	<p>including paid parental leave for men as well as paid leave for seasonal or fixed-term workers with multiple employment relationships, and consider the ratification of ILO Convention 156 concerning workers with family obligations;</p> <p>(d) adopt policies and take all necessary measures, including temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation No. 25 with time-bound targets, to eliminate occupational segregation, both horizontal and vertical;</p> <p>(e) carry out an independent evaluation of the gendered impact of the reform of collective bargaining and ensure that it does not negatively affect women's employment and trade union rights;</p> <p>(f) ensure that there is a monitoring institution for gender pay inequity within the State party's administration despite the closure of the Pay and Employment Equity Unit in the Department of Labour (2012) CEDAW/C/NZL/CO/7 at 32.</p> <ul style="list-style-type: none"> In light of the Committee's general comment No. 28 (2000) on article 3 (the equality of rights between men and women), the State party should seek ways to further encourage the participation of women in high-level and managerial positions and on boards of private enterprises through enhanced cooperation and dialogue with partners in the private sector. (2010) CCPR/C/NZL/CO/5 at 9. 	<p>and Employment Equity Unit within the Department of Labour which was closed in 2009 after five years and the closure was accompanied by the Government's cancellation of two ongoing pay investigations for 24,000 school support staff and for social workers.</p> <p>Following these cancellations, the union, the Public Service Association (PSA), complained to the Human Rights Commission of sex discrimination under the Human Rights Act 1993 on behalf of social workers, a largely female workforce earning 9.5 percent less than their male colleagues. The complaint was against the Government and the Chief Executive of the Ministry of Social Development as the employer. The Commission notified the parties to the complaint and under the Human Rights Act mediation through dispute resolution began. The parties have now agreed to take the matter outside the Commission, continue to talk and negotiate the issue.</p> <p>The gender gap between the highest hourly rate (European men) and the lowest (Pacific women) is 28.5 percent and has widened from 2010.</p> <p>The Ministry of Women's Affairs in its latest Statement of Intent has no specific indicators relating to closing the gender pay gap or implementing pay equity, a critical element in women's economic independence and in advancing gender equality.</p> <p><i>Pay Equity Legislation</i></p> <p>No successful cases have ever been progressed under New Zealand's</p>

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		<p>Equal Pay Act 1972 and there is no legislation in New Zealand that relates to pay equity and to work of equal value. The Equal Pay Act 1972 and the Human Rights Act 1993 provide for protection against sex discrimination but are widely regarded as ineffective in pay equity cases largely because no positive obligations are placed on employers in relation to equal pay and pay equity. The legislation also anticipates individual complainants rather than groups of women which limits attempts to reduce structural discrimination.</p> <p>The Commission has developed and promoted a Pay Equality Bill that promotes transparency of wages, makes confidentiality of pay illegal and provides for a positive duty on employers.¹⁹ The proposed legislation which is available for the Government, other political parties or a private member to sponsor, has generated significant publicity along with another private member's bill aimed at reforming the current Equal Pay Act.</p>
42. Continue to adopt policies in order to achieve full gender parity (Angola);	Same as for Recommendation 41.	Same as for Recommendation 41.
43. Start discussions on introducing gender quotas on the boards of public	Same as for Recommendation 41.	Same as for Recommendation 41.

¹⁹Human Rights Commission, Pay Equality Bill, in *Tracking Equality at Work*, 2011 <http://www.neon.org.nz/trackingequalityatwork/>

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limited companies (Norway);		
44. Reinforce the rights of women within the labour market, regardless of age or ethnicity (Brazil);	Same as for Recommendation 41.	Same as for Recommendation 41.
45. Implement active policies to speed up and increase the representation of women, in particular in local Governments, the judiciary and the health sector (Argentina);	Same as for Recommendation 41.	Same as for Recommendation 41.
46. Commit more resources to the provision of services for children with disabilities	N/A	<p>New Zealand accepted Recommendation 46.</p> <p>New Zealand law requires that disabled students have the same access to education as non-disable students in state schools.</p> <p>The New Zealand Disability Strategy outlines the actions that agencies will take to ensure that children and young people with disabilities are integrated into society as a whole:</p>

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(Nigeria);		<ol style="list-style-type: none"> 1) providing classroom resources to enable teachers to identify and address barriers to learning. 2) Offering resources for parents, carers, and teachers to improve learning for children and young people with Autism Spectrum Disorders (ASD). 3) Better Outcomes for Children Action Plan 2006–2011 – to raise achievement and improve services for children eligible for special services through Group Special Education. 4) Professional development of the Special Education workforce – to enhance capacity and capability of the workforce to ensure training is accessible. 4) Improving access to Out-of-School Services for disabled children by developing a five-year action plan to ensure these services are reliable, conveniently located and accessible. <p>In 2011 the Government committed more resources to the provision of access to education for children with disabilities (approximately \$460 million). The Government also funds a range of health care and disability support services for disabled children and young people, including child development services and other disability support services.</p> <p>In May 2012 the Ministry of Education issued a consultation document: <i>Development of a New Intensive Wraparound Special Education Service and Consultation on the Future Role of Residential Special Schools</i>.</p> <p>Despite this, of complaints to the Human Rights Commission about a Government agency, about a third are about education. Complaints to the Commission are dominated by concerns about a lack of reasonable accommodation, unfair expulsions, exclusions and stand downs, bullying</p>

