



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

PALAIS DES NATIONS • 1211 GENEVA 10, SWITZERLAND

www.ohchr.org • TEL: +41 22 917 9000 • FAX: +41 22 917 9008 • E-MAIL: registry@ohchr.org

20 August 2019

Excellency,

I have been following the third cycle of the Universal Periodic Review (UPR) of New Zealand and welcome the constructive engagement of your Government during the 32nd session of the UPR Working Group in January of 2019.

As the final outcome report on the review of New Zealand has been recently adopted by the Human Rights Council at its 41st session, I would like to take this opportunity to follow up on a number of areas raised in the two reports that my Office had prepared for the review of New Zealand – the Compilation of United Nations information and the Summary of Stakeholders' submissions – which I consider in need of particular attention over the next four and a half years, until the next cycle of the UPR. In identifying those areas, I have considered the statements and/or recommendations made by 77 delegations and the presentation made and responses provided by the delegation of New Zealand. I have also considered the actions taken by the Government to implement the 121 recommendations supported during the second cycle of the UPR. The aforementioned areas cover a range of issues, which appear in the annex to this letter.

I am particularly encouraged by the proposed Child and Youth Wellbeing Strategy that will look at different aspects of economic, social and cultural inclusion for children and youth. I also welcome the establishment of the Office for Māori Crown Relations - Te Arawhiti, and the introduction of the Climate Change Response (Zero Carbon) Amendment Bill into Parliament.

I welcome the *National Plan of Action for the Protection and Promotion of Human Rights, Mahere Rautāki a Motu*, and encourage New Zealand to continue implementing the plan effectively in order to achieve concrete results in the areas highlighted in the annex to this letter and to facilitate the preparations for New Zealand's fourth cycle of the UPR. My advice to all Member States is to implement national action plans in close consultation and cooperation with all stakeholders, in particular the national human rights institution and civil society organizations and, where necessary, with the support of international organizations, including the Office of the United Nations High Commissioner for Human Rights (OHCHR).

I encourage New Zealand to make further efforts to establish a national mechanism for comprehensive reporting and follow-up in relation to recommendations received from all international and regional human rights mechanisms and to treaty obligations, linking this to the Sustainable Development Goals. I strongly recommend the use of the OHCHR practical guide on this topic, which is available at:

http://www.ohchr.org/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf.

/..

H.E. Mr. Winston Peters
Minister for Foreign Affairs
New Zealand



Please, kindly note that I am sharing my advice with all Member States as they go through the third cycle of the UPR with a view to assisting them with the implementation of the recommendations, following the review. An important measure that can contribute positively to follow-up action is voluntary mid-term reporting. Therefore, I strongly encourage all Member States to submit a voluntary mid-term report two years after the adoption of the UPR outcome report. In this regard, I welcome New Zealand's announcement that it would submit a mid-term report on follow-up to the third cycle of the review, by 2021.

As stated by the Secretary-General in his 2017 report on the work of the Organization (A/72/1, paragraph 98): *"The Human Rights Council's universal periodic review process is now entering a new cycle, with every Member State scheduled for a third round of scrutiny. We will work to strengthen the relevance, precision and impact of the Council's recommendations, including by providing better support to Member States in implementation, stronger collaboration with United Nations country teams and the establishment of national mechanisms for human rights reporting and follow-up to link the universal periodic review to the implementation of the Sustainable Development Goals."*

I look forward to discussing with you ways in which my Office may assist New Zealand in relation to the areas identified in this letter and its annex.

Please, accept, Excellency, the assurances of my highest consideration.

Michelle Bachelet
United Nations High Commissioner for Human Rights

cc: H.E. Mr. Hon. Andrew Little
Minister of Justice
New Zealand

Annex

Scope of international obligations and cooperation with international human rights mechanisms and bodies

- Consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the International Convention for the Protection of All Persons from Enforced Disappearance; the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, as well as the International Labour Organization (ILO) Convention on Freedom of Association and Protection of the Right to Organise, 1948 (No.87); the ILO Minimum Age Convention, 1973 (No. 138); the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169); and the ILO Domestic Workers Convention, 2011 (No. 189).
- Withdrawing reservations to article 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, article 10 (2) (b) and (3) of the International Covenant on Civil and Political Rights, and articles 32 (2) and 37 (c) of the Convention on the Rights of the Child.

National human rights framework

- Consider reviewing the Bill of Rights Act 1990 to incorporate all rights contained in the International Covenant on Civil and Political Rights and International Covenant on Economic Social and Cultural Rights, and to strengthen the role of the judiciary and parliamentary scrutiny in assessing the consistency of enacted laws with the Act.
- Adopting necessary measures to provide the Human Rights Review Tribunal with the necessary resources for its proper functioning and to ensure that claims are determined expeditiously.
- In partnership with Māori representative institutions, taking steps to implement the recommendations of the Constitutional Advisory Panel regarding the role of the Treaty of Waitangi within its constitutional arrangements.
- Providing the New Zealand Human Rights Commission with sufficient financial and human resources to carry out its work.

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

A. Cross-cutting issues

Equality and non-discrimination

- Strengthening measures to combat discrimination against different groups in a situation of vulnerability, and to investigate such acts of discrimination and punish perpetrators; and in consultation with all stakeholders, pursuing the development of a national strategy against racial discrimination, xenophobia, and other forms of intolerance, including religious hatred.
- Considering amending the Human Rights Act to explicitly prohibit discrimination on the basis of gender identity and intersex status.

