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**NATIONAL REPORT SUBMITTED IN ACCORDANCE WITH PARAGRAPH 15 (A)
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New Zealand

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Introduction¹

1. New Zealand has a tradition of promoting and protecting human rights both at home and overseas. In 1893, New Zealand became the first State in the world to give women the right to vote in national elections. The foundation of a domestic human rights system in New Zealand was established in 1898 with the introduction of the Old Age Pensions Act.
2. The Treaty of Waitangi, which was signed in 1840 by over 500 Māori chiefs and the representatives of the British Crown, is New Zealand's founding document. The Treaty has major significance for the Government's ongoing relationship with Māori and continues to exert a powerful influence on New Zealand's human rights story.
3. New Zealand has developed a unique national identity as a diverse country in the South Pacific consisting of European, Māori, Pacific, Asian, African and American communities. This diversity is represented in New Zealand's Parliament and shapes our views on developing an inclusive society.
4. The idea that everyone deserves an equal opportunity in life - "a fair go" – is an important part of New Zealand's national identity and approach to human rights on the international stage. In 1945, New Zealand took a leading role in strengthening the human rights provisions in the United Nations Charter. At the deliberations in 1948 on the Universal Declaration of Human Rights, the New Zealand delegation advocated for the inclusion of economic, social and cultural rights. New Zealand argued that Governments had just as much responsibility to promote these rights as civil and political rights.
5. A key part of New Zealand's commitment to human rights is ensuring that these universal rights are enjoyed and respected by New Zealand society. This report discusses the challenges New Zealand faces in meeting its human rights obligations, particularly in relation to the deepening international economic crisis which threatens to slow economic and social progress in New Zealand. During the consideration of the present report, the Council is advised to refer to New Zealand's Core Document.²

I. METHODOLOGY AND CONSULTATION PROCESS

6. In accordance with UPR principles³, the Ministry of Foreign Affairs and Trade (MFAT) sought the views of relevant stakeholders for the present report. In association with the NZHRC and the Ministry of Justice, MFAT held a series of meetings in August 2008. Over 70 civil society organisations and NGOs participated. Following ministerial and departmental consultation, the draft report was released for public comment in mid-February for a period of four weeks. During that consultation phase, another series of public meetings were held in March 2009, including with interested Māori. Given New Zealand's special constitutional relationships with the Cook Islands, Niue and Tokelau, their Governments were also given the opportunity to comment on the draft report.
7. Stakeholders expressed a wide range of views on the human rights situation in New Zealand. In an open and constructive dialogue, it was generally felt that while there have been some advances in recent years in New Zealand, there are still a number of outstanding human rights issues that need to be addressed and areas where we can do better. In general terms, the major issues that arose during the consultation process related to New Zealand's constitutional framework for the protection of human rights and the place of the Treaty of Waitangi; the social-economic inequalities between different groups in New Zealand society, particularly for Māori;

discrimination; violence; and the impact of the global recession on New Zealanders and their rights. During this process, some stakeholders expressed concern about the consultation process and engagement with civil society and Māori. The Government acknowledges these concerns and is committed to improving the consultation process with civil society for future human rights reporting and follow-up to recommendations.

II. BACKGROUND AND FRAMEWORK

8. New Zealand is situated in the South-West Pacific Ocean and consists of two main islands – the North and South Islands – and many other islands, covering a total area of 268,021 km². New Zealand's total population is just over four million people (2006 Census). New Zealanders of European ethnicity comprise nearly 68 per cent of the people living in New Zealand and 14.6 per cent of people are Māori. The remainder of New Zealanders belong to the Asian ethnic group (9.9 per cent), Pacific ethnic group (6.9 per cent) and Middle East, Latin America and African ethnic groups (1 per cent).⁴ Reflecting this ethnic diversity, New Zealand is a country of many faiths, with a significant number (1.29 million) who profess no religion. In the 2006 Census, just over two million New Zealanders (55.6 per cent) affiliated with a Christian denomination, 64,392 New Zealanders affiliated with Hinduism, 52,393 New Zealanders affiliated with Buddhism, and 36,072 New Zealanders affiliated with Islam.

A. Scope of international obligations⁵

9. New Zealand is party to most of the major international human rights instruments including ICCPR, ICESCR, ICERD, CEDAW, CAT, and CRC. New Zealand ratified the Convention on the Rights of Persons with Disabilities (CRPD) in September 2008.

10. New Zealand is party to the Optional Protocols of ICCPR, CEDAW, CAT and CRC. New Zealand signed the Second Optional Protocol to CRC in 2000 and ratification is being progressed. New Zealand supported the adoption of the Optional Protocol to ICESCR by the United Nations General Assembly in November 2008 and will consider ratification in due course along with the Optional Protocol to CRPD. New Zealand is not party to ICRMW⁶, CED and the Convention relating to the Status of Stateless Persons. In September 2007, the previous Government did not support the adoption of the United Nations Declaration of the Rights of Indigenous Peoples (DRIP).⁷ New Zealand also has reservations in place under ICESCR, ICCPR, CAT, and CRC.

11. New Zealand is party to a number of other United Nations and other instruments that involve human rights, including the Convention on the Prevention and Punishment of the Crime of Genocide and the Slavery Convention. New Zealand has ratified various ILO conventions and the Hague Conference on Private International Law conventions, and is party to most international humanitarian law instruments. New Zealand is party to the Rome Statute of the International Criminal Court and became party to the Convention on the Reduction of Statelessness in September 2006.⁸

12. New Zealand is a member of the Commonwealth, which has a strong commitment to the promotion and protection of human rights. As a founding member of the Pacific Islands Forum, New Zealand contributes to the strengthening of cultural diversity and human rights in the region.

B. Constitutional and legislative framework⁹

13. New Zealand's constitutional arrangements have evolved over many years and increasingly reflect regard for the Treaty of Waitangi as a founding document of modern Government in New Zealand. As noted by the United Nations Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people in 2005 and CERD in 2007, the Treaty is not a formal part of New Zealand's domestic law. Treaty references and principles have been incorporated in different pieces of legislation. During the preparation of the present report, Māori articulated a strong interest in giving greater emphasis to the Treaty in New Zealand's constitutional arrangements. The Government will establish (no later than early 2010) a group to consider constitutional issues including Māori representation.

14. New Zealand's constitutional framework also establishes New Zealand's democratic parliamentary system of Government. The doctrine of separation of powers requires the legislature, executive and judiciary to be kept separate from each other to provide checks and balances within the system and to ensure accountability and impartiality. New Zealand's constitutional arrangements are also based on the rule of law. The powers exercised by parliamentarians and officials are based on legal authority and there are minimum standards of justice to which the law must conform.

15. The judiciary provides a check on the power of the executive by ensuring that it acts in accordance with the laws made by Parliament and the common law (or "judge-made law" accruing from fundamental legal principles and interpretation of statutes). However, the Courts cannot strike down any provision of an Act of Parliament (although they can strike down secondary legislation that is inconsistent with a provision of an Act of Parliament). The independence of the judiciary is an important principle of the New Zealand constitution, so freedom from political interference is an essential feature of the judiciary's position.