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		and funding issues. While there have been some useful reforms it is difficult to see how the current suite of policies and programmes will result in fully inclusive schools.
Right to life, liberty and security of the person		
47. On the issue of privatization of prison management, keep in mind the need to ensure the humane treatment of prisoners (Japan);	<ul style="list-style-type: none"> The State party should ensure that all persons deprived of their liberty are guaranteed all rights enshrined in the Covenant. In particular, all measures of privatization of prison management should continue to be closely monitored with a view to ensuring that under no circumstances can the State party's responsibility for guaranteeing to all persons deprived of their liberty all Covenant rights, in particular those under article 10, be impeded. (2010) CCPR/C/NZL/CO/5 at 11. 	<p>New Zealand accepted Recommendation 41.</p> <p>New Zealand currently has one privately operated prison, Mt Eden Corrections Facility, run by the SecureFuture consortium (which includes the Serco Group). A new men's prison that is currently under construction at Wiri will be run as a private-public partnership.²⁰</p> <p>The Corrections Act 2004 was amended in November 2009 to allow for the private management of prisons. Under the Act, contract prison managers must comply with all domestic laws and international standards and obligations relating to prisoner welfare and management. Under the Act, the Chief Executive remains accountable at all times for the welfare and wellbeing of all prisoners, whether they are held in a privately managed prison or a prison managed by the Department.</p> <p>However, prisons whose management is contracted out to the private sector cannot be scrutinised through standard oversight mechanisms: parliamentary processes such as Select Committees, written and oral questions, and the Office of the Auditor-General. Likewise judicial oversight is limited.</p>

²⁰ Ibid, at 13

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48. Raise the age of criminal responsibility so that it complies with relevant international standards (Czech Republic);	<ul style="list-style-type: none"> It also recommends that the State party... raise the minimum age of criminal responsibility in accordance with the Committee's general comment No. 10 ... and consider setting the age for criminal majority at 18 years (2011) CRC/C/NZL/CO/3-4 at 56. 	<p>New Zealand did not accept Recommendation 48.</p> <p>At present, teenagers aged 14 and older can legally be prosecuted for most offences, with 12 years the minimum for some serious crimes, and 10 year-olds liable to be prosecuted for murder and manslaughter.</p>
49. Ensure separate juvenile detention facilities for all juvenile offenders (Czech Republic);	<ul style="list-style-type: none"> It also recommends that the State party... while awaiting the expeditious withdrawal of its reservation to article 37 (c) of the Convention, ensure that, unless it is in his or her best interests not to be, any child, male or female, deprived of liberty is separated from adults in all places of detention. (2011) CRC/C/NZL/CO/3-4 at 56. 	<p>New Zealand conditionally accepted Recommendation 49.</p> <p>However, it has yet to establish separate juvenile detention facilities. Further, the adult detention age in New Zealand is set at 17 years of age which contravenes the UNCROC definition - 18 years.</p>
50. Take further measures to ensure more effective protection of children against abuse or neglect (Czech Republic);	<ul style="list-style-type: none"> The Committee recommends that the State intensify its measures to combat family violence... (2012) E/C.12/NZL/CO/3 at 18. The Committee recommends that the State party (a) systematically collect data on violence and bullying in schools; (b) monitor the impact of the student mental health and well-being initiatives recently introduced in schools on the reduction of the incidence of violence and bullying; and (c) assess the effectiveness of measures, legislative or otherwise, in countering violence and bullying. 	<p>New Zealand accepted Recommendation 50.</p> <p>The level of violence in New Zealand, particularly family violence, remains unacceptably high. The prevalence of peer- to- peer violence and abuse in schools shows that the current legislative and regulatory framework fails to provide enough protection for children and young people. Statistics New Zealand figures show the number of recorded offences of "acts intended to cause injury" at schools or education institutes increased 23 per cent from 2004 to 2011.²¹</p>

²¹ Supra note 23.

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	<p>(2012) E/C.12/NZL/CO/3 at 19.</p> <ul style="list-style-type: none"> • The Committee recommends that the State party: <ol style="list-style-type: none"> (a) establish mechanisms for monitoring the number of cases and the extent of violence, sexual abuse, neglect, maltreatment or exploitation, including within the family, in schools and in institutional or other care; (b) ensure that professionals working with children (including teachers, social workers, medical professionals, members of the police and the judiciary) receive training on their obligation to report and take appropriate action in suspected cases of domestic violence affecting children; (c) strengthen support for victims of violence, abuse, neglect and maltreatment in order to ensure that they are not victimized once again during legal proceedings; (d) provide access to adequate services for recovery, counselling and other forms of reintegration in all parts of the country. <p>(2011) CRC/C/NZL/CO/3-4 at 36.</p> <ul style="list-style-type: none"> • The Committee recommends that the State party take adequate measures to combat the exploitation of migrant girls in prostitution and that it intensify its efforts to collect data on the extent of sexual exploitation and abuse of children, which is essential for the preparation of adequate responses to combat the phenomena. <p>(2011) CRC/C/NZL/CO/3-4 at 52.</p>	<p>Despite an evident commitment from the Government to take the necessary actions to make New Zealand safer for children, progress has been limited.</p> <p>Recently there has been an encouraging response to this recommendation in the form of targeted reductions in child assault rates through the Better Public Services Targets and the pending implementation of the Children's Action Plan's workforce strategy for professionals working with children and enhanced monitoring and tracking systems.²² Implementation of these aspects of the CAP is scheduled for 2014</p>

