



Human Rights Council
Working Group on the Universal Periodic Review
Forty-sixth session
29 April–10 May 2024

New Zealand

Compilation of information prepared by the Office of the United Nations High Commissioner for Human Rights

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the outcome of the previous review.¹ It is a compilation of information contained in relevant United Nations documents, presented in a summarized manner owing to word-limit constraints.

II. Scope of international obligations and cooperation with human rights mechanisms

2. The Committee against Torture and the Committee on the Rights of the Child welcomed the fact that, in 2022, New Zealand had become a party to the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.²

3. The Committee on the Rights of the Child recommended that New Zealand consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Convention for the Protection of All Persons from Enforced Disappearance and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.³

4. The United Nations High Commissioner for Refugees (UNHCR) recommended that New Zealand accede to the Convention relating to the Status of Stateless Persons.⁴

5. In 2021, New Zealand submitted its midterm report regarding the implementation of the recommendations made during the third cycle of the universal periodic review in 2019.⁵

6. New Zealand made annual financial contributions to the Office of the United Nations High Commissioner for Human Rights (OHCHR).⁶

7. The Committee against Torture urged New Zealand to consider withdrawing its reservation to article 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and ensure the provision of fair and adequate compensation through its civil jurisdiction to all victims of torture.⁷

8. The same Committee stated that New Zealand should extend the application of the Convention against Torture to the Non-Self-Governing Territory of Tokelau, refer the



Committee to the relevant legislation if it had already been extended and encourage the self-governing Cook Islands and Niue to accede to it.⁸

III. National human rights framework

1. Constitutional and legislative framework

9. The United Nations Educational, Scientific and Cultural Organization (UNESCO) noted that New Zealand did not have a single written constitution and that, while a number of legal documents were considered to have constitutional status, they did not explicitly provide for the right to education.⁹ UNESCO stated that New Zealand should be encouraged to consider enshrining the right to education comprehensively within its legislation, including in the legal documents that had constitutional status.¹⁰

10. The Expert Mechanism on the Rights of Indigenous Peoples noted several challenges with respect to the place of the Treaty of Waitangi (Te Tiriti o Waitangi) in the legal order and its interpretation, in particular the fact that the Treaty was not enshrined in legislation or in a written constitution, existed in different language versions and was interpreted by the Waitangi Tribunal and the courts on the basis of its “principles” rather than in its entirety and in a manner not strictly in accordance with the Māori text.¹¹ With regard to the development of a national plan of action on the United Nations Declaration on the Rights of Indigenous Peoples, the Expert Mechanism on the Rights of Indigenous Peoples advised the State and/or Māori to continue to develop, and take measures to ensure, the interpretation of the Treaty of Waitangi and other relevant legislation in a manner consistent with the rights set forth in the Declaration.¹²

11. The Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context indicated that the absence of an express reference to economic and social rights in the New Zealand Bill of Rights Act posed barriers to access to justice for potential violations of the right to adequate housing.¹³ She recommended that New Zealand recognize the right to adequate housing, as set out in international human rights law, as an enforceable right in national legislation and in the New Zealand Bill of Rights Act.¹⁴

2. Institutional infrastructure and policy measures

12. The Committee on the Rights of Persons with Disabilities recommended that New Zealand provide the New Zealand Human Rights Commission with the necessary financial and human resources for timely resolution of discrimination complaints.¹⁵ The Special Rapporteur on adequate housing recommended that New Zealand establish forthwith the post of a commissioner for Indigenous Peoples’ rights in the New Zealand Human Rights Commission, as well as of a commissioner responsible for monitoring the implementation of the right to housing.¹⁶

13. The Committee against Torture stated that New Zealand should ensure that each member body of the national preventive mechanism had the human and financial resources necessary to fulfil its preventive mandate in accordance with the Optional Protocol to the Convention against Torture, including access to all places of deprivation of liberty as prioritized by the bodies themselves.¹⁷