Development, the environment, and business and human rights

- Expediting the adoption of a national plan of action on business and human rights to implement the Guiding Principles on Business and Human Rights, and strengthening the regulatory framework.
- Considering the adoption of climate change-related planning and management strategies.

B. Civil and political rights

Right to life, liberty and security of person

- Continuing to reduce overcrowding, particularly through the wider application of non-custodial measures as an alternative to imprisonment, and considering the adoption of urgent measures to sustainably reduce the prison population; as well as assessing the impact of the growth of the prison population, particularly the remand population, on the human rights of people in detention, in line with SDG Indicator 16.3.2.

Administration of justice, including impunity, and the rule of law

- Establishing a royal commission of inquiry to engage in a wide-ranging evaluation of the family court system and to recommend the legislative and structural changes to make it safe and just for women and children, in particular in situations of domestic violence.
- Reviewing law enforcement policies with a view to reducing the incarceration rates and overrepresentation at all levels of the criminal justice system of members of the Māori and Pasifika communities, particularly women and young people, as well as the reconviction and reimprisonment rates; and strengthening efforts to address the root causes leading to disproportionate incarceration rates of Māori.
- Raising the minimum age of criminal responsibility, in line with international human rights standards.

C. Economic, social and cultural rights

Right to work and to just and favourable conditions of work

- Increasing employment opportunities in general and for specific groups, notably Māori, Pasifika, women, persons with disabilities and youth.
- Adopting the necessary legislative and administrative measures, including by revising the Minimum Wage Act, to ensure that all workers, including persons with disabilities, receive a minimum wage that enables them to enjoy decent living conditions without discrimination.

Right to social security

- Pursuing the reform of the social security system, in consultation with civil society, in order to ensure the realization of the right to social security; and assessing the effectiveness of the sanctions regime applied to non-compliant beneficiaries.

Right to an adequate standard of living

- Collecting data to support the identification of the root causes of the disparities in socio-economic outcomes of the disabled, Māori and Pasifika, and to support the targeted delivery of programmes and initiatives aimed at addressing such disparities.
- Sustaining efforts to increase the availability of adequate and affordable housing for all segments of society while paying particular attention to low-income families, Māori and Pasifika families, persons with disabilities and older persons; and adopting a human rights-based national housing strategy.
- Considering measures to ensure better access of rural communities to the same resources as urban counterparts, including to combat violence against women, ensure victim support services, public health, economic equality, the protection of the rights of people with disability, and support for migrant workers.

Right to health

- Using solitary confinement and seclusion as measures of last resort for as short a time as possible, under strict supervision, and with the possibility of judicial review.
- Prioritizing efforts to prevent suicide, particularly among persons at risk, including youth, Māori and LGBTIQ.
- Ensuring the decriminalization of abortion, by removing abortion from the Crimes Act 1961, at least in cases of rape, incest, threats to the life or health of the pregnant woman or severe fetal impairment.

Right to education

- Strengthening current efforts to reduce the gap in educational outcomes between Māori and Pacific students, and other ethnicities.
- Harmonizing domestic legislation relating to the rights of persons with disabilities, including regarding inclusive education, and bringing it into line with international standards.
- Consider developing comprehensive anti-bullying policies, including in support of children at risk, such as children with disabilities and LGBTIQ children.

D. Rights of specific persons or groups

Women

- Adopting and enforcing the principle of equal pay for work of equal value in revised legislation on employment relations in the public and private sectors.
- Strengthening efforts to combat domestic and all forms of gender-based violence, including sexual violence, particularly in relation to Māori and Pasifika women and girls, as well as women and girls with disabilities; developing a cross-party strategy on family and sexual violence to be adhered to by all political parties and implemented by successive governments; and guaranteeing in practice that all victims benefit from protection and have access to adequately funded medical and legal aid, psychosocial counselling and social support schemes.

Children

- Prioritizing the enactment of legislation and strategies to reduce child poverty and advance child wellbeing, aligned with the Convention on the Rights of the Child, the Treaty of Waitangi, and the Sustainable Development Goals.
- Pursuing measures to effectively investigate claims of abuse of children in State care, and operationalizing the Royal Commission of Inquiry into Historical Abuse in State Care, ensuring it is equipped with the resources necessary to efficiently discharge its duties.
- Taking effective steps to reduce the number of Māori and Pasifika children in State care, including through the policy of “whanau-first” placement for Māori children.

Persons with disabilities

- Undertaking a review of disability-related costs to ensure the sufficient allocation of income/pension, in particular for children with disabilities and their families.
- Continuing the development of inclusive education programmes for children with disabilities.

Indigenous peoples

- In consultation with the indigenous peoples, and if necessary with the technical assistance of the Expert Mechanism on the Rights of Indigenous Peoples, developing an action plan to harmonize legislation and policies with the United Nations Declaration on the Rights of Indigenous Peoples.
- Further strengthening the partnership with Māori for effective implementation of the commitment and sustainable process for the settlement of Treaty claims that comply with international human rights standards; and considering publishing a plan with targets and a timetable for implementing the remainder of the recommendations contained in the Wai 262 (Ko Aotearoa Tēnei) decision of the Waitangi Tribunal.

Migrants, refugees and asylum seekers

- Further strengthening efforts to protect migrant workers and foreign students against exploitation.
- Ensuring that detention of migrants and asylum seekers is applied only as a measure of last resort, when determined to be strictly necessary, in a manner proportionate to each individual case, and for as short a period as possible. In that regard, considering reviewing relevant legislation.