²² <http://www.msd.govt.nz/documents/about-msd-and-our-work/work-programmes/policy-development/white-paper-vulnerable-children/white-paper-for-vulnerable-children-summary-actions-chart.pdf>

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51. Effectively coordinate its efforts to prevent child abuse and provide the needed assistance in that area (Nigeria);	Same as for Recommendation 50.	Same as for Recommendation 50.
52. Promote the very foundation of family and its associated values with a view to preventing domestic violence (Islamic Republic of Iran);	<p>Same as Recommendation 51.</p> <ul style="list-style-type: none"> The Committee recommends that the State party intensify its efforts to render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities with timely responses at the local level, including services to parents who need counselling in child-rearing services for the treatment of alcohol- or drug-related problems, and, in the case of Māori and Pacific Islander populations, culturally appropriate services to enable them to fulfil their parental role. (2011) CRC/C/NZL/CO/3-4 at 32. 	<p>New Zealand accepted Recommendation 52.</p> <p>While there has been positive work on domestic violence in recent years for example the “It’s not OK” campaign, the White Ribbon campaign, and the development of the whānau ora approach, domestic violence remains endemic in New Zealand.</p>
53. Look to identify a more accurate measure of the extent of domestic violence, thereby providing a tool to better measure the	Same as for Recommendation 52.	<p>New Zealand accepted Recommendation 53.</p> <p>While the Police have indicated they are in fact improving information collection about family violence poor, variable and hard to locate data is part of the general problem relating to violence against women in New Zealand.²³</p> <p>In their annual release of crime statistics in 2012 police held back figures</p>

²³ Ibid, 31 May 2012.

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<p>success of domestic violence prevention and conviction agencies and programmes (United Kingdom);</p>		<p>relating to family violence on the basis that work was underway to bring them into line with international best practice. However, figures obtained by the media under the Official Information Act, showed police investigated 86,722 cases of domestic violence, over 2000 more than in 2009. Of those, 40,024 were for actual offences and the rest were calculated as “non-offence” investigations. The police say statistics in this area are complex because there is no offence of “family violence”. Women’s Refuge expressed concern that police were attending more family violence callouts than ever but the number of actual offences recorded had dropped and asked how “low-level offending” is defined.</p> <p>Globally, persons with disabilities are up to three times more likely to be victims of physical and sexual abuse and rape, and have less access to physical, psychological and judicial interventions.²⁴ In New Zealand, disabled women are one of the groups most at risk of sexual violence, although the proportion of disabled victims changes depending on whether disability is self-identified (31 percent of victims) or determined by a doctor (15 percent).²⁵</p> <p>Despite sexual offences being the fifth most common offence reported in the Crime Survey, and the “most costly crime per incident” by Treasury estimates, only 10 percent of sexual offences are reported to the police. Of those, only 8 percent “result in a perpetrator being convicted”.²⁶ This means that for every 1,000 incidents of sexual violence, only 100 are reported and only eight perpetrators are convicted.</p>

²⁴ Promoting Sexual and Reproductive Health for Persons with Disabilities 2009 WHO/UNFPA

²⁵ ibid

²⁶ Report of the Taskforce for Action on Sexual Violence 2009 Ministry of Justice (Wellington New Zealand)

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54. Take effective legal, institutional and awareness-building measures to combat domestic violence, racially-instigated crimes and trafficking of women for sexual exploitation (Bangladesh);	Same as for Recommendation 52.	Same as Recommendations 50 -55.
55. Increase efforts to combat all forms of violence against women (Sweden);	<p>Same as for Recommendations 52.</p> <ul style="list-style-type: none"> • The Committee calls upon the State party: <ol style="list-style-type: none"> (a) to take the necessary measures to encourage the reporting of domestic and sexual violence cases, including by ensuring that education professionals, healthcare providers and social workers are familiar with relevant legal provisions and are sensitised to all forms of violence against women and are capable of complying with their obligation to report cases; (b) to strengthen training for the police, public prosecutors, the judiciary and other relevant Government bodies on domestic and sexual violence; 	<p>New Zealand accepted Recommendation 55.</p> <p>Violence against women in New Zealand is pervasive and as Kofi Annan has noted, perhaps the most shameful human rights violation.²⁷ 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.²⁸ The groups most at risk of sexual violence are young women, Māori women, women who have been victimised before and people with disabilities.²⁹ 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.</p>

²⁷ 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>

²⁸ Restoring Soul (2009), Ministry of Women's Affairs. (Wellington New Zealand) p84

