

# **Advance Version**

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## **Human Rights Council**

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Agenda item 6

**Universal periodic review**

## **Report of the Working Group on the Universal Periodic Review\***

### **New Zealand**

#### **Addendum**

**Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review**

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\* The present document was not edited before being sent to the United Nations translation services.

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## Table of Contents

<b>Report of the Working Group on the Universal Periodic Review*</b> .....	1
International instruments .....	3
National human rights framework .....	3
Equality and non-discrimination .....	4
13.    New Zealand is proud to be a multicultural, diverse and tolerant society committed to eliminating any discrimination practices. ....	4
International cooperation .....	4
18.    New Zealand values cooperation with other UN member states on a broad range of international issues, including human rights. ....	4
Environment .....	4
Businesses and human rights .....	4
Counter-terrorism .....	5
Criminal justice system, access to justice .....	5
Human trafficking, forced labour .....	5
Employment and gender equality .....	5
a)    Women .....	6
Adequate living standard .....	6
Right to health.....	6
b)    Reproductive health.....	6
c)    Mental health.....	6
d)    Sexual orientation and gender-identity.....	7
Women’s rights.....	7
e)    Sexual and gender-based violence .....	7
Children .....	7
Persons with disabilities.....	8
Indigenous rights and ethnic minorities .....	8
Migrants, refugees, asylum seekers .....	9

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1. New Zealand welcomes the recommendations made during the third UPR in January 2019. Following the review, New Zealand received nearly 600 written submissions from civil society on the recommendations.
  2. While considering the response to the recommendations, New Zealand experienced a deplorable and unprecedented act of terrorism against our Muslim community in Christchurch on 15 March 2019. New Zealand is one of the most multicultural nations in the world and values diversity highly. This attack struck against our core values. It reinforced our commitment to protecting human rights of all people in New Zealand. The Government has no tolerance for violence and extremism of any kind.
  3. New Zealand accepts 160 and notes 34 recommendations. We do not reject the intention of any recommendation, but cannot accept certain recommendations because they depend on future decision-making according to our constitutional processes.
  4. New Zealand intends to submit a mid-term report in 2021.

## **International instruments**

5. New Zealand values the role of international human rights treaties in our constitutional arrangements. New Zealand agrees to consider acceding to additional international treaties, including the Convention for the Protection of All Persons from Enforced Disappearance and the Optional Protocols to both the Convention on the Rights of the Child (Communications) and the International Covenant on Economic, Social and Cultural Rights. Furthermore, New Zealand will consider removing existing reservations.
6. New Zealand cannot bypass its domestic process of considering the implications of international conventions. We are therefore unable to accept recommendations ‘to ratify/sign’ or to withdraw reservations.

Accepted: 1, 5, 10, 18, 19, 26

Noted: 2–4, 6–9, 11–17, 20–25, 27

## **National human rights framework**

7. Within New Zealand’s constitutional arrangements, human rights are protected through a variety of measures. For example, all draft legislation is assessed against the New Zealand Bill of Rights Act 1990 (BORA). BORA codifies civil and political rights, including, freedom from discrimination. Agencies must also report on compliance of proposals with international obligations.
8. Courts can assess compliance with BORA and award remedies for breaches. Parliament will soon be required to respond to judicial declarations that legislation is inconsistent with BORA.
9. New Zealand is open to continuing the dialogue about constitutional arrangements, including the status of economic, social and cultural rights. There are, however, no plans at this stage to adopt a written constitution holding supreme legal status or include further rights in the BORA.
10. Our national human rights institution, the New Zealand Human Rights Commission, plays an important role in protecting human rights. The Government will work with the Commission on identifying work priorities and on resourcing. The Government is in the process of appointing a new Race Relations Commissioner and plans to consider improvements to the Commission’s governance structure. We are developing a long-term international candidatures plan that might include reviewing the domestic process for nominating appointments to treaty bodies.
11. The Government is also strengthening domestic processes to implement international human rights standards and improve inter-agency coordination.