16. New Zealand's first parliamentary elections were held in 1853, with universal suffrage by the end of the nineteenth century. Under the Electoral Act 1993, New Zealand now has a Mixed Member Proportional (MMP) electoral system, where voters have a party vote and an electorate vote. Under MMP there will usually be 120 Members of Parliament (MPs). Four Māori electorate seats were established in 1867 to ensure Māori representation in Parliament. Since 1996, the number of Māori seats has been set according to the number of people on the Māori electoral roll and currently there are seven Māori electorate seats. Māori have the choice of enrolling to vote at parliamentary elections on a Māori roll or a General roll. Following the 2008 general election, there are now 20 MPs who identify as Māori (16 per cent of all 122 MPs in Parliament), five MPs of Pacific descent and six MPs of Asian descent.¹⁰ There are now 41 women MPs in the current Parliament (34 per cent of all 122 MPs in Parliament).

17. In addition to English, the official languages of New Zealand and Parliament are Māori (from 1987) and New Zealand Sign Language (from 2006).

1. Relationships with the Cook Islands, Niue and Tokelau

18. Special constitutional relationships exist between New Zealand and the Cook Islands, Niue and Tokelau (see annex to the present report). The Cook Islands became self-governing in free association with New Zealand in 1965 and Niue followed in 1974. Both countries have the power to make their own laws and enter into treaties including international human rights instruments. The Cook Islands is party to CEDAW and its Optional Protocol and CRC.¹¹ Niue is party to CRC. They are responsible for the implementation of their international human rights

obligations. Since 1988, treaties entered into by the New Zealand Government have not been regarded as extending to the Cook Islands or Niue unless expressly stated. Prior to 1988, New Zealand treaty action extended the application of a number of human rights instruments to the Cook Islands and Niue, including ICCPR and its first Optional Protocol, ICESCR, CERD and CEDAW (for Niue only).

2. Incorporation of international treaties

19. For an international agreement to have domestic effect in New Zealand, either its provisions must be reflected in New Zealand's existing law or new legislation must be enacted by Parliament. Before becoming a party to an international human rights instrument, the Government reviews New Zealand's domestic law, policy and practice to see what additional legislation or amendments to existing legislation would be required to ensure the full and effective implementation of the agreement in New Zealand. New Zealand's international human rights obligations also influence the jurisprudence of New Zealand courts when it comes to interpreting a statutory provision.

3. Human rights legislation

20. A number of United Nations treaty-body mechanisms and the NZHRC have expressed concern that New Zealand does not have an over-arching or an entrenched constitution that protects human rights in New Zealand. They have also commented on the lack of legislative protection for certain rights, particularly economic, social and cultural rights. The United Nations Human Rights Committee has expressed concern that it is possible to enact legislation incompatible with the provisions of the New Zealand Bill of Rights Act 1990.

(a) New Zealand Bill of Rights Act 1990 (BORA)

21. The BORA is designed to affirm, protect and promote human rights and fundamental freedoms in New Zealand, as well as affirm New Zealand's commitment to ICCPR. The Attorney-General is required to bring to Parliament's attention any provision of proposed legislation that appears to be inconsistent with any of the rights or freedoms contained in the BORA. The Court of Appeal has also held that an action against the Crown for damages is available in respect of breaches of rights and freedoms in the BORA.

(b) Human Rights Act 1993

22. The Human Rights Act 1993 prohibits discrimination in New Zealand. The Act sets out thirteen prohibited grounds of discrimination including: sex, marital status, religious belief, ethical belief, colour, race, ethnic or national origin, disability (including the presence in the body of organisms capable of causing illness), age, political opinion, employment status, family status and sexual orientation. The age-discrimination provisions of the Act relate to people aged sixteen years or older.

23. The Human Rights Amendment Act 2001 introduced significant changes to the Human Rights Act 1993 including inter alia: making Government activity (except in relation to employment, sexual or racial harassment and victimisation, which are subject to the general provisions of Part 2 of the Act) subject to the discrimination standard in section 19(1) of the BORA; institutional reform of the NZHRC and requiring the NZHRC to develop a New Zealand Action Plan for Human Rights (NZAPHR); the establishment of an independent Office of Human Rights Proceedings to undertake discrimination cases with public funding; and granting

the Human Rights Review Tribunal (HRRT) the ability to make declarations of inconsistency in respect of discriminatory legislation.

4. Remedies, compensation and rehabilitation

24. Individuals who consider that any of their rights under the BORA have been infringed can bring an action against the Government. A number of remedies are available, including the ability to award damages or compensation and to exclude evidence obtained in breach of a right guaranteed by the BORA. New Zealand courts can also order a stay in proceedings where there has been a delay of such a length that it constitutes a breach of section 25 (b) of the BORA (the right to be tried without undue delay).

25. As noted above, individuals can also make complaints of unlawful discrimination under the Human Rights Act 1993 through the NZHRC's complaints mechanism. If the NZHRC's dispute resolution process fails or is inappropriate, complainants may take their case to the HRRT for adjudication. The Director of Human Rights Proceedings, which was established in January 2002, provides legal representation for people (who qualify) who have complained of breaches of the Human Rights Act 1993 so that they can take their case to the HRRT. Since 1980, 773 claims have been registered with the HRRT.¹²

C. Institutional and human rights infrastructure

1. New Zealand Human Rights Commission (NZHRC)¹³

26. The NZHRC was established in September 1978. It is an independent national human rights institution (NHRI) with "A" status accreditation from the International Co-ordinating Committee of National Human Rights Institutions. The NZHRC derives its statutory mandate from the Human Rights Act 1993 to protect human rights. It has a wide range of functions and powers including:

(a) Advocating and promoting respect for, and an understanding and appreciation of, human rights in New Zealand society; and

(b) Encouraging the maintenance and development of harmonious relations between individuals and among diverse groups in New Zealand society.

27. The NZHRC also has the mandate to help resolve disputes relating to unlawful discrimination and delivers human rights education to a wide range of civil society, public and private organizations. The NZHRC has offices in three main cities in New Zealand.

2. The Office of the Ombudsmen

28. The Ombudsman is an independent investigator who investigates complaints about the administrative acts and decisions of central and local Government agencies. The Ombudsman also has an important role in investigating complaints about the decisions of Government ministers and central and local Government agencies on requests for official information under the Official Information Act 1982.

3. The Office of the Privacy Commissioner

29. The Office of the Privacy Commissioner was established in 1993. It has a wide range of functions, including investigating complaints about breaches of privacy, running education

programmes. The Office also examines proposed legislation and how it may affect individual privacy.

4. The Office of the Children's Commissioner

30. The Children's Commissioner was established in 1989 to advocate for the wellbeing of all children and young people up to eighteen years old including promoting their participation in decision-making processes, raising awareness of children's interests, rights and welfare and monitoring the application of CRC in Government agencies and entities.

5. Families Commission

31. The Families Commission was established in 2003 to provide a voice for New Zealand families to promote a better understanding of family issues and needs among Government agencies and the wider community. The Act defines family as any two or more people living together. This broad definition ensures that the Families Commission advocates for the interests of all families, regardless of their marital status, gender, or circumstances.

6. Health and Disability Commissioner

32. The Health and Disability Commissioner, established in October 1994, is responsible for promoting and protecting the rights of consumers using health and/or disability services and the resolution of complaints. The rights are outlined in the Code of Health and Disability Services Consumers' Rights. All providers of health care and disability services are required to uphold them. Claims for a breach of the Code may also be taken to the HRRT by the Director of Proceedings or the aggrieved person in certain circumstances.

7. Independent Police Conduct Authority

33. Under the Independent Police Conduct Authority Act 1988, the Independent Police Conduct Authority (IPCA) is a civilian oversight body concerned with misconduct or neglect of duty by the Police. It also investigates incidents where death or serious bodily harm has occurred in the course of Police carrying out their duties, and it investigates allegations of serious misconduct reported by the Commissioner of Police. The Authority operates independently of the Police.