²⁹ 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>

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	<p>(c) to provide adequate assistance and protection to women victims of violence, including Māori and migrant women, by ensuring that they receive the necessary legal and psychosocial services;</p> <p>(d) to improve the level of representation on the Task Force for Action on Violence within Families and ensure appropriate resourcing with a view to enhancing the perception of its status within the State party;</p> <p>(e) to ensure systematic collection and publication of data, disaggregated by sex, ethnicity, type of violence, and by the relationship of the perpetrator to the victim; to collect data on the number of women killed by partners or ex-partners; and to monitor the effectiveness of legislation, policy and practice relating to all forms of violence against women and girls. (2012) CEDAW/C/NZL/CO/7 at 24.</p>	<p>As well as the issue of reliable data (see above) that can properly inform authorities and women's groups, there is also concern about the implementation of legislation, policy and practice. The New Zealand situation has been summarised as: <i>Despite a plethora of reports, a strong legislative framework, significant Government funding and the efforts of many dedicated groups and individuals, real improvements in both the family violence and sexual violence in New Zealand remains elusive.</i>³⁰</p> <p>It has been asserted that “there is consensus that New Zealand has sound legislation on domestic violence”, yet has a “serious problem eliminating violence against women”.³¹</p> <p>In late 2009, the Report of the Taskforce for Action on Sexual Violence³² was released by the Minister of Justice, Hon Simon Power with 71 recommendations. Key recommendations include:</p> <ul style="list-style-type: none"> • Sustainable funding for specialist programmes on primary prevention of sexual violence • Specific work on child sexual abuse and adult rape within the It's not OK campaign • Funding shortfalls evaluated for the provision of community treatment for offenders • A pilot programme for the treatment of non-mandated perpetrators of sexual violence • Enhancing of the rights of victims in the criminal justice system • Piloting a specialist court support role for victims of sexual

³⁰ “Pulling it all together: Family violence and sexual violence in New Zealand”, Ruth Herbert (2010) Powerpoint presentation supplied by author.

³¹ It's Not OK: New Zealand's Efforts to Eliminate Violence Against Women (2008). Leitner Center for International Law and Justice Fordham Law School NY <http://www.leitnercenter.org/files/doc-17866.pdf>

³² Report of the Taskforce for Action on Sexual Violence 2009. <http://www.justice.govt.nz/policy-and-consultation/taskforce-for-action-on-sexual-violence>

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		<p>violence</p> <p>Lack of progress in implementation of the Task Force recommendations is now a critical issue that the Human Rights Commission has raised in the past three years with treaty bodies.</p> <p>Ongoing funding to specialist sexual violence agencies is not guaranteed, and some funding sources are contestable.³³ The availability of culturally appropriate services and services for diverse population groups (including Māori, Pacific people, ethnic communities, including refugees, people with disabilities, men and young people) is uneven and has been identified as a gap in services.</p> <p>Māori women are at three times higher risk of partner violence than women overall. Beneficiaries and those in sole parent households were also at much higher risk than women overall.³⁴</p> <p>In 2006, 13,091 women and 5,549 children used refuge services.³⁵ The National Collective of Independent Women's Refuges report an increase between 2002 to 2006 of 55 percent in services and programmes delivered. Services include advocacy and support services and the provision of safe house accommodation. As with services for victims of sexual violence, culturally appropriate services and services for groups such as disabled women and women from different ethnic backgrounds are not readily available in many areas. Some refuges are not accessible to women with disabilities. Shakti Community Council, which provides</p>

³³ Restoring Soul (2009) Ministry of Women's Affairs (Wellington New Zealand)

³⁴ Family Violence Statistics Report 2009 Families Commission (Wellington New Zealand)

³⁵ Family Violence Statistics Report 2009 Families Commission (Wellington New Zealand)

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		<p>support services for New Zealand migrant and refugee communities, has established ethnic women's refuges in Auckland, Christchurch and Tauranga.</p> <p>Rural Women New Zealand have noted that, "For rural women, there are additional inherent risk factors for the occurrence of domestic violence, as well as additional risk factors in choosing to take action to deal with violence."³⁶ Implementation of the Domestic Violence Act is particularly problematic for rural women. The difficulties noted include: "accessing information and support services for victims, delivery and access of programmes for offenders, and ensuring safety for both women and children with respect to the process of obtaining and enforcing protection orders".³⁷</p> <p>Gender differences are apparent in school bullying that include much higher levels of sexual violence against young women³⁸ and the greater impact that cyber-bullying appears to have on the mental health status of girls.³⁹ In 2011 and 2012 respectively the Committee on the Rights of the Child and the Committee on Economic, Social and Cultural Rights recommended that New Zealand intensify its efforts to eliminate bullying and violence in schools. Both highlighted the need for systematic data collection that will enable the effectiveness of legislative and other responses to be monitored. The New Zealand Law Commission has been</p>

³⁶Submission of the Domestic Violence (Enhancing Safety) Bill by Rural Women New Zealand 2009

³⁷ibid

³⁸University of Auckland (2009) *Youth '07 The Health and Wellbeing of Secondary School Students in New Zealand: Young People and Violence*

³⁹<http://www.netsafe.org.nz/challenging-risk-nz-high-school-students-activity-challenge-distress-and-resiliency-within-cyberspace/>

