

WILPF REPORT ON ITEM 6:
UPR REPORT NEW ZEALAND
(12th HRC Session - 24 September 2009)



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1. NEW ZEALAND

[Ambassador Dell Higgin]

New Zealand was presented as one of the strongest supporters of the installation of the UPR process. Ambassador Millar said that during the preparation of the UPR report civil society and human rights defenders were actively involved.

The Government had accepted 33 of the 64 recommendations unreservedly, and an additional 12 were agreed to with further discussion. A qualified response was given to 11, and only eight were rejected. Many of these focused on challenging areas which were already acknowledged by the New Zealand Government: social disparities between Maori and non-Maori, the status of the Treaty of Waitangi in domestic legislation, family violence, equality of opportunity, over-representation of Maori in the criminal justice system, and ratification of human rights treaties to which New Zealand was not party.

Maori make up around 15% of the population. The government representative says that multiple measures are implemented to improve the situation of the Maori in New Zealand. Due to the specific situation in New Zealand the Declaration on the Rights of Indigenous Peoples is not being signed. The Ambassador said that New Zealand has the most consultative model in the world towards their indigenous population and she said that the Treaty of Waitangi ensured this.

New Zealand did not accept to ratify ILO Convention 169 or the Optional Protocol to the ICESCR, but has ratified the second protocol to the Convention on the Rights of the Child. New Zealand is looking to become party to the Convention of Enforced Disappearances. Furthermore, the Ambassador expressed New Zealand's intention to increase its human rights obligations towards:

- Convention on the Reduction of Statelessness;
- Optional Protocol to the Convention Against Torture;

- Treaty of Waitangi
- Convention on the Right of Peoples with Disabilities

The Ambassador reiterated that New Zealand is a strong supporter of the UPR and has engaged actively in the UPR of other States and intend to continue to do so. New Zealand's UPR has led to a critical review of its human rights obligations and compliance, according to the Ambassador.

2. STATES

Algeria:

The representative encouraged New Zealand to join the outcome document of the Durban Review Conference. In addition, he said that further measures are needed for constitutional protections for international human rights and reiterated their recommendation connected to the ICCPR (International Covenant on Civil and Political Rights).

Malaysia:

Thanked New Zealand for the acceptance of Malaysia's recommendation on racial discrimination and for sharing information on human trafficking and cross border prostitution.

Sweden:

Thanked New Zealand for its response in writing prior to this HRC session and the acceptance of their recommendation on violence against women. The Swedish representative was critical on the level of clarity provided by New Zealand on the level of implementation of recommendations and expressed hope that this could be improved in the future.

Iran:

Iran regretted that some recommendations had not been accepted. Iran expressed their concern with the situation of indigenous people, including Maori and Asian minorities. Iran also encouraged New Zealand to try and bring its domestic legislation, policies and practices into full compliance with the international law regarding minorities and to take serious efforts to further improve the rights of minorities in the field of health and sanitation, education and employment. Furthermore, special attention was required concerning the ambiguous content of counter-terrorism legislation and its poorly defined terms could lead to the violation of social and political rights and freedoms in New Zealand.

United States of America:

The United States expressed appreciation with New Zealand for combating human trafficking and commended its acceptance of the recommendation to record and document cases of trafficking in women and children and share information on cases within its region.

3. NHRI/NGOs

New Zealand Human Rights Commission:

The challenge for the Government was identified in the translation of commitments in legislation and policy initiatives and financial decisions. The Commission emphasised the importance of action on the seven priorities that the Government had identified in its report to the Working Group. Stronger responses to the recommendations relating to equality for women and the gender pay gap were still missing.

WILPF Aotearoa:

On behalf of Action for Children & Youth Aotearoa, AIR Trust, Human Rights Foundation and Peace Movement Aotearoa we expressed our disappointment with the signing and ratifying of the Migrant Workers Convention, the ILO Convention 169, the ICESCR Optional Protocol and the Declaration on Indigenous Peoples. We raised the harmfulness of the current constitution for hapu and iwi Maori and pressed for the full implementation of the Treaty of Waitangi. Other issues raised was the housing of prisoners in shipping containers, the lowering of criminal age for children, lack of gender pay equity and lack of women in decision making forums.

Canadian HIV/AIDS Legal Network:

Recalled that the national report did note some areas in which same-sex partners were not yet accorded equal treatment. The NGO identified New Zealand's UPR as a best practice, both in terms of the substance of the recommendations and the participatory process.

Indigenous World Association:

IWA expressed the need for ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and the Declaration on the Rights of Indigenous Peoples. Kenneth Deer expressed concern that legislation that broached human rights could be enacted in New Zealand, and that this resulted in Maori rights remaining vulnerable to the whim of majority Governments. He urged the Council to strengthen its call on New Zealand to provide robust constitutional protection of the rights in the Treaty of Waitangi.

Amnesty International:

AI requested the Government to move to support the Convention on Indigenous Peoples, as that will send an important message to Maori Ipu and Hapu peoples. They pushed for the continued dialogue on the Foreshore and Seabed Act. The New Zealand Government was called on to amend the Corrections Act 2004 to require that conditions in privatized prisons complied with the United Nations Standard Minimum Rules for the Treatment of Prisoners. Finally, Amnesty International strongly urged New Zealand to explore options for its early ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, and for greater recognition of economic, social and cultural rights in its domestic legislation.

The Charitable Institute for Protecting Social Victims:

The NGO raised issues around racial discrimination of migrant workers, which is said to be portrayed in gender inequalities in job opportunities and difference in treatment in the judicial system.

Indian Council of South America:

CISA raised issues of indigenous peoples. The reductions or negations of already accepted international obligations with regard to indigenous peoples should not be used as a so-called best practice when addressing or implementing other international obligations pertaining to indigenous peoples, since New Zealand was merely denying the full application of their rights through politicisation and selectivity through the selective application and implementation of their rights. and asked other States not to use these methods, particularly to the United States of America.

4. RESPONSE NEW ZEALAND

On the issue of migrants and the failure of New Zealand to ratify the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, Ms. Higgie reminded that New Zealand had a range of laws in place that fully protected all workers, including migrants. As for New Zealand's failure to adopt the outcome document of the Durban Review Conference, this would be inappropriate as New Zealand had not been part of the Durban Review Conference. Regarding the comment that New Zealand's counter-terrorism legislation contained poor terms, Ms. Biggie said that she looked forward to discussing this issue with the representative of the delegation which had made this point. On the issue of trafficking, the definition of the international treaty was followed by New Zealand and contained in its legislation. As for violence against women, this was of strong concern to the Government of New Zealand and there were a number of processes aiming to try and improve this situation. Finally, Ms. Higgie once again wished to thank everybody for their constructive engagement, and reiterated that New Zealand wished to continue having a dialogue on its human rights situation.