D. Policy measures

34. The Executive (New Zealand Cabinet) requires that all papers seeking the decisions of Cabinet to contain a statement on their human rights implications, addressing consistency with the BORA and the Human Rights Act 1993. Relevant Cabinet papers are also required to have a separate statement on gender implications and a disability perspective.

III. PROMOTION AND PROTECTION OF HUMAN RIGHTS

A. Cooperation with human rights mechanisms

35. New Zealand cooperates with treaty bodies and special procedures, and supports the work of OHCHR. New Zealand's treaty body reporting is up to date following the recent submission of New Zealand's third periodic report under ICESCR. New Zealand has a standing open invitation to all United Nations Special Procedures mandate holders and this will continue without restrictions. The Government will look at ways to improve New Zealand's record of

responding to questionnaires sent by special procedures. New Zealand will continue to make regular non-earmarked financial contributions to OHCHR.

B. Implementation of international human rights obligations

1. Equality and non-discrimination

(a) Māori

36. Māori represent nearly 15 per cent of the population (2006 Census). The Māori population continues to grow and is relatively young, with 53 per cent aged less than 25 years in 2006. By 2026, 19 per cent of the New Zealand population aged between 15-39 years will identify as Māori.¹⁴

37. Despite recent socio-economic improvements, inequalities still persist for Māori in education, health, employment and income. In 2007 10.1 per cent of Māori students left school with little or no attainment compared to 3.5 per cent of New Zealand European, which is an improvement on previous years. In the year ended December 2007, just 9 per cent of Māori held a tertiary qualification at bachelor's degree level or above compared with 22 per cent of European. In 2000-02 (the most recent years for which data is available) Māori female life expectancy was 73.2 years, 8.7 years below that of non-Māori females (81.9 years), and Māori male life expectancy was 69.0 years, 8.2 years below that of non-Māori males (77.2 years). Māori are also more likely to be unemployed than European and earn less.¹⁵

38. The Government recognises that it is essential for New Zealand's future to address inequalities for Māori and is taking immediate action to address the impact of the economic crisis on Māori. In January 2009 the Minister of Māori Affairs convened a Māori Economic Summit and is leading a Māori Affairs Ministerial Taskforce on Economic Development.

39. The Government is also working towards the development and implementation of the Māori Potential Approach across the public sector. Te Puni Kokiri (Ministry of Māori Development) is leading this work in cooperation with other Government departments and community groups. This approach is intended to guide the development and implementation of public policy that is derived from and reflects the strengths and aspirations of Māori. For example, the Government is implementing a specific Māori education strategy, which has been developed to focus Government, school and teacher practice on lifting the achievement of Māori students through evidence based practice.

(b) Women

40. New Zealand is ranked highly in international measurements of gender parity,¹⁶ but challenges remain including how to value the significant contribution that women make through their unpaid work; addressing the potential under-valuing of female-dominated occupations; reducing violence against women; and ensuring women have access to equal opportunities in those areas of the workforce where they are still poorly represented.¹⁷ Women's labour market participation rate is lower than men's participation.¹⁸ Women are more likely to work part-time and earn less.¹⁹ Women remain under-represented in leadership and governance positions in the public and private sector.²⁰ Women are also under-represented in local Government positions, legal and judicial positions, the media and science.²¹

41. The Ministry of Women's Affairs is a separate government agency that works to improve outcomes for New Zealand women. In order to increase the number of women in governance

positions in the public sector, the Ministry of Women's Affairs maintains a database of qualified women and nominates suitable candidates for vacancies when they arise. While there has been an improvement in Māori and Pacific women's participation in paid employment and their income levels, they continue to earn less than women of European ethnicity²² and are more likely to work in low skilled occupations, which are associated with lower wages.²³ There has been slow progress in narrowing the overall gender pay gap, which is around 12 per cent, with an average improvement of 0.45 per cent annually over the last decade.²⁴

42. As part of the Pay and Employment Equity Plan of Action, all government departments, the public health sector, public school sector and kindergartens have completed pay and employment equity reviews (audits) and response plans. A number of tertiary education institutions, government entities and local government organisations are currently undertaking reviews. As a result of the reviews, two pay investigations were underway for the female-dominated occupation groups of social workers and education support workers. In March 2009, the Government decided to discontinue these two pay investigations due to current economic and fiscal pressures. However, public sector chief executives are still required to ensure that issues of natural justice, human rights and inequality are addressed as part of good management practice and being a good employer.

43. The Government has adopted a family assistance package to help improve household incomes and provide incentives for parents, including sole parents who are predominantly women, to move into paid work. Incentives include tax credits, an accommodation supplement and childcare subsidies. New Zealand has a national paid parental leave scheme which provides for fourteen weeks paid leave, with a qualifying period of employment of six months. Under existing legislation, employees with caring responsibilities can seek flexible working arrangements.

44. Women have better overall health outcomes than men. Women's preventative health services have also improved with the introduction of free immunisation for girls and young women aged between twelve to eighteen years against the cause of most cervical cancers and free biennial breast cancer screening for women aged 45–69. An independent review conducted by the Perinatal and Maternal Mortality Review Committee has recognised the need for more comprehensive reporting of perinatal and maternal deaths that includes not only 'direct' maternal deaths, but also 'indirect' deaths including those related to surgery, psychiatric illness and family violence. The review also stressed the need for continued support for national reporting of maternal deaths, to identify women at risk due to poor maternal mental health, and for further detailed analysis of the higher rate of stillbirths and neonatal deaths among Māori and Pacific Island women.

(c) Persons with disabilities

45. The Government recognises the challenges faced by persons with disabilities in New Zealand in areas such as employment, education and health. In 2006, an estimated 660,300 of people in New Zealand, representing 17 per cent of the population, reported having impairment.²⁵

46. Over the last fifteen years, New Zealand has made progress towards improving the rights of persons with disabilities, including ensuring they have equal access to employment rights, conditions and entitlements; requiring all refurbished buildings which the public can enter to be made accessible to persons with disabilities; and recognising New Zealand Sign Language (NZSL) as an official language in New Zealand. In New Zealand, there is a specific

Government minister for disability issues and an Office for Disability Issues (ODI). ODI is responsible for promoting and monitoring implementation of the New Zealand Disability Strategy, and the Minister for Disability Issues is required to report annually to Parliament on progress.

47. Parliament's Social Services Select Committee concluded an Inquiry into the Quality of Care and Service Provision for People with Disabilities in 2008. The Government response to the Inquiry recognises that improvements can be made in leadership and frontline services for persons with disabilities, in improving advocacy and complaints services and in empowering persons with disabilities to have more say over their personal support services. The Government has committed to a work programme to address many of the Select Committee's concerns, and will establish a Ministerial Committee on Disability Issues to improve Ministerial-level collaboration.

48. For those with mental illness, discrimination and stigma remain significant barriers to recovery. Since 1997 the Like Minds, Like Mine campaign has been aimed improving public awareness, understanding and acceptance of mental illness. For the past three years, there has also been an initiative to reduce the impact of depression on the lives of New Zealanders, by aiding early recognition, appropriate treatment, and recovery.

49. The Minister of Health has approved a work programme reviewing how the responsiveness and performance of the primary health care system can be improved for people with intellectual disabilities.