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		researching the adequacy of the current legal and regulatory environment relating to cyber-bullying, harassment and defamation in social media. ⁴⁰
<p>56. Record and document cases of trafficking in women and children as well as exploitation of migrant women and girls in prostitution, and share the information with other countries in the region to facilitate greater cooperation in combating this problem (Malaysia);</p>	<ul style="list-style-type: none"> • The Committee recommends that the State party: <ol style="list-style-type: none"> (a) Identify, prosecute and punish traffickers, and ensure protection of the human rights of the trafficked women and girls; (b) Ensure that trafficked women and girls have adequate support so as to be in a position to provide testimony against their traffickers; (c) Ensure systematic monitoring and periodic evaluation, including the collection and analysis of data on trafficking and exploitation of women in prostitution, and to include such data in its next periodic report; (d) Raise awareness of threats of trafficking and exploitation and make efforts to proactively screen vulnerable populations, including migrant women and girls, such as “mail order” and “Internet” brides. <p>(2012) CEDAW/C/NZL/CO/7 at 26.</p> • The State party should intensify its efforts to identify victims of trafficking and ensure the systematic collection of data on trafficking flows to and in transit through its territory. Training for police officers, border guards, judges, lawyers and other relevant 	<p>New Zealand accepted Recommendation 56.</p> <p>It adopted its whole-of-Government Plan of Action to Prevent People Trafficking in 2009.</p> <p>The Plan of Action includes action points on improving intelligence collection, sharing intelligence with international partners and engaging with international fora.</p> <p>However, despite the 2009 Plan of Action to Prevent People Trafficking, there continues to be an absence of comprehensive information and data on trafficking in women and girls.</p>

⁴⁰<http://www.lawcom.govt.nz/project/review-regulatory-gaps-and-new-media?quicktabs> 23=issues paper.

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	<p>personnel should be provided, in order to raise awareness of the sensitivity of the issue of trafficking and the rights of victims. (2010) CCPR/C/NZL/CO/5 at 15.</p>	
<p>57. Adopt a more comprehensive definition of human trafficking (United States);</p>	<p>Same as for Recommendation 56.</p>	<p>New Zealand did not accept Recommendation 57.</p> <p>New Zealand's definition of trafficking is set out in section 98D of the Crimes Act 1961. Section 98D provides:</p> <p>(1) Everyone is liable to the penalty stated in subsection (2) who—</p> <p>(a) arranges the entry of a person into New Zealand or any other State by 1 or more acts of coercion against the person, 1 or more acts of deception of the person, or both; or</p> <p>(b) arranges, organises, or procures the reception, concealment, or harbouring in New Zealand or any other State of a person, knowing that the person's entry into New Zealand or that State was arranged by 1 or more acts of coercion against the person, 1 or more acts of deception of the person, or both.</p> <p>(2) The penalty is imprisonment for a term not exceeding 20 years, a fine not exceeding \$500,000, or both.</p> <p>(3) Proceedings may be brought under this section even if the person coerced or deceived—</p> <p>(a) did not in fact enter the State concerned; or (as the case may be)</p> <p>(b) was not in fact received, concealed, or harboured in the State concerned.</p> <p>(4) Proceedings may be brought under this section even if parts of the process by which the person coerced or deceived was brought or came to or towards the State concerned were accomplished without an act of coercion or deception.</p>

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Recommendation	Relevant Treaty Body Recommendations since 2009	Current Status
Indigenous peoples		
<p>58. Consistent with the observations of the Committee on the Elimination of Racial Discrimination and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, continue the new dialogue between the State and the Māori regarding the Foreshore and Seabed Act of 2004, in order to find a way of mitigating its discriminatory</p>	<ul style="list-style-type: none"> The Committee urges the State party to continue to review the Marine and Coastal Area (<i>Takutai Moana</i>) Act of 2011 with a view to facilitating the full enjoyment of the rights by Māori communities regarding the land and resources they traditionally own or use, and in particular their access to places of cultural and traditional significance. (2013) CERD/C/NZL/CO/18-20 at 13. 	<p>New Zealand accepted Recommendation 58.</p> <p>In 2011, the Marine and Coastal Area (Takutai Moana) Act repealed the controversial Foreshore and Seabed Act passed in 2004. The new Act provides two pathways to recognise Māori interests. Iwi, hapū or whānau can apply to the High Court to have applications determined, or seek recognition of their interests through agreement with the Crown. Responsibility for Crown negotiations with iwi has been allocated to the Office of Treaty Settlements (OTS).</p> <p>Since the 2011 Act came into force OTS has been developing systems to implement the provisions for the recognition of customary rights. This includes structural arrangements for working directly with groups and policies such as funding to ensure the High Court is a viable option.</p> <p>In response to concerns about transparency, a new position of Independent Assessor is to be established to review the Crown, applicant and third party reports and advise the Minister. The position will be held by a former ex-High Court Judge.</p> <p>In March, Cabinet agreed to prioritise those groups which had their negotiations paused while the Foreshore and Seabed Act was being reviewed. These groups are Ngāti Porou, Ngāti Porou ki Hauraki, Ngāti Pāhauwera, Te Whānau ā Apanui and Te Rarawa. Since then OTS has re-entered formal engagement with Ngāti Porou, Ngāti Porou ki Hauraki and Ngāti Pāhauwera. Terms of engagement have been signed with Ngāti Porou ki Hauraki and Ngāti Pāhauwera and substantial progress has been made with all three groups. There have also been some informal discussions with Te Whānau ā Apanui and Te Rarawa about entering</p>