14. The same Committee welcomed the establishment, in 2021, of an interministerial human rights mechanism to better coordinate reporting on, the implementation of and follow-up to the treaty obligations of New Zealand.¹⁸ The Committee on the Rights of the Child recommended that New Zealand strengthen the national mechanism for reporting and follow-up and ensure that it had the mandate and adequate human, technical and financial resources to effectively coordinate and prepare reports to international and regional human rights mechanisms.¹⁹

IV. Promotion and protection of human rights

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

1. Equality and non-discrimination

15. The Committee on the Rights of Persons with Disabilities recommended that New Zealand amend the Human Rights Act 1993 to include explicit recognition of denial of reasonable accommodation as a form of discrimination.²⁰

16. The Independent Expert on the enjoyment of all human rights by older persons noted that age discrimination was explicitly prohibited under the Human Rights Act 1993.²¹ However, she noted that ageist rhetoric portraying older persons as a burden was pervasive and recommended that New Zealand conduct a targeted awareness-raising campaign to ensure that older persons were not perceived as passive consumers of services offered by society, politically and socially inert and unfit to take part in decision-making.²²

17. The Committee on the Rights of the Child was deeply concerned that discrimination persisted against children in situations of vulnerability, including Māori and Pasifika children, children in out-of-family care and children with disabilities, noting, inter alia, their restricted ability to benefit from basic services and their exposure to higher risks of suicide, homelessness and transient housing situations.²³

2. Right to life, liberty and security of person, and freedom from torture

18. The Committee against Torture was concerned that no mandatory minimum penalty was provided for acts of torture, allowing a very broad margin of discretion to the sentencing judge, and stated that New Zealand should consider amending the Crimes of Torture Act with a view to introducing mandatory minimum or graduated penalties leading up to the maximum penalty for acts of torture.²⁴

19. While noting the measures that had been adopted, including the establishment, in 2018, of the Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions, the same Committee was seriously concerned that some of the recommendations arising from the inquiry had not yet been implemented, that no individual had been held accountable for the numerous allegations of torture and ill-treatment in State care and in the care of faith-based institutions and that victims identified through the inquiry had not been awarded full redress, including compensation and rehabilitation. The Committee was also concerned that New Zealand had failed to implement the Committee's decisions under article 22 of the Convention against Torture concerning the cases of *Zentveld v. New Zealand* and *Richards v. New Zealand* regarding that issue.²⁵

20. The Committee against Torture indicated that New Zealand should urgently implement the recommendations of the Royal Commission of Inquiry and the Committee's decisions under article 22 of the Convention against Torture concerning the cases of *Zentveld v. New Zealand* and *Richards v. New Zealand*.²⁶

21. The Committee on the Rights of the Child remained seriously concerned about the persistent rates of abuse and neglect of, and violence against, children, in particular domestic violence, noting the higher risk faced by Māori and Pasifika children, lesbian, gay, bisexual, transgender and intersex children and children with disabilities.²⁷ The same Committee recommended that New Zealand allocate adequate resources to the action plan (2021–2023) for the National Strategy to Eliminate Family Violence and Sexual Violence and to future action plans.²⁸

22. The Committee on the Rights of Persons with Disabilities was concerned that rates of violence against persons with disabilities were higher than those experienced by the rest of the population.²⁹ The Committee against Torture stated that New Zealand should establish an effective, independent, confidential and accessible national oversight, complaint and redress mechanism for persons with disabilities who had experienced violence, abuse, exploitation

or neglect in any settings and conduct prompt, impartial and thorough investigations into all allegations of ill-treatment in health-care institutions, both public and private.³⁰

23. While appreciating the measures taken by New Zealand to improve conditions of detention in general, the Committee against Torture was concerned about reports that overcrowding, poor material conditions and staff shortages remained problems in many places of detention. It was also concerned about reports that, in a number of places of deprivation of liberty, health-care services, in particular mental health services, remained inadequate.³¹ The same Committee stated that New Zealand should continue its efforts to improve conditions of detention in all places of deprivation of liberty and alleviate the overcrowding of penitentiary institutions and other detention facilities, including through the application of non-custodial measures.³²