(d) Senior citizens

50. At the end of December 2006, the population in New Zealand aged 65 years and over was 519,940 – 12 per cent of the total population. Projections indicate that the older population will continue to grow and will double to reach over one million by 2028.²⁶ Older people are potentially at risk from ageist attitudes, employment discrimination, lower incomes than 15-64 year olds, material hardship, poor health, abuse and neglect, isolation and loneliness.

51. The Government is addressing ageing issues and is committed to reaffirming the value of older people in society. The Office for Senior Citizens is responsible for monitoring the implementation of the New Zealand Positive Ageing Strategy across Government. New Zealand also maintains a comprehensive state-funded pension system. New Zealand's universal superannuation system is neither income nor asset tested.

(e) Sexual orientation

52. New Zealand decriminalised homosexuality in 1986. The Human Rights Act 1993 includes sexual orientation as a prohibited ground of discrimination. The Civil Union Act 2004 enables same-sex couples in a committed relationship to enter into a formal civil union. Changes to various statutes through the Relationship (Statutory References) Act 2005 mean that same-sex couples are treated in the same way as opposite-sex married or de facto couples when applying for social security benefits, and have many of the rights of married couples. Adoption by same-sex couples is not permitted under New Zealand law.

53. In 2008 the NZHRC released the Report of the Inquiry into Discrimination Experienced by Transgender People called *To be Who I am*. The Government is considering its response to the recommendations in the report.

2. Right to life, liberty and security of the person

(a) Family violence

54. Violence within families affects the lives of thousands people in New Zealand. The research on the New Zealand experience of violence within families tells us that men are responsible for two-thirds of the deaths of children aged 14 or under. Victims of the most severe and lethal cases of family violence are predominantly women and children. Family violence is a problem that affects families from all cultures, classes, backgrounds and socio-economic circumstances. However, Māori are significantly over-represented as both victims and perpetrators of violence in families. Violence experienced by gay, lesbian and transgender people in relationships with family and others also remains a problem.

55. The CEDAW Committee has previously recognised the difficulty of seeking protection under the Domestic Violence Act. Under the Government funded legal aid scheme, which enables those who cannot afford legal representation to be represented by lawyers in both civil/family and criminal proceeding, applications for protection orders are ‘free’ (in the sense that no repayment is required other than in exceptional circumstances under Section 16(2) of the Legal Services Act 2000). In November 2008, the eligibility for legal aid was adjusted to increase the number of people who can seek support from the legal aid scheme.

56. The Government recently introduced the Domestic Violence (Enhancing Safety) Bill. The Bill is designed to give both Police and criminal courts enhanced tools to provide victims of domestic violence with immediate protection and to help keep victims safe from further violence. The Bill will allow Police to issue on-the-spot protection orders to address the immediate safety of victims by removing the alleged violent person from the home for a period of up to five days. Other provisions in the Bill will allow criminal courts to consider making a protection order on behalf of the victim when sentencing a person convicted of a “domestic violence offence”.

57. The high incidence rate of family violence recorded in New Zealand is in part due to work undertaken to encourage reporting incidents and speaking out against the problem in order to eliminate it. Awareness has been raised through the ‘It's not OK’ media campaign. The campaign promotes the message that family violence is not OK but it is OK to ask for help and it aims to change peoples’ attitude and behaviour towards family violence.

58. Five further Family Violence Courts have been established over recent years (bringing the total to seven), and funding for eight Victim Advocates will be introduced in Family Violence Courts by April 2009.

59. A Taskforce for Action on Sexual Violence comprising government and community agencies was established to lead and coordinate services to reduce the incidence and impact of sexual violence. The Taskforce will provide Government with a report in July 2009 including recommendations for future action to improve policy, procedure and service delivery.

60. Additionally, New Zealand has a Victims of Domestic Violence immigration policy. This policy recognises the vulnerable circumstances faced by migrants who experience domestic violence from their New Zealand partners. The purpose of this policy is to assist migrants who are in abusive circumstances and offers an avenue to permanent residence for those victims who would face undue discrimination or hardship if they returned to their home country due to the breakdown of their relationship.

61. While existing Government programmes have had some success in addressing family violence there is a need to refocus some of these efforts to better address the circumstances of particular groups, including Māori. Māori voluntary and community groups also undertake important work to reduce family violence and its impact on the community.

62. The CRC Committee has previously expressed concern that section 59 of the Crimes Act 1961 allowed physical force by a parent or caregiver as a means of correcting a child's behaviour provided the force was reasonable in the circumstances. In June 2007 section 59 of the Crimes Act 1961 was repealed and substituted with a new provision stating that there is no justification for the use of force for the purpose of correction. With this measure, New Zealand became the 18th country in the world to ban the use of corrective force on children. A referendum on the use of physical force for the purposes of correction will be held in 2009.

63. The Government has also taken steps to improve the performance of the government agency known as Child Youth and Family, which is responsible for providing care and protection and youth justice services to children and young people in New Zealand.

64. While Government programmes have targeted the problem, many children and parents remain concerned about bullying, both at school and in the wider community. There is a concern that there is too much bullying and too little intervention.

(b) Victims' rights

65. In December 2007, a Parliamentary Select Committee completed an inquiry into victims' rights, which found that while much had been done to strengthen victims' rights and provide support services, including for example through the Victims' Rights Act 2002 and the establishment of Family Violence Courts, there were still a number of areas where further improvements could be made. Current priorities for the Government include establishing a Victims' Compensation Scheme - the Sentencing (Offender Levy) Bill has been introduced as a first step. In addition work is underway on a review of the Victims' Rights Act 2002 to enhance victims' rights and access to services, which will include reviewing the Victim Notification System to ensure improvements are made to the notification of victims for events concerning the offender (for example, if the offender escapes from prison or is eligible for parole).

3. Right to freedom of opinion and expression

66. In New Zealand the right to freedom of opinion and expression is legally protected through the BORA and the Human Rights Act 1993. While these Acts protect the right to freedom of opinion and expression they also set out responsibilities, making it unlawful for example to use threatening, abusive or insulting words or other material to excite racial hostility against any group of people, by reason of their colour, race, or ethnic or national origin. The Human Rights Act also creates the criminal offence of inciting racial disharmony. While these Acts have positively influenced the legislature, the judiciary, policy-making and the public thinking, some tension remains in balancing the right with the responsibilities. Ongoing education is needed, as well as greater awareness-raising of the various complaint mechanisms that exist.

4. Right to freedom of religion or belief

67. In New Zealand the right to freedom of religion or belief is legally protected through the BORA and the Human Rights Act 1993. As noted earlier, New Zealand is a secular State with

no State religion, where religious and democratic structures are separated. Matters of religion and belief are deemed to be a matter for the private, rather than public sphere. There are no legal restrictions specifically relating to religious groups, and while New Zealand is very tolerant of religious diversity, there are a number of incidents of religious intolerance, harassment and abuse that occur from time to time. In the year to June 2008, 5 per cent of the complaints received by the NZHRC on discrimination were on the basis of religious or ethical belief.

5. Administration of justice and the rule of law

(a) Access to justice

68. Access to justice is enhanced in New Zealand through various measures to provide legal aid. The Legal Services Agency administers legal aid and allocates funding to community law centres, which provide information about the law and have lawyers who give free legal advice. The Government has just announced that it will review the legal aid system. Citizens Advice Bureaux provide support and advocacy to those with legal issues.