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<p>effects through a mechanism involving prior informed consent of those affected (Mexico);</p>		<p>formal engagement in 2013.</p> <p>There are currently 10 applications for Protected Customary Rights and two applications for Customary Marine Title before the High Court. No new applications have been made to the High Court under the 2011 Act. These applications were filed with the Māori Land Court under the 2004 Act and were transferred to the High Court. An interim model for financial assistance for existing applications is now in place, which means the High Court and applicants are in a position to advance the applications. Hearings are scheduled to begin in April 2013.</p>
<p>59. Pursue efforts to settle comprehensively land claims of the indigenous population (Switzerland);</p>	<ul style="list-style-type: none"> The Committee calls on the State party to ensure that the inalienable rights of Māori to their lands, territories, waters and marine areas and other resources as well as the respect of the free, prior and informed consent of Māori on any decisions affecting their use are firmly incorporated in the State party's legislation and duly implemented. <p>The Committee also urges the State party to take the necessary measures to guarantee Māori right to redress for violations of these rights, including through the implementation of the recommendations of Waitangi Tribunal's proceeding, and to ensure that Māori receive proper compensation and enjoy tangible benefits from the exploitation of their resources.</p> <p>(2012) E/C.12/NZL/CO/3 at 11.</p> <ul style="list-style-type: none"> Furthermore the State party should ensure that the views expressed by different Māori groups during consultations in the context of the historical Treaty claims settlement process are duly taken into account. 	<p>New Zealand accepted Recommendation 59.</p> <p>A Treaty settlement is an agreement negotiated between the Crown and a Māori claimant group. It settles all historical breaches of the Treaty of Waitangi suffered by the Māori claimant group before 1992. A settlement usually includes financial and cultural redress, commercial redress, an agreed historical account, an apology and acknowledgements. The process for negotiations proceeds from the Māori group's negotiating body having a deed of mandate recognised by the Crown; terms of negotiation signed; and an agreement in principle setting out major elements of the redress package. A deed of settlement is initialled and then ratified by the claimant group, and signed. This sets out the full terms of the settlement and is a legally binding document between the group and the Crown. The settlement is then implemented through legislation.</p> <p>Māori and the Crown continue to make progress with Treaty settlements towards the aspirational goal of settling all historical Treaty claims by 2014. The Treaty Negotiations Minister, the Hon. Chris Finlayson, estimated that there were 40 to 60 claims outstanding and that all those who want to, and are able to, engage in negotiations should have a heads</p>

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	(2010) CCPR/C/NZL/CO/5 at 20.	<p>of agreement or an agreement in principle by 2014.</p> <p>However, some groups continue to raise concerns about the determination of the mandated claimant group in relation to both current and previously settled claims.</p>
<p>60. Find appropriate ways to provide adequate compensation to Māori, in particular for their loss of land (Angola);</p>	<p>Same as for Recommendation 59.</p>	<p>New Zealand accepted Recommendation 60.</p> <p>There has been significant progress in settling historic breaches of the Treaty of Waitangi. An unprecedented 11 Bills were passed by Parliament in 2012 giving effect to Treaty settlements. 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.</p> <p>In September, the Government announced that it had reached a high level agreement with the negotiating body for Ngāi Tūhoe and would develop a deed of settlement. A significant element of the settlement will be the recognition of Ngā Tūhoe as tangata whenua in Te Urewera National Park. Separate legislation will be passed for Te Urewera and it will exist as a separate legal entity governed by the Crown and Ngāi Tūhoe nominees. The Governance Board of Te Urewera will be established with an equal number of Crown and Ngāi Tūhoe members and will be chaired by a Ngāi Tūhoe nominee. The settlement anticipates Ngāi Tūhoe will increase its management role over time, working alongside the Department of Conservation. The settlement will recognise the mana motuhake of Ngāi Tūhoe, being their ability to manage their own affairs as much as possible.</p> <p>The concept of mana motuhake is also reflected in agreements between</p>

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		the Crown and Ngāi Tūhoe about social services. A service management plan will be signed with Ngāi Tūhoe to improve social outcomes in Te Urewera.
61. Pursue efforts to improve Māori participation in all areas of social life (Russian Federation);	N/A	<p>New Zealand accepted recommendation 61.</p> <p><i>Māori representation in local Government</i></p> <p>The Local Electoral Amendment Act 2002 gave all councils the option of establishing Māori seats (wards for district and local councils and constituencies for regional councils). The legislation followed the establishment by special legislation of three Māori constituencies for Environment Bay of Plenty Regional Council. In 2011, the Race Relations Commissioner wrote to all local councils encouraging them to consider the option before the triennial deadline of 23 November set by the Act. Many did so but only two – Nelson City Council and the Waikato Regional Council, voted in favour.</p> <p>The process was characterised in a number of cases by both strong Māori support and vocal non-Māori opposition. Waikato Regional Council finalised the establishment of two Māori constituencies. In Nelson, opponents of the Council decision organised a petition attracting more than the required five per cent of electors to force a poll on the issue. In the poll, the proposal to establish a Māori ward was rejected by 12387 voters, and supported by 3192. Electors in Wairoa were also polled on the establishment of Māori seats. The Council had resolved to refer the matter to electors at the time of the 2013 local body elections, but a petition with the requisite numbers led to an earlier poll of electors. The proposal was defeated with 1306 votes (52%) against Māori seats, and</p>

