



**International covenant
on civil and
political rights**

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HUMAN RIGHTS COMMITTEE
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**LIST OF ISSUES TO BE TAKEN UP IN CONNECTION WITH THE
CONSIDERATION OF THE FIFTH PERIODIC REPORT OF NEW ZEALAND
(CCPR/C/NZL/5)**

**Constitutional and legal framework within which the Covenant is implemented
(art. 2)**

1. What concrete measures have been taken to ensure that domestic legislation is consistent with the Bill of Rights Act 1990? Is the State party considering legislation to incorporate the provisions of the International Covenant on Civil and Political Rights into domestic law, in particular those provisions not yet covered by the Bill of Rights Act 1990 (recommendation 8 of the Committee's concluding observations (CCPR/CO/75/NZL), and paragraph 10 of the State party's report)? Please indicate (a) the measures taken by the State party to increase the awareness of Parliament members and the Judiciary regarding the Covenant; (b) whether the State party intends to create a mechanism to ensure full compatibility of domestic law with the Covenant.
2. What measures are taken to respond to statements from the courts when legislation is inconsistent with human rights? Please clarify whether the courts have jurisdiction to issue a formal declaration of incompatibility (para. 14 of the State party's report) and provide detailed and updated information on the "judicial creation of new remedies to give effect to the rights guaranteed by the Bill of Rights Act" (para. 12).
3. What measures does the State party take to ensure that every victim of a violation of the Covenant has a remedy in accordance with article 2 of the Covenant? Please provide examples of judicial decisions making reference to the Covenant in the period covered by the report.
4. What measures have been taken by the State party to implement the Committee's Views under the First Optional Protocol to the Covenant in *E.B v New Zealand*?

5. Please elaborate on the compatibility of the Prisoners' and Victims' Claims Act 2005 with the obligation to provide a remedy in accordance with article 2 of the Covenant.
6. Please indicate whether the State party has adopted a human rights plan of action on the basis of the New Zealand Human Rights Commission's proposals (para. 9 of the State party's report).

Counter-terrorism measures and respect of Covenant guarantees

7. According to information before the Committee, the Terrorism Suppression Amendment Act eroded safeguards against inappropriate designation of a person as a terrorist, eliminated judicial review of terrorism designations and could lead to human rights breaches. Please comment on this information in light of article 2 of the Covenant. What measures does the State party envisage taking to reinforce the procedural guarantees in the anti-terrorism legislation and to ensure that measures provided for by the law are applied in strict accordance with the Covenant (see general comments No. 32 (2008) on right to equality before courts and tribunals and to a fair trial and No. 29 (2001) on derogation during a state of emergency)?
8. Please comment, in light of articles 2, 4 and 26, on information according to which, during the "Operation Eight" held on 15 October 2007 by police, Armed Offender Squad, and Special Tactics Group officers, in Tuhoe and other communities, Maori individuals and their families were victims of violations of their rights and subjected to discriminatory treatment.

Principle of non-discrimination (art. 2 and 26)

9. Please provide information on the measures taken by the State party to implement the recommendations made by various international experts on indigenous peoples issues, such as the renewal of the dialogue between the State party and the Maori regarding the Foreshore and Seabed Act of 2004 in order to find a way of mitigating its discriminatory effects. Has a mechanism of consultation with indigenous peoples been established?
10. What concrete measures have been taken by the State party to protect immigrants, asylum-seekers and refugees from all forms of racial stereotyping and discrimination?

Gender equality, violence against women and political rights (arts. 3, 7, 14 and 25)

11. Please indicate whether the State party has adopted targets to improve the representation of women in political and public life, the Judiciary, as well as in senior positions in public service.
12. Please provide information on the outcomes of the taskforce for Action on Sexual Violence (para. 348 of the State party's report). What measures have been taken by the State party to ensure the consistency of the legislation on sexual violence with the Covenant rights, and access for women victims of violence to the justice system?