69. In 2007, the Legal Services Amendment Act came into force and altered the financial eligibility criteria to increase the number of people eligible for legal aid from 765,000 to an estimated 1.2 million. This will have particular benefits for women in the area of family law and will increase access to justice for Māori.

(b) Correctional services

70. The conduct of officers and employees of correctional facilities in New Zealand, including any prison or jail, is subject to the Corrections Act 2004 and the Corrections Regulations 2005, which introduced a modern approach to prison management. Prisoner entitlements as set out in the Act are consistent with the United Nations Standard Minimum Rules on the Treatment of Prisoners and there is an expanded complaints system.

71. The age that young children of female prisoners can stay with their mothers in prison was raised from six months to two years under the Corrections (Mothers and Babies) Amendment Act 2008. Placement must be in the best interests of the child and enables bonding, feeding, continuity of care and access to parenting education programmes. The amendment will be implemented once appropriate facilities are available to accommodate the older children.

72. New Zealand is currently reviewing its practices relating to the separation of young people deprived of their liberty from adults, as part of an ongoing review of its reservation to Article 37(c) of CRC. New Zealand is compliant with Article 37(c) regarding age-mixing in prisons. In 2005, the Department of Corrections completed four specialist youth units in male prisons to ensure that there are sufficient beds to accommodate youth offenders separately from adults. Females under the age of eighteen are also separated from those eighteen and over unless it is in their best interest to be mixed with older prisoners. The low number of female prisoners under the age of eighteen (typically fewer than five at any time) makes a female youth unit facility unviable. A 'test of best interests' has also been developed to facilitate age-mixing of vulnerable eighteen and nineteen year olds with under eighteen-year olds, where this is in the best interests of the under-eighteen year olds and the vulnerable eighteen and nineteen year olds.

73. Further work is required regarding custody facilities, especially court cells and with Police transporting under-eighteen year olds to ensure full compliance with Article 37(c). Prisoners aged seventeen or under are generally held separate from adults when being

transported or held in court cells. This is not always possible because of the limitations of existing facilities, particularly in small, remote courthouses. A national interagency protocol has been developed to reduce instances of age mixing when transporting prisoners.

74. Despite Government initiatives over a number of years, Māori continue to be disproportionately represented in criminal justice statistics. There is some evidence that any suspected or actual offending by Māori has harsher consequences for those Māori, resulting in an accumulation of individuals within the system; and that a range of adverse early-life social and environmental factors result in Māori being more likely to be involved in adult criminal conduct. A summit co-hosted by the Ministers of Justice and Māori Affairs on drivers of crime will be held in April 2009 to discuss and propose a way forward to deal with these issues.

(c) Youth justice and offending

75. New Zealand has a youth justice system that covers children aged ten to thirteen years old and young people aged fourteen to sixteen years old. The system aims to resolve offending and hold the young offender to account while keeping them out of the formal justice system unless the public interest requires otherwise.

76. The Government is concerned about serious and persistent child and youth offenders. In February 2009, the Government introduced the Children, Young Persons, and Their Families (Youth Courts Jurisdiction and Orders) Amendment Bill. The Bill is intended to improve and extend the current range of options for responding to serious and persistent offending by children and young people. The measures in the Bill aim to address the specific underlying causes of serious offending by twelve to sixteen year olds so that they do not reoffend and go on to lead socially responsible and beneficial lives.

6. Right to participate in public and political life

77. The Human Rights Act 1993 and the BORA specifically prohibits measures that discriminate against individuals or groups of individuals on the basis of sex, sexuality or race. Equally, both Acts allow such measures that are taken in good faith for the purpose of assisting or advancing persons or groups of persons who need or may reasonably be supposed to need assistance or advancement in order to achieve an equal place with other members of the community. In the past, both Acts have been drawn on to justify increased Māori or gender-specific representation on various boards or committees. Despite the lack of legislative barriers to participation, the percentage of women and Māori in local Government and political decision making positions (district health boards, statutory boards and the judiciary) remains less than proportionate, as discussed in other sections of the present report.

78. As noted in section 2, New Zealand has a Mixed Member Proportional (MMP) electoral system. MMP has resulted in more women MPs, minority groups and the presence of minority political parties in the parliamentary makeup.

79. In New Zealand there is high voter turnout in elections and easy access to elected representatives. A key tool for participation is the use of consultation by Government (whether central or local). The Government, at both the central and local government levels, seeks the involvement of the public in the policy-making process. In addition to the specific statutory requirements for consultation across a wide range of laws, the New Zealand courts have also established fundamental principles or elements of consultation. Community organisations are

increasingly seeking collaboration with Government rather than a subsidiary role in participatory processes.

7. Right to work and to just and favourable conditions of work

80. Good progress towards the full realisation of the right to work has been achieved in New Zealand. There is legislation that recognises the rights of employers and employees in relation to pay, safe working conditions, employment protection and protection from discrimination. Government initiatives support work-life balance, and family-friendly and flexible working arrangements.

81. Despite progress challenges do remain, particularly in the current economic climate:

(a) Employment security is a key issue. A national Job Summit was held in February 2009 bringing together many of New Zealand's top business, Government, community and union leaders. The Summit presented many valuable ideas for preserving jobs through the current crisis and creating the best possible conditions for business to step up as economic conditions improve. Lead Ministers and ministerial groups are being established to take ideas forward;

(b) A Women in Business Workshop was held in early 2009 to debate solutions, ideas and initiatives on how to deal with the challenging economic crisis, recognising that women are a vulnerable group in times of recession and unemployment. The Government is also concerned about the impact redundancies and unemployment will have on women in terms of a likely increase in domestic violence. The discussions held at the Workshop were fed into the national Job Summit;

(c) Pacific peoples still face higher unemployment rates than other ethnic groups within New Zealand. Pacific peoples are also likely to be worst affected through the economic crisis and this could have a detrimental impact on the level of remittances sent by Pacific peoples to their families in the Pacific region. A separate Pacific Jobs Summit in February 2009 has identified a range of ideas to be considered by Government as part of its overall response to the Job Summit. New Zealand and Australia are supporting a project to reduce the cost of remittances to the Pacific;

(d) Despite age equality legislation, which has contributed to eliminating the most blatant forms of ageism, prejudices still remain influencing the appointment, retention and promotion of older workers;

(e) Enduring stigma and discrimination against disabled people entering the labour market remains an issue. The New Zealand Disability Strategy contains initiatives aimed at addressing this;

(f) Unemployment rates for youth remain higher than for people of other ages, and work is underway to address this through focussing on the importance of education and training for those aged sixteen and seventeen years. Unemployment rates for Māori and Pacific youth remain well above the rate for other youth.

Prostitution law reform

82. The Prostitution Reform Act 2003 decriminalises prostitution in New Zealand. The Act is consistent with CRC and the ILO Convention 182, and creates a framework designed to

safeguard the human rights of sex workers, protect them from exploitation, and promote their welfare and occupational health and safety, and to be conducive to public health. The Act specifically prohibits persons under eighteen years of age being involved in prostitution.

8. Right to social security and to an adequate standard of living

83. New Zealand has a comprehensive social security system that provides care and protection to vulnerable children and young people; employment services, income support and superannuation services; funding to community service providers; and student allowances and loans for tertiary education.

84. New Zealand has a no-fault accident compensation scheme (known as ACC). Individuals may make a claim under ACC if they experience physical injury, a mental injury related to a physical injury, mental injury arising from sexual assault or abuse and some work-related gradual process injuries. People with injuries covered by ACC that are a result of the direct or vicarious actions of the State receive compensation, rehabilitation and financial assistance without having to make a court claim against the State.