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12. The Human Rights Review Tribunal will have additional judicial resource to deal with case backlog.

Accepted: 28, 35–40

Noted: 29, 31–34

## **Equality and non-discrimination**

13. New Zealand is proud to be a multicultural, diverse and tolerant society committed to eliminating any discrimination practices.

14. The Christchurch attacks highlighted the importance of inclusivity. The Government is reviewing the current protections against hate speech and will develop a national strategy to address racial discrimination and racism. The proposed Child and Youth Wellbeing Strategy aims to ensure that all children and young persons live free from racism and discrimination.

15. New Zealand has a solid legal framework against discrimination. Discrimination is unlawful under the Human Rights Act 1993 (HRA). Avenues for redress to the Human Rights Commission, Human Rights Review Tribunal and courts are available. The HRA prohibits incitement of racial disharmony and distribution of certain racist material. The Human Rights Commission and the role of the Race Relations Commissioner are important in addressing racism and discrimination.

16. Te Arawhiti (the new Māori-Crown agency) and the pay equity work are examples of current work addressing discrimination and inequality.

17. New Zealand will do more to protect the rights of rainbow communities. New Zealand will consider amending the HRA to include gender identity as a prohibited ground of discrimination. We have noted these recommendations because a decision has not yet formally been made in relation to making specific law changes.

Accepted: 41–50

Noted: 51–52

## **International cooperation**

18. New Zealand values cooperation with other UN member states on a broad range of international issues, including human rights.

Accepted: 53

## **Environment**

19. New Zealand is committed to becoming a leader in climate change action. In May, the Government introduced the Climate Change Response (Zero Carbon) Amendment Bill into Parliament. It sets emissions reduction targets for 2050 and establishes an independent Climate Change Commission. New Zealand also intends to complete its first national climate change risk assessment in 2020 and is developing an Environmental Health Action Plan.

Accepted: 54–56

## **Businesses and human rights**

20. New Zealand will adopt a national action plan to implement the UN Guiding Principles. We engage with businesses domestically and internationally to raise awareness and promote responses to modern slavery, and are amending the Government procurement framework to better incorporate human rights.

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21. New Zealand's view is that current mechanisms for private sector responses to disasters, are sufficient.

Accepted: 57

Noted: 58

## **Counter-terrorism**

22. New Zealand condemns all acts of terrorism. The definition of 'terrorism act' complies with international standards. However, New Zealand is assessing whether current counter-terrorism regulatory frameworks are adequate. It will do so considering all persons' human rights.

Accepted: 59

## **Criminal justice system, access to justice**

23. New Zealand acknowledges serious issues with the criminal justice system, including high incarceration rates and overrepresentation of Māori. New Zealand is committed to creating a more effective system keeping communities safe. In 2018 Hāpaitia, the Safe and Effective Justice Programme, was launched. It includes improving the prison system, reassessing the balance between rehabilitation and punishment, early prevention and strong partnerships with Māori.

24. An independent Advisory Group is leading engagement with the public and will prepare recommendations.

25. New Zealand is committed to improving outcomes for Māori, including in youth justice, and ensuring equal and humane treatment for all, based on the Mandela Rules. A Māori Corrections strategy is being developed with Māori. A Corrections women's strategy and transgender policies are being implemented. Work on a Corrections staff strategy on diversity is in progress.

26. Health care for prisoners must be reasonably equivalent to services for the public. New Zealand will continue to invest in improving mental health services in prisons, including new facilities.

27. New Zealand will consider whether the current minimum age of criminal responsibility (10 years) should be increased to align with international standards.

28. Legal aid settings are under review, including income thresholds and repayments.

Accepted: 60–69

Noted: 70

## **Human trafficking, forced labour**

29. New Zealand is combatting human trafficking and forced labour. The National Plan of Action to Prevent People Trafficking will be updated and include specific objectives around prevention, prosecution, protection and partnership. New Zealand is monitoring how legislation relating to supply chains is operating overseas. A review of exploitation of temporary migrant workers and international students is underway.