24. The same Committee also indicated that New Zealand should ensure that solitary confinement was used only in exceptional cases, as a last resort, for as short a time as possible, subject to independent review and pursuant to authorization by a competent authority.³³

3. Human rights and counter-terrorism

25. The Committee against Torture was concerned that counter-terrorism legislation, in particular the Counter-Terrorism Legislation Act 2021, policies and practices still provided for excessive restrictions on the rights of persons suspected or accused of involvement in terrorist acts, including the rights to due process and a fair trial and the right to liberty and security of person.³⁴ The Committee stated that New Zealand should consider reviewing its interpretation of the definitions of “terrorism” and “terrorist act” contained in its domestic legislation to ensure that its counter-terrorism and national security legislation, policies and practices were fully in line with the Convention against Torture and that adequate and effective legal safeguards were in place.³⁵

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

26. While noting the numerous strategies, programmes and initiatives to reduce the disproportionately high number of Māori in the prison system and to improve their conditions of detention, the Committee against Torture was concerned that Māori, including women and young people, continued to be disproportionately affected by incarceration, reportedly representing about 50 per cent of the total prison population, while constituting 17 per cent of the total population of New Zealand.³⁶

27. The same Committee stated that New Zealand should increase its efforts to reduce the disproportionately high number of Māori in prison and to reduce recidivism, including by identifying its underlying causes, by revising regulations and policies leading to the high rates of incarceration of Māori and by enhancing the use of non-custodial measures and diversion programmes. The country should give due consideration to the recommendations contained in the Waitangi Tribunal report, entitled “Tū mai te Rangī!”, which were aimed at addressing the disparity in reoffending rates between Māori and non-Māori.³⁷ The Committee on the Rights of the Child recommended that New Zealand develop an effective action plan aimed at eliminating the disparity in the rates of sentencing, incarceration and survival in detention of Māori children.³⁸

28. The Committee on the Rights of Persons with Disabilities recommended that New Zealand develop a disability justice strategy to address the overrepresentation of persons with disabilities in the care and protection, youth justice and prison populations, establish and adequately resource the provision of free independent advocacy and increase resources for community legal advice services.³⁹

29. In follow-up to its recommendation to establish a royal commission of inquiry to engage in a wide-ranging evaluation of the drawbacks for women, the obstruction of justice for women and the hindrances to the safety of women inherent in the family court system,⁴⁰ the Committee on the Elimination of Discrimination against Women took note of the action taken but regretted that New Zealand had decided to appoint a panel rather than to establish a royal commission of inquiry to adequately address the root causes of the systemic lack of trust and insensitivity towards women who were victims of domestic violence.⁴¹

30. The same Committee requested that New Zealand indicate the measures taken to increase the availability of free legal aid for women, in particular Māori and migrant women and women belonging to ethnic minority groups, including in the civil and family courts.⁴²

31. The Committee against Torture remained concerned about the very low age of criminal responsibility, which was set at 10 years.⁴³ The Committee on the Rights of the Child recommended that New Zealand raise the minimum age of criminal responsibility to 14 years for all children, regardless of the offence.⁴⁴ The Committee against Torture recommended that New Zealand immediately end the practice of solitary confinement for children in detention, including informal solitary confinement.⁴⁵

5. Prohibition of all forms of slavery, including trafficking in persons

32. The Committee against Torture stated that trafficking in persons remained a significant matter of concern, as New Zealand reportedly continued to be a destination country for women, men and children trafficked from abroad for the purposes of forced labour and sexual exploitation.⁴⁶ The Committee stated that New Zealand should strengthen its efforts to combat trafficking in persons and, in that respect, should ensure the effective implementation of existing legislation and promptly, thoroughly and effectively investigate, prosecute and punish, with appropriate penalties, trafficking in persons and related practices.⁴⁷

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

33. The Committee on the Rights of Persons with Disabilities expressed concern about the continued low rate, compared with the general population, of labour force participation and the low rate of employment of persons with disabilities in the open labour market.⁴⁸