85. The current global economic climate will create challenges for those most vulnerable groups in society such as children. In August 2008 the Children's Commissioner (in partnership with Barnados and JR McKenzie Trust) released a report on the negative consequences and levels of poverty for New Zealand children.²⁷ The report identified the negative consequences of child poverty including impacts on health, education, future productivity and participation in society.

86. The Government is taking action to address the impact of the international economic crisis for New Zealanders and to ensure that New Zealand is well-placed to make a strong economic recovery. A transitional relief package has been introduced to provide extra assistance to those that have recently been made redundant from full-time work. Following the Job Summit held in late February 2009, the Government has offered to provide financial assistance to employers to encourage them to retain workers.

Housing

87. The provision of adequate housing remains a challenge for New Zealand, especially in terms of affordability and habitability. Vulnerable groups such as Māori and Pacific peoples are over-represented in rental and crowded housing. This over-representation correlates closely with low income, poor health and lower educational achievement by children and young people. The Housing New Zealand Corporation is responsible for providing housing services for people in need. Over NZ\$100 million will be spent on upgrading existing state homes, and \$NZ20 million is to be spent on building new homes. This will help ease pressure on Housing New Zealand's waiting list for state rental accommodation and will improve the habitability of more than 18,000 homes. Further policy initiatives and legislative changes will be introduced later this year to improve housing affordability.

9. Right to health

88. New Zealand has a publicly funded health system. In 2008/09, health is the second largest area of public spending at NZ\$12 billion. Although good progress has been made, the Government acknowledges that significant challenges remain in the availability and quality of health services. The disparities in health outcomes, including the suicide rate, remain

unacceptably high for Māori and Pacific peoples. Our youth suicide death rates remains high compared to OECD countries.²⁸

89. Long-term conditions such as heart disease, cancer, diabetes, obesity and tobacco-related conditions are the leading cause of ill health and early death in New Zealand. These conditions disproportionately affect lower income earners and Māori and Pacific peoples account for nearly 80 per cent of deaths. Although there have been significant decreases in the smoking rate over the last few years, smoking remains the single greatest preventable cause of premature death.

90. Workforce issues such as retention and recruitment are also of concern in the health sector. There are areas of shortages of health professionals in specific fields such as midwifery and oncology, and also in rural areas. The Government will be introducing a voluntary bonding scheme offering student loan write-offs to graduate doctors, nurses and midwives who agree to work in communities and specialties where recruitment and retention issues exist.

Mental health

91. The Mental Health Commission was established in 1996 to provide Government with advice on mental health and addiction services. While the quality of mental health services has improved in New Zealand since de-institutionalisation, the provision of safe and recovery-oriented mental health environments remains a challenge, particularly in supporting Māori, Pacific peoples, and young people. Concerns have also been raised as to the increase of repeat hospitalisation admission rates, the use of psychiatric practices such as electro-convulsive therapy, and the need for greater oversight of the implementation of the Mental Health Act.

10. Right to education and to participate in the cultural life of the community

92. Every New Zealand child has the right to free primary and secondary education at a state school (unless the child is a foreign student or they are in New Zealand unlawfully). Any child who is in New Zealand unlawfully, and whose parent or parents are also in New Zealand unlawfully but are attempting to regularise the family's immigration status, may be granted a Limited Purpose Permit in order to access publicly funded education. When passed into law, the Immigration Bill will remove the legal barrier for children unlawfully in New Zealand to access free primary and secondary education.

93. The Government also provides funding to early childhood and tertiary education providers. Education is compulsory between the ages of six and sixteen years. The core principles of the new national education curriculum, which will come into effect in February 2010, acknowledge the importance of human rights, the Treaty of Waitangi, cultural diversity and inclusion (being non-sexist, non-racist and non-discriminatory).

94. In recent years, the education outcomes for young people in New Zealand have improved. The qualifications of school leavers have increased, but the system continues to under-perform for specific groups of learners such as children with disabilities and students from poor families. Long-standing educational disparities remain for Māori. The Government has recently begun work to establish national standards in literacy and numeracy, which will set expectations of what students should achieve and by when. Key elements of this work include reporting students' progress against standards to parents in plain language, and assisting students not meeting the standards. To address truancy, the Government has provided extra support for schools and introduced fines for parents of truant children, with heavier fines for repeat offenders.

95. As noted earlier in the report, Māori are more likely to leave school with little or no formal attainment, and are over-represented among early school leavers. Work is underway to investigate how to improve the educational achievement of Māori in mainstream secondary schools. A professional development programme has been developed for teachers to address the specific needs of Māori students. Diversity of schooling is provided in certain areas by 73 Māori language immersion schools. These are state schools in which Māori language, cultures and values predominate. Other Māori education tools include a Māori version of the New Zealand curriculum, Māori tertiary institutions, Māori language immersion courses for practising teachers and Māori language immersion early childhood centres.

96. Disparities in educational attainment are emerging between males and females. Young women are achieving higher levels of attainment in secondary education than young men, and are more likely to hold a tertiary qualification. The Ministry of Education has established a reference group to address the lower level of achievement of boys. Young Māori and Pacific women also have lower levels of attainment compared to European and Asian women and women from other ethnic groups.

97. Students with disabilities have the same right to attend a mainstream state school as any other child. The education system provides communication, behavioural, physical support and early intervention services for students with special needs, including those with disabilities. Depending on the need, special units, classrooms and schools are available, but these are still part of the general education system. There are still challenges in this area, particularly in relation to improving access to these educational services for students with special needs.

11. Rights of indigenous peoples

(a) Treaty of Waitangi

98. In New Zealand, the Treaty of Waitangi has profound significance for human rights and for harmonious relations between Māori and non-Māori. As noted by the NZHRC, there is a threefold challenge for New Zealand around the human rights dimensions of the Treaty and the rights of Māori: first, how to recognise and respect indigenous rights in a way that is fair to everyone in New Zealand; second, how to ensure the right of everyone to participate in society includes the right of Māori to participate in Māori society; and third, how to affirm for all people living in New Zealand the right to belong.²⁹ These issues continue to be debated and there is a wide range of views in New Zealand society. From the Government's perspective the Treaty underpins Crown (Government)-Māori relationships.

99. The Waitangi Tribunal provides a forum for the hearing of historical and contemporary grievances regarding breaches of the Treaty of Waitangi. In 1975 Parliament passed the Treaty of Waitangi Act establishing the Waitangi Tribunal. Under the Act, any Māori may take a claim to the Tribunal that he or she (or the group to which he or she belongs) has been prejudicially affected by any legislation, policy or practice of the Crown since 1840. The Waitangi Tribunal is, therefore, a key avenue for resolving grievances arising from past injustices to Māori. The Tribunal has the power to make recommendations to the Government on claims relating to the Treaty. These recommendations are non-binding except in relation to particular assets, including forestry assets and other assets, owned or formerly owned by State Owned Enterprises and certain other state institutions. Since 1975 the Tribunal has registered over 1500 claims, with another 1800-plus claims received prior to the September 2008 cut-off date for making historical Treaty claims. The main means through which claims concerning historical breaches of the Treaty are settled is by direct negotiation with the Crown (Government). This often occurs after

the Waitangi Tribunal has issued a report on the grievance. As noted during consultation with Māori, claimant capacity and resources are stretched in the settlement process. The Government also faces pressures to maintain the momentum on the Treaty settlement process. The Office of Treaty Settlements is responsible for negotiating settlements on behalf of the Government and oversees their implementation as well as managing properties for settlement purposes. A Treaty settlement would usually include a Government apology as well as cultural, financial and commercial redress which would often include land. Legislation is normally required to implement the settlement fully.