Accepted: 71–79

## **Employment and gender equality**

30. All population groups should have equal employment opportunities. New Zealand has a range of programmes to improve equality in employment for minority groups, such as ethnic communities or persons with disabilities.

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**a) Women**

31. New Zealand has committed to closing the public service gender pay gap, with substantial progress by 2020, and to ensuring the wider public and private sectors are on similar pathways. The Government set a 50 percent target for women on state sector boards by 2021. The Ministry for Women works with private sector organisations to progress change in this sector. The Government is also implementing the Equal Pay Amendment Bill which establishes a process aligned with the existing bargaining framework, to address systemic sex-based pay discrimination in female-dominated occupations.

32. New Zealand has an excellent participation rate in Government-funded or subsidised childcare services. Low-income families can receive further funding to enter employment or training. New funding of \$590 million (2018-22) is provided. A strategic plan (2019-29) is in development which proposes improvements to the quality of childcare such as higher adult-to-child ratios.

Accepted: 80–88, 105–108

### **Adequate living standard**

33. One of the Government's priorities is to improve all New Zealanders' wellbeing, including through the Living Standards Framework, a tool to measure, and report on, inter-generational wellbeing. A substantial work programme is in place to reduce child poverty. This includes the \$5.5 billion Families Package announced in Budget 2018. Welfare settings are also being reviewed.

34. Ensuring that everybody has somewhere warm, dry and safe to live is a priority. A comprehensive programme to address housing issues is underway.

Accepted: 89–92

### **Right to health**

**b) Reproductive health**

35. The Government intends to decriminalise abortion but cannot yet commit to specific models recommended.

36. Protecting sexual and reproductive health and rights is a human rights priority. A multi-sector Sexual and Reproductive Health Action Plan 2019–2025 is being developed setting out actions, including improved education and services for young and low-income women.

**c) Mental health**

37. The Inquiry into Mental Health and Addiction report 'He Ara Oranga' calls for change, with an emphasis on wellbeing, prevention, early intervention, expanded access to services, more treatment options, community-based responses and cross-government action. In 2019, the Government will respond to the report's recommendations and decide on actions.

38. The Government is committed to reducing and eliminating the use of seclusion. In 2018, the national health project "Zero seclusion: towards the elimination of seclusion by 2020" was launched. It includes a focus on Māori.

39. A new model of care is being piloted in prisons. It allows more flexibility in supporting prisoners vulnerable to self-harm and increases therapeutic options.

40. Guidelines to better administer mental health legislation in line with human rights obligations are being developed.

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**d) Sexual orientation and gender-identity**

41. As an inclusive society, New Zealand is committed to improving health care for rainbow communities. Important first steps have been taken, including an increase in the number of transgender genital reconstruction surgeries.

42. An Intersex Clinical Network will develop best practice guidelines for intersex children. The Government is unaware of cases of sex assignment surgery on intersex children. Since 2014, a small number of children underwent surgeries to resolve functional issues without gender-assignment.

Accepted: 93–94, 96, 99–102

Noted: 95, 97–98

## **Women's rights**

43. New Zealand is a leader in women's rights, yet inequalities still exist. Actions to address disparities include a gender analysis tool to help the Government consider inequities when formulating policies.

**e) Sexual and gender-based violence**

44. We are committed to eradicating family and sexual violence, and creating a system delivering an integrated, consistent and effective response to victims, perpetrators and their families.

45. A Joint Venture of government agencies was established in 2018 to provide support through an effective, whole-of-government response. A national strategy and action plan are being developed enabling a strategic overview of prevention, early intervention, crisis response and support for long-term recovery.

46. The new Family Violence Act 2018 provides a modern framework to better prevent, identify and respond to family violence. Legislation will support sector-wide collaboration, for example through information sharing and codes of practice.

47. Legislation will make important improvements to victims' experience of court processes, helping to bring more perpetrators to justice. Programmes and services will focus on vulnerable groups more likely be victimised.

Accepted: 109–143

## **Children**

48. The wellbeing of children is a priority for New Zealand. The first Child and Youth Wellbeing Strategy will be published in 2019. It will help protect children's rights, including those under the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities (CRPD).