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		<p>1207 (48%) for.</p> <p><i>Māori, Pacific, and ethnic representation on the Auckland Council</i></p> <p>The Royal Commission on Auckland Governance recommended the establishment of three Māori seats on the new Auckland Council, but the Government opted instead for an Independent Māori Statutory Board with representation on Council Committees. The Board has released a Māori Plan for Tāmaki-Makaurau (Auckland).</p> <p>The Royal Commission on Auckland also recommended the creation of Pacific Peoples and Ethnic Peoples advisory panels. In 2010, the Government created these panels for the Council's first term only, after which the Council was free to determine its own arrangements for Pacific and ethnic representation. The Pacific Peoples Advisory Panel has worked on a range of issues, including participating in the constitutional review, developing the Auckland Plan, and facilitating the Council's support for communities affected in the Pacific by cyclone Evan. In 2011-12 the Ethnic Peoples Advisory Panel worked on, among other things, the greater involvement of ethnic youth, and engaging on the economic development strategy.</p> <p>However, the mayor has indicated to both panels that while they have the support of the current council, it would be the business of the council in its second term to negotiate with central Government on their continued existence.</p> <p><i>Constitutional review</i></p>

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		<p>The current constitutional review is tasked with exploring, among other issues, “Māori representation, including Māori Electoral Option, Māori electoral participation, Māori seats in Parliament and local Government.’ Following early criticism of the lack of planned engagement with Pacific and ethnic communities, the Constitutional Advisory Panel is working with the Auckland Pacific Peoples Advisory Board to facilitate engagement in the review.</p> <p><i>General Election 2011</i></p> <p>A general election and referendum were held in November. The final results confirmed the 50th Parliament would be made up of 121 members from eight political parties. Twenty one MPs self-identified as being of Māori descent – 17 per cent – similar to the 2008 election when 21 Māori MPs made up 16 per cent of Parliament. Six MPs self-identified as being of Pacific ethnicity – 4.95 per cent – compared to five in the previous Parliament. Five MPs – 4.13 per cent – self-identified as being of Asian ethnicity, compared to six in the previous Parliament.</p> <p>Voter turnout was 58.23 per cent for the Māori Electorate, down from 62.41 per cent in 2008. Overall voter turnout was 74.2 per cent, a significant decrease on the 79.5 percent overall turnout for 2008, and the lowest turnout in any MMP election to date.</p> <p><i>Engagement with public services</i></p> <p>Engagement with public services can be an issue for Māori, Pacific and ethnic people. The State Services Commission report, <i>How different</i></p>

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		<p><i>groups of New Zealanders experience public services (2011) found:</i></p> <ul style="list-style-type: none"> · Māori were a little less satisfied with public services than non-Māori. Māori respondents reported significantly more difficulty accessing services than non-Māori, and lower levels of trust in public services. “You were treated fairly” was the most important aspect of service for Māori · Pacific peoples’ satisfaction with services varied from service to service, but they reported significantly more difficulty than non-Pacific people in accessing services. Important factors for Pacific people were public services admitting responsibility for mistakes and making the process clear throughout. Pacific people had a similar level of trust in public services to non-Pacific people · Asian people were less positive than non-Asians about all aspects of their most recent service experience. They were significantly more likely to report difficulty accessing public services than non-Asian people. They had a similar level of trust in public services to non-Asian people. <p><i>Representation for District Health Boards and Boards of Trustees</i></p> <p>In 2010, elections were held for District Health Boards and school Boards of Trustees. Around 13, 000 parent representatives were elected to school Boards of Trustees. The ethnicity of all trustees remained relatively unchanged from 2007, despite a push by the Ministry of Education for more Māori and Pacific trustees. Seventy-four per cent were of European ethnicity, down from 76 per cent in 2007; 14 per cent were Māori, down from 15 per cent, and four per cent were Pacific, up</p>

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		<p>from three per cent.</p> <p>Although the Department of Internal Affairs published the gender breakdown of representatives to District Health Boards, it did not publish ethnicity data.</p> <p><i>Pacific realm countries</i></p> <p>The Realm of New Zealand is identified in the Letters Patent, the basic prerogative instrument of the New Zealand constitution. The Queen is Head of State in right of the Realm of New Zealand, which is made up of the State of New Zealand, the self-governing Cook Islands and Niue, Tokelau and the Ross Dependency. After the Queen, New Zealand is the second most important element of the Realm as it advises the Sovereign and provides the main link for the other four countries. The four countries have varying degrees of autonomy and are affected to varying degrees by New Zealand's policies and practices.</p> <p>Tokelau is non-self governing and subject to constitutional control by New Zealand at executive and legislative level but has an administrative and law-making system that operates independently of New Zealand for most practical purposes.</p> <p>Niue is self-governing. The relationship with NZ is one of free association and is set out in the Niue Constitution Act 1972. The key features of the relationship are in ss.3 and 4 and relate to external affairs, defence and citizenship.</p> <p>The Cook Islands is a self-governing State in free association with New Zealand. The relationship between New Zealand and the Cooks is set out</p>