100. The Government and Māori are making progress in negotiating the settlement of claims. As noted in the NZHRC's latest race relations report, Treaty settlement agreements in 2008 resulted in agreement to transfer over NZ\$400 million worth of assets to Māori claimant groups as well as an innovative form of redress over one of the country's major waterways. To date NZ\$1.018 billion has been committed to final and comprehensive settlements and several part settlements. Since 1990, twenty-six Treaty settlements have been completed, of which fourteen are comprehensive. Treaty settlements cover 61 per cent of the total land area of New Zealand, but approximately 80 per cent of this has been in the South Island to date. Over twenty groups are currently in active negotiations with the Government. As a result, the settlement process is helping to re-establish an economic base for future Māori development and Māori tribes to move forward in their regions. While the Government recognises that the Treaty settlement process is important, it should not be seen as the primary focus or mechanism for encouraging the Treaty relationship in the future.

(b) Foreshore and Seabed Act 2004

101. The new Government is committed to reviewing the Foreshore and Seabed Act 2004, which vested ownership of the public foreshore and seabed in the Crown (Government), and provided a mechanism for recognition of customary interests in the public foreshore and seabed. As noted by the United Nations Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people following his visit in 2005, many Māori and non-Māori disagreed with the Act. In March 2009, the Government announced the establishment of an expert and independent Ministerial panel to investigate whether the Act effectively recognises and provides for customary and public interests in the coastal marine area. The Ministerial panel will provide a written report to the Attorney-General by the end of June 2009 for the Government's consideration.

102. An agreement under the Foreshore and Seabed Act 2004 to recognise customary interests has been reached between the Crown (Government) and one Māori group. The Crown (Government) has also been in negotiations with four other Māori groups and has reached non-binding agreements to reflect the various stages of negotiations. These negotiations have been put on hold while the review of the Act is underway.

(c) Māori Language Strategy and broadcasting

103. The Māori Language Strategy is currently being reviewed to ensure that the progress made in revitalising the Māori language continues. Key achievements include the establishment of the Community Based Language Initiatives programme and a contestable fund for one-off projects on Māori Language. The Māori radio network continues to be supported and a Māori television service was launched in 2004, with a further channel in 2008. Government surveys show significant gains in the health of the Māori language through increases in the number of Māori with some level of speaking and listening proficiency. Attitudes towards the Māori

language among Māori and non-Māori have become more positive. The Government has just launched the Māori Curriculum Guidelines to help every English-medium school in New Zealand design and shape a curriculum that includes Māori language.

12. Migrants, refugees and asylum-seekers

104. The Office of Ethnic Affairs (OEA), established in May 2001, is responsible for ensuring that the interests and views of ethnic groups are taken into account in Government policy. The OEA supports initiatives to help migrant and refugee communities participate actively in New Zealand society. It also provides specialist intercultural awareness and communication services to Government, communities and businesses. The Ministry of Pacific Island Affairs promotes the economic, social and cultural wellbeing of Pacific peoples in New Zealand. The Ministry contributes to achieving better outcomes for Pacific peoples in education.

105. In February 2002, the Government made a formal apology to Chinese New Zealanders for historical discrimination against Chinese settlers in the late 1800s, beginning the formal process of reconciliation between the Government and the Chinese community in New Zealand.

106. Unfortunately, racism and racial discrimination continues to occur in New Zealand. In 2008, the NZHRC received 407 complaints and enquiries involving race-related grounds out of a total of 1518 complaints and enquiries about unlawful discrimination.³⁰

107. New Zealand is one of a limited number of countries that accepts for resettlement a quota of refugees referred by the UNHCR. Currently the quota stands at 750 refugees per year with a sub-quota for women at risk and a medical/person with disabilities sub-quota. New Zealand does not forcibly repatriate persons granted refugee status when the conditions in their country are 'normalised'. Concerns have been raised around barriers that prevent refugees being accepted under the quota system, and also around the use of profiling techniques.

108. Although New Zealand has not ratified the ICRMW, the rights of migrant workers are protected under New Zealand domestic law.

109. While New Zealand immigration policy is mainly focussed on skilled migration, a key component is to provide immigration responses for migrants under a range of international human rights instruments including CAT and ICCPR. The Minister of Immigration can also intervene where there is a specific case requiring discretion due to humanitarian circumstances. New Zealand immigration policy is not nationality-based.

110. The Government has a settlement strategy for new migrants, which focuses on positive relationships with host communities, employment, English language ability, access to information and services, supportive social networks, safety, and participation to help the transition to living in New Zealand. In addition, the Settlement Support New Zealand initiative has been established in nineteen locations throughout the country as a clear point of contact for newcomers to access appropriate local information and referrals to responsive services. English for Speakers of Other Languages (ESOL) is provided to school students, and an Adult ESOL Strategy was launched in May 2003. The OEA also manages Language Line, a free professional telephone interpreting service to enable people with limited or no English to access Government services. The service operates in 39 languages. Support services provided to spontaneous refugees awaiting decisions on their cases, and conditions surrounding the detention of asylum seekers in prisons have been raised as issues within New Zealand.

Trafficking in persons

111. On 19 July 2002, New Zealand ratified the United Nations Convention against Transnational Organised Crime and its supplementary Protocols: the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking Protocol); and the Protocol against the Smuggling of Migrants by Land, Sea and Air (Smuggling Protocol). New Zealand is working closely with Asia-Pacific partners in the Bali Process on People Smuggling, Trafficking in Persons and other forms of Transnational Crime to prevent people smuggling and trafficking.

112. New Zealand legislation prohibits trafficking and carries severe penalties. New Zealand has also undertaken a number of initiatives to prevent trafficking from occurring, and to address any emerging or potential cases. In order to reinforce efforts already underway, the Department of Labour is leading an interagency working group to develop a Plan of Action to Prevent People Trafficking. This will be a comprehensive anti-trafficking framework to coordinate work across government agencies and NGOs.

13. Human rights and counter-terrorism

113. In the wake of 9/11 and the Bali bombings, anti-terrorism measures were strengthened to meet international counter-terrorism obligations and to protect people in New Zealand. A number of groups within New Zealand, including the NZHRC, have expressed concern that some of these measures do not adequately respect human rights or have been used inappropriately. For example, the NZHRC received a number of reports about a New Zealand Police operation in October 2007 under the Arms and Terrorism Suppression Acts resulting in the arrest of individuals for the unlawful possession of firearms and other restricted weapons. In particular, some Māori were concerned that distinctly Māori communities were the focus of the operation, although not all those that were arrested were Māori. Three United Nations Special Rapporteurs also received a communication on this issue in late November 2007 which maintained that, among other things, the Police operation breached rights to liberty, privacy, and freedom from discrimination.

114. The Government responded to the communication in January 2008. The Government response noted that the actions of the Police in the investigation are to be considered by several independent bodies and will also be scrutinised in court proceedings that have been made or may be made in future. The Special Representative of the Secretary-General on the Situation of Human Rights Defenders thanked the New Zealand Government for its detailed response to the communication and requested that further information be provided upon the conclusion of the ongoing investigations.