34. The Committee on the Rights of the Child recommend that New Zealand promote the acquisition of competencies and skills by children and young people with disabilities in order to enhance their work opportunities, including by taking concrete action to address the reasons behind their non-completion of schooling.⁴⁹

7. Right to an adequate standard of living

35. The Committee on the Rights of the Child welcomed the wide-ranging measures introduced to reduce child poverty but was seriously concerned that a significant proportion of children lived in poverty and experienced food insecurity and severe housing deprivation, including homelessness, insecurity of tenure and overcrowding, resulting in poor health and education outcomes.⁵⁰ The same Committee recommended that New Zealand ensure that measures taken to end child poverty were linked to expected time frames, were allocated adequate resources and were assessed, specifically prioritizing groups disproportionately affected by poverty, including Māori children, Pasifika children and children with disabilities, and specifically addressed the impact of severe housing deprivation on the health and well-being of children.⁵¹

36. The Committee on the Rights of Persons with Disabilities was concerned about the disproportionate levels of poverty among persons with disabilities, who were twice as likely to live in poverty than the general population, and among Māori persons with disabilities, who were three times as likely to live in poverty.⁵² The same Committee recommended that New Zealand expedite implementation of the recommendations of a report by the Welfare Expert Advisory Group to address the inequity and complexity of the social security system for persons with disabilities.⁵³ The Committee on the Rights of the Child recommended that New Zealand take measures to reduce poverty among families of children with disabilities, including by strengthening the community-based support and care services provided to those children and their families.⁵⁴

37. The Special Rapporteur on adequate housing underscored that the housing crisis confronting New Zealand was a human rights crisis that must be addressed urgently. There was a persistent lack of affordable housing, and consecutive Governments had failed to ensure that the housing market met the needs of the entire population, in particular those who had low incomes.⁵⁵

38. The Special Rapporteur on adequate housing stated that Māori suffered some of the worst housing outcomes in the country. Māori were disproportionately represented among homeless populations and had a lower median weekly income.⁵⁶

39. While welcoming the Government's efforts to prevent and reduce homelessness, the Special Rapporteur on adequate housing recommended that New Zealand develop and implement a comprehensive human rights-based housing strategy based on the right to adequate housing, ensure that national law provided for a complete prohibition of any eviction that might result in homelessness and increase efforts to provide alternative housing schemes for low-income and vulnerable groups. That must also include targeted funding, financing and capacity-building for iwi and Māori housing providers.⁵⁷

40. The Independent Expert on older persons stated that, owing to the ongoing changes in tenure patterns, the number of older persons facing material and economic hardship and poverty would increase, and many of them would live in rented housing. She encouraged the Government to start to reinvest in affordable housing to address the growing housing needs of older persons.⁵⁸

8. Right to health

41. The Committee against Torture welcomed the adoption, in 2020, of the Abortion Legislation Act, which decriminalized abortion and allowed women to seek an abortion without restrictions within the first 20 weeks of pregnancy.⁵⁹

42. The Committee on the Rights of Persons with Disabilities welcomed the commitment of New Zealand to repealing the Mental Health (Compulsory Assessment and Treatment) Act 1992 but was concerned that new mental health legislation might still allow for involuntary detention and compulsory treatment.⁶⁰ It recommended that new mental health legislation embed the Convention on the Rights of Persons with Disabilities principles and standards to ensure that there were no provisions that allowed for deprivation of liberty on the basis of impairment or that allowed for compulsory treatment.⁶¹

43. The same Committee recommended that monitoring and review mechanisms for the End of Life Choice Act 2019 provide publicly available information on the impact on persons with disabilities, including the effectiveness of safeguards to counteract negative perceptions held by medical professionals and to prevent coercion in decision-making.⁶²

44. The Independent Expert on older persons recommended establishing a strategic policy on Alzheimer's disease and other cognitive, mental and chronic health conditions, such as depression and Parkinson's disease.⁶³