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		<p>in the Cook Islands Constitution Act 1964 and includes the right to New Zealand citizenship. The Cook Islands have the power to make their own laws but New Zealand has residual responsibility for the external affairs and defence of the Cook Islands.</p>
<p>62. Drop the planned amendments to the Terrorism Suppression Act, which would broaden the definition of a terrorist act by reducing judicial oversight, allow courts to consider classified information without giving it to defendants and give the Prime Minister the sole responsibility for designating groups and individuals as</p>	<ul style="list-style-type: none"> The State party should ensure that its counter-terrorism legislation is in full conformity with the Covenant. In particular, it should take steps to ensure that the measure taken to implement Security Council resolution 1267 (1999) as well as the national designation procedures for terrorist groups fully comply with all the legal safeguards enshrined in article 14 of the Covenant. (2010) CCPR/C/NZL/CO/5 at 13. 	<p>New Zealand agreed with the necessity of judicial oversight and procedural guarantees but did not consider that any further action was required.</p> <p>The Terrorism Suppression Amendment Act 2007 (TSA) created a new offence of engaging in a terrorist act which is punishable by up to life imprisonment⁴¹ and changed the designation process in two ways:</p> <ul style="list-style-type: none"> groups designated as terrorist entities by the United Nations are now automatically designated as terrorist groups⁴² designations made by the Prime Minister expire after three years, but may be renewed by order of the Prime Minister, rather than the High Court⁴³. <p>The removal of judicial oversight of expiry or non-renewal of non-designated persons and entities under the TSA is problematic. The renewal of designations is now vested in the Prime Minister. Removing designation extensions from judicial oversight effectively denies designated entities access to justice. Judicial oversight along with the ability to apply for judicial review under the TSA every three years</p>

⁴¹ S.6A Terrorism Suppression Act 2002

⁴² Ibid. s.4: see amendment to meaning of “designated terrorist entity”

⁴³ Ibid. s.35

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terrorists (Germany);		<p>provided a valuable safeguard.</p> <p>This concern is further underscored by the fact that the delisting procedures of the Sanction Committee itself have come under criticism from a number of organizations (such as the 1267 High Level Monitoring Panel) for the lack of adequate review mechanisms and safeguards which would allow a designated entity to challenge their status at the Committee level⁴⁴.</p> <p>The 2007 Amendment also repealed certain provisions relating to the use of classified security information and introduced a new section⁴⁵ which allows the court to receive or hear such information in the absence of the entity and its legal representative(s).</p>
63. Reinforce the procedural guarantees in the anti-terrorist legislation and ensure that measures provided for by the law are	<ul style="list-style-type: none"> The State party should ensure that its counter-terrorism legislation is in full conformity with the Covenant. In particular, it should take steps to ensure that the measure taken to implement Security Council resolution 1267 (1999) as well as the national designation procedures for terrorist groups fully comply with all the legal safeguards enshrined in article 14 of the Covenant. (2010) CCPR/C/NZL/CO/5 at 13. The State party should ensure that the Terrorism Suppression 	<p>Same as for Recommendation 62.</p> <p>On 15 October 2007, 17 people were arrested in an exercise that became known as Operation 8. The exercise was the result of months of visual surveillance and interception of private communications by the police that had been authorized in the belief that the surveillance was necessary to prevent terrorist activity⁴⁶. The Solicitor General later found the use of the Terrorism Suppression Act to obtain the interception warrants was justified but that there was insufficient evidence to authorise prosecution</p>

⁴⁴ In March 2007 the Sanctions Committee approved amendments to these procedures establishing a Committee as a focal point to receive and action requests for delisting and allowing entities to lodge requests directly with the Committee. The amendments do not confer a right on the entity to participate in the review process nor do they create an independent review mechanism. Removal from the list is possible only with the consent of all Governments represented on the Committee.

⁴⁵ Ibid. s.38(3)(b)

⁴⁶ As defined in the Terrorism Suppression Act 2002

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<p>applied in strict accordance with international human rights obligations (Switzerland);</p>	<p>Amendment Act is not applied in a discriminatory manner and does not lead to excessive use of force against suspects, in light of the need to balance the preservation of public security and the enjoyment of individual rights... (2010) CCPR/C/NZL/CO/5 at 14.</p>	<p>under that Act.</p> <p>In the aftermath of the police operation, the Commission received complaints and began undertaking a human rights analysis. In 2009, the Commission decided that this analysis could not be finalised until the Independent Police Conduct Authority had completed its much fuller investigation and the court proceedings involving those arrested during Operation 8 were resolved.</p> <p>The IPCA report is available at: http://www.ipca.govt.nz/Site/media/2013/2013-May-22-Operation-Eight.aspx</p>
UPR follow-up		
<p>64. Ensure regular consultation with civil society in the follow-up to the UPR recommendations</p>	<p>N/A</p>	<p>New Zealand accepted Recommendation 64.</p> <p>Since New Zealand's first UPR, New Zealand has been reviewed by the Human Rights Committee,⁴⁷ the Committee on the Rights of the Child (CRC),⁴⁸ the Committee on Economic Social and Cultural Rights (CESCR),⁴⁹ the Committee on the Elimination of Discrimination Against Women (CEDAW),⁵⁰ and the Committee on the Elimination of Racial</p>

⁴⁷ The Human Rights Committee considered the fifth periodic report of New Zealand on 15 and 16 March 2010.

⁴⁸ The CRC considered New Zealand's combined fourth and fifth periodic reports on 19 January 2011.

⁴⁹ The CESCR considered New Zealand's third periodic report on 18 May 2012.

⁵⁰ The CEDAW considered New Zealand's seventh periodic report on 18 July 2012.

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(Netherlands).		<p>Discrimination (CEDAW).⁵¹ New Zealand continues to actively engage in these processes.</p> <p>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 UPR⁵² and/or treaty body recommendations on a systematic and ongoing basis.</p>

⁵¹ The CERD considered the eighteenth to twentieth periodic reports of New Zealand on 21 and 22 February 2013.

⁵² 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.