115. Following a recommendation from the Solicitor-General, the New Zealand Law Commission (an independent organisation which reviews areas of the law that need updating, reforming or developing) is undertaking a review of existing legislation to ascertain whether amendments are needed to cover the conduct of individuals that creates risk to, or public concern about, the preservation of public safety and security. The terms of reference for the review direct the Commission “to take into account the need to ensure an appropriate balance between the preservation of public safety and the security and maintenance of individual rights and freedoms”. The Commission process is to undertake initial research and consultations then prepare an issues paper followed by a final report.

IV. KEY HUMAN RIGHTS PRIORITIES

116. The key priorities of the New Zealand Government as noted in the present report are:
- (a) Improving the economic, social and cultural wellbeing of people in New Zealand;
 - (b) Reducing violence within families and its impact on women and children;
 - (c) Improving the opportunities and responsibilities of young people in New Zealand through the education and youth justice systems;
 - (d) Strengthening the rights of victims of crime;
 - (e) Improving the consultation process with civil society for future human rights reporting and follow-up to recommendations;
 - (f) Strengthening the partnership between the Government and Māori by continuing to support Māori to realise their potential and continuing the momentum on achieving fair, just and practical settlements of historical claims under the Treaty of Waitangi; and
 - (g) The implementation of the Convention on the Rights of Persons with Disabilities and the New Zealand Disability Strategy.

V. TOKELAU

117. Please refer to report available at www.ohchr.org (UPR fifth session: New Zealand) and www.mfat.govt.nz (Global issues: Human Rights).

Notes

¹ The following abbreviations and term have been used:

ACC	Accident Compensation Corporation
BORA	New Zealand Bill of Rights Act 1990
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CED	International Convention for the Protection of All Persons from Enforced Disappearance
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CRC	United Nations Convention on the Rights of the Child
DRIP	Declaration on the Rights of Indigenous Peoples
ESOL	English for Speakers of Other Languages
HRRT	New Zealand Human Rights Review Tribunal
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labour Organisation
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
IPCA	New Zealand Independent Police Conduct Authority
Māori	Indigenous people of New Zealand
MFAT	New Zealand Ministry of Foreign Affairs and Trade

MP	Member of Parliament
MWA	New Zealand Ministry of Women's Affairs
NHRI	National Human Rights Institution
NGO	Non-Government Organisation
NZAID	New Zealand Agency for International Development.
NZAPHR	New Zealand Action Plan for Human Rights
NZHRC	New Zealand Human Rights Commission
NZSL	New Zealand Sign Language
ODI	New Zealand Office for Disability Issues
OEA	New Zealand Office of Ethnic Affairs
OHCHR	Office of the United Nations High Commissioner for Human Rights
UNHCR	United Nations High Commissioner for Refugees
UPR	Universal Periodic Review

² HRI/CORENZL/2006.

³ Human Rights Council resolution 5/1 of 18 June 2007 and the General Guidelines for the Preparation of information under the Universal Periodic Review (as contained in document A/HRC/6/L/24).

⁴ Please note that people can choose to identify with more than one ethnic group in New Zealand, so the figures do not add up to 100 per cent.

⁵ For more information on New Zealand's position in relation to human rights instruments see New Zealand Handbook on International Human Rights, New Zealand Ministry of Foreign Affairs and Trade, May 2008 and New Zealand's Core Document (HRI/CORE/NZL/2006) of 26 October 2006.

⁶ A/HRC/WG.6/5/NZL/2 incorrectly states that New Zealand signed the ICRMW in 2007.

⁷ A copy of New Zealand's Explanation of Vote of 13 September 2007, which sets out why New Zealand did not support the adoption of the DRIP, is available on the Ministry of Foreign Affairs and Trade's website – www.mfat.govt.nz.

⁸ New Zealand is also party to three other key instruments proscribing slavery including the International Convention for the Abolition of Slavery and the Slave Trade (1926); the Protocol amending the Slavery Convention signed at Geneva on 25 September 1926, with annex (1953); and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956).

⁹ This section draws on the Rt. Hon. Sir Kenneth Keith's, "On the Constitution of New Zealand: An Introduction of the Foundations of the Current Form of Government", (1990, updated 2008) in The Cabinet Manual and New M. S. R. Palmer's, "What is New Zealand's constitution and who interprets it? Constitutional realism and the importance of public office-holders", (2006) 17 Public Law Review 133.

¹⁰ The Parliamentary Library Research Paper, Final Results for the 2008 New Zealand General Election, 2009.

¹¹ The Cook Islands acceded to CEDAW in its own right on 11 August 2006 and it subsequently submitted its Initial Report on CEDAW in September 2006. The Government met with the CEDAW Committee in August 2007. The outcomes of the dialogue with the CEDAW Committee have been developed into a National Action Plan by the Gender and Development Division. It is envisaged that the plan will be implemented from 2008-2011 with the assistance of donor partners such as UNDP and NZAID. The Plan recommends legislative and policy changes. Prior to its meeting with the Committee, the Cook Islands withdrew all of its reservations to CEDAW on 30 July 2007. The Cook Islands also acceded to the CEDAW Optional Protocol and to the amendment to article 20 paragraph 1 of CEDAW on 27 November 2007 and withdrew all of its reservations to CEDAW. The Cook Islands has just completed its Initial Report on the Convention on the Rights of the Child (CRC) and will soon submit this to the CRC Committee in Geneva within the next month. The Cook Islands has withdrawn its reservation to article 37 of the CRC on 25 March 2009.

¹² Please refer to the following website: www.nzlii.org

¹³ For more information on the New Zealand Human Rights Commission, visit www.hrc.co.nz.

¹⁴ Statistics New Zealand, QuickStats About Maori, 27 March 2007.

¹⁵ The Social Report 2008, Ministry of Social Development, 2008.

¹⁶ The Global Gender Gap Report 2008, produced by the World Economic Forum, ranks New Zealand in 5th place in the world – up two places from our ranking in 2006. The Human Rights Development Report's Gender-related Development Index and Gender Empowerment Measure for 2007/08 rank New Zealand 18th and 11th respectively.

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- ¹⁷ Indicators for Change: Tracking progress of New Zealand women, Ministry of Women's Affairs, October 2008. A copy of the report can be found at Ministry of Women's Affairs' website - www.mwa.govt.nz.
- ¹⁸ Indicators for Change: Tracking progress of New Zealand women, Ministry of Women's Affairs, October 2008.
- ¹⁹ Indicators for Change: Tracking progress of New Zealand women, Ministry of Women's Affairs, October 2008.
- ²⁰ New Zealand Census of Women's Participation 2008, NZHRC.
- ²¹ Indicators for Change: Tracking progress of New Zealand women, Ministry of Women's Affairs, October 2008.
- ²² New Zealand Income Survey, June 2008, based on median hourly earnings.
- ²³ Focusing on Women 2005. Wellington, Statistics New Zealand 2005.
- ²⁴ New Zealand Income Survey June 2008, based on median hourly earnings.
- ²⁵ The Social Report 2008, Ministry of Social Development, 2008.
- ²⁶ Positive Ageing Indicators 2007, Ministry of Social Development, August 2007.
- ²⁷ M. Fletcher and M. Dwyer, A Fair Go for all Children, Actions to address child poverty in New Zealand, August 2008.
- ²⁸ The Social Report 2008, Ministry of Social Development, 2008.
- ²⁹ Human Rights in New Zealand Today: Summary Report, New Zealand Human Rights Commission, 2004.
- ³⁰ Tui Tui Tuituia: Race Relations in 2008, New Zealand Human Rights Commission.