45. The Independent Expert on older persons expressed concern that especially Māori, but also Pasifika persons, had shorter life expectancies and higher disability rates in general and urged the Government to intensify its efforts to address what seemed to be structural biases in and beyond the health-care system and to ensure that the needs of Māori and Pasifika persons, as well as persons belonging to other groups, including migrants and refugees, were adequately integrated into health and care policies.⁶⁴

46. Expressing concern that the suicide rates for Māori and Pasifika children and young people (aged 10–24) had consistently remained higher than for other groups and that males were disproportionately affected, the Committee on the Rights of the Child recommended that New Zealand integrate into its Suicide Prevention Strategy (2019–2029) and Suicide Prevention Action Plan (2019–2024) specific measures targeting Māori, Pasifika children and boys and ensure that they address interconnected root causes.⁶⁵

47. The same Committee recommend that New Zealand address the persistently high rate of teenage pregnancy and the increasing rates of sexually transmitted diseases, including through ensuring that all girls and boys, prioritizing Māori adolescents, those who were out of school and those in rural areas, received confidential and child-friendly sexual and reproductive health information and services.⁶⁶

9. Right to education

48. The Committee on the Rights of the Child welcomed the consultative efforts with children in the reform of the education system, including in processes to adopt the Education and Training Act 2020.⁶⁷ The same Committee recommended that New Zealand explicitly incorporate the right to inclusive education into education legislation and policy, address the racism, discrimination, stigma and bias experienced by Māori and Pasifika children in school and take targeted measures to reduce the bullying of students, prioritizing students with disabilities and lesbian, gay, bisexual, transgender and intersex students.⁶⁸ UNESCO stated that New Zealand should be encouraged to continue efforts to ensure the right to inclusive education, in particular for students with disabilities and students from Indigenous communities.⁶⁹

49. The Committee on the Rights of Persons with Disabilities expressed concern about the increased enrolment of students with disabilities in separate learning environments, such as specialist schools.⁷⁰ The Committee recommended that New Zealand develop an inclusive education strategy that included measures for the devolution of segregated education settings into a mainstream inclusive education system and develop specific culturally appropriate strategies to address the high proportion of Māori children with disabilities in residential specialist schools.⁷¹

50. The Expert Mechanism on the Rights of Indigenous Peoples advised New Zealand and/or Māori to help Māori to establish and control their own education systems and institutions, including at the preschool and university levels, which provided education in Māori and in a manner appropriate to their cultural methods of teaching and learning, and ensure that Māori, in particular Māori children, including those living outside their communities and in urban areas, had access, where possible, to an education in their own culture and provided in their own language.⁷²

10. Development, the environment, and business and human rights

51. The Committee on the Rights of the Child recommended that, in line with the relevant commitments made during the third cycle of the universal periodic review,⁷³ New Zealand develop and implement a national action plan on business and human rights, in addition to the responsible business conduct strategy.⁷⁴

B. Rights of specific persons or groups

1. Women

52. While noting the various measures taken to address gender-based violence, the Committee against Torture remained seriously concerned about the persistently high level of violence against women and girls, including family violence and sexual violence, which disproportionately affected Māori women, women belonging to ethnic minority groups and women with disabilities and had significantly increased during the coronavirus disease (COVID-19) pandemic.⁷⁵

53. The same Committee stated that New Zealand should redouble its efforts to combat all forms of violence against women, including by adopting comprehensive legislation criminalizing all forms of gender-based violence and ensuring that all cases of gender-based violence were thoroughly investigated, that the alleged perpetrators were prosecuted and, if convicted, punished appropriately and that the victims received redress.⁷⁶

2. Children

54. While noting that the 2018 amendment to the Marriage Act 1955 required judicial approval for the legal recognition of a marriage involving a 16- or 17-year-old child, the Committee on the Rights of the Child recommended that New Zealand eliminate any exception to the minimum age for marriage of 18 for girls and boys.⁷⁷ The same Committee also recommended strengthening measures to raise awareness of the harmful effects of child marriage on the physical well-being and mental health of girls.⁷⁸

55. While noting efforts