Right to life and prohibition of torture and cruel, inhuman or degrading treatment and treatment of prisoners (arts. 6, 7 and 10)

13. Please indicate(a) whether persons detained on mental health grounds have prompt access to judicial review of their detention; (b) whether inspection systems have been established in line with the United Nations Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care; (c) what measures have been taken to redress the high number of persons with mental health problems in prisons. Please also provide detailed information on mental health care in prisons.

14. What measures have been taken by the State party to address the high level of incarceration of Maori, in particular women? Has the State party fixed specific targets and timelines for reducing the high number of Maori in prisons? What measures has the State party taken to reduce levels of reoffending by Maoris?

15. Please elaborate on the compatibility of the Corrections (Contract Management of Prisons) Amendment Bill 2009 with the duties devolving on the State party pursuant to article 10 of the Covenant.

16. Please provide detailed information on cases in which electro-muscular disruption devices (EMDs) "TASERS" have been used by the police and the Standard Operating Procedures. Please also provide information in the Standard Operation Procedures for the use of EMDs and inform the Committee if any study leading to determine the consequences of the use of EMDs has been carried out in the State party.

Trafficking in persons (art. 8)

17. Please provide information on(a) the New Zealand Plan of Action to Prevent Trafficking in Persons (NPA) (para. 151 of the State party's report); (b) measures taken to record and document cases of trafficking in persons.

Rights of aliens (art.13)

18. Please comment on information received by the Committee according to which the Immigration Bill 2007, in particular the "screening process" (para. 246 of the State party's report), is not fully consistent with the principle of non-refoulement.

Right to a fair trial and equality before the law (arts. 14, 26)

19. Please indicate what measures the State party envisages taking to ensure full respect for the right to be presumed innocent until proven guilty in cases of terrorism and drug possession, having regard to the decision of the Supreme Court in *R v Hansen* (para. 14-16 of the State party's report). Please also indicate the results of the Parliamentary review of the Misuse of Drugs Act 1975 (para.14).

Right to privacy, Freedom of speech and freedom of association (arts. 17, 19 and 21)

20. According to information before the Committee, provisions of the Criminal Investigation Amendment Bill 2009 permitting the expanded collection and retention of DNA samples and

profiles place an unjustifiable and disproportionate limit on the right to privacy. Please provide comments on this information in light of article 17 of the Covenant.

21. Please elaborate on the compatibility of the decision of the High Court in *Police v Beggs* (para. 319 of the State party's report) with articles 19 and 21 of the Covenant.

Rights of the child (art. 24)

22. In light of articles 7 and 24 of the Covenant, please comment on the announced referendum due (to take place) in mid 2009 regarding the amendment of section 59 of the Crimes Act 1961 which removes the defence of "reasonable force" for parents who physically discipline their children.

23. Please provide information on the extent of child abuse in the State party and on the measures taken to eradicate this phenomenon.

24. Please indicate whether the State party envisages raising the minimum age of criminal responsibility for murder and manslaughter, currently at ten.

Right to take part in the conduct of public affairs (art. 25)

25. According to information before the Committee, a review of electoral law has been initiated in the State party. Please indicate what measures have been taken to ensure that the new electoral legislation to be adopted is fully consistent with article 25 of the Covenant. Please also provide updated information on the regulation of financial support for the activities of political parties.

Rights of persons belonging to minorities (art. 27)

26. What measures does the State party envisage taking to incorporate the Treaty of Waitangi in domestic law? Please indicate whether a mechanism to settle comprehensively land claims of indigenous peoples, consistent with the Treaty of Waitangi and with the Covenant rights, has been created. Please also indicate whether the Waitangi Tribunal has been provided with increased financial resources.

Dissemination of information relating to the Covenant (art. 2)

27. Please indicate what steps the State party has taken to disseminate information about the Covenant, the submission of its fifth periodic report, its examination by the Committee and the Committee's previous concluding observations on the fourth periodic report. Please also provide information on the involvement of civil society and national human rights institutions in the preparation of the report.