49. Violence against children is addressed through work to combat family and sexual violence. A five-year transformation programme will build a more child-centred state care system. The Royal Commission of Inquiry into Historical Abuse in State Care and in Care in Faith-based Institutions is investigating abuse of children and vulnerable adults.

50. Reducing child poverty is a priority. Under new legislation, ambitious child poverty reduction targets have been announced and annual reporting is required.

51. Education must be accessible and inclusive. Education strategies for Māori and Pacific people are being updated to enable all learners to succeed.

Accepted: 103–104, 144–155

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## **Persons with disabilities**

52. New Zealand is working towards a society where persons with disabilities have equal opportunities to achieve their goals.

53. The Disability Strategy 2016-2026 guides the Government's work and the implementation of CRPD. New legislation aims to strengthen rights of children, particularly in state care.

54. The Government is transforming the disability support system and is committed to an inclusive and accessible education system, including through the Disability and Learning Support Action Plan.

55. The Government is committed to improving the welfare system and also funds programmes to reduce stigma and discrimination associated with mental health issues.

Accepted: 30, 156–162

## **Indigenous rights and ethnic minorities**

56. New Zealand is a multicultural nation. We continue to focus on reducing disparities for Māori and other ethnicities. Three specific government agencies promote the interests of Māori, Pacific peoples and other ethnic communities through programmes and frameworks for inclusion, wellbeing and engagement.

57. The 1840 Te Tiriti o Waitangi (Treaty of Waitangi) is a founding constitutional document. It is the agreement between New Zealand's indigenous people (Māori) and the Crown. The Government takes its obligations under Te Tiriti seriously.

58. The Government established a new agency – the Office for Māori Crown Relations - Te Arawhiti, operational since January 2019. It is tasked with completing historical settlements and ensuring their durability. It will also enable stronger partnerships with Māori across Government to improve outcomes for Māori.

59. Work is underway towards a comprehensive national plan setting out how New Zealand regulations align with the Declaration on the Rights of Indigenous Peoples. It will take into account Te Tiriti principles and highlight areas for improvement.

60. Improving Māori health outcomes is a priority. A dedicated Māori Housing Unit works with Māori to improve housing opportunities. The refreshment of the Māori Language in Education Strategy will strengthen the protection of Te Reo (Māori language).

61. Amended legislation sets specific duties for Oranga Tamariki-Ministry for Children in relation to Te Tiriti. These duties include reducing disparities for Māori children in care, developing strategic partnerships with iwi (tribal) and Māori organisations, and reporting annually on the impact of measures to improve outcomes for Māori.

62. Further work to address disparities of ethnic minorities includes a Pacific health plan being developed with a broad focus (e.g. including housing), and the Tertiary Education Strategy which will emphasise equity and better support the aspirations of Māori and Pacific peoples.

63. Māori, Pacific and Asian population groups are represented in Parliament. National and local electoral laws establish, and provide options respectively, for particular electoral arrangements for Māori. Local governments must also enable Māori participation in decision-making. The Ministry of Māori Development provides advice on government board candidates and advisory groups to enhance Māori participation.

Accepted: 103, 163–183



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## **Migrants, refugees, asylum seekers**

64. New Zealand is a country of immigrants with thousands making it their home every month. New Zealand decided to double its refugee quota to 1,500 per year (as of 2020).

65. The Government supports migrants and refugees in their settlement as set out in the Refugee Resettlement and Migrant Settlement and Integration Strategies.

66. A review of exploitation of temporary migrant workers and international students is underway with proposals expected in 2019.

67. Any immigration detention after initial entry processing is: approved by courts, proportionate, and subject to regular reviews and appeals mechanisms. Asylum seekers have access to legal representation, interpreters and legal aid. Compliance with detention standards is also ensured through monitoring under the Optional Protocol to the Convention against Torture. There have not been any instances of mass detention.

Accepted: 184–191, 193–194

Noted: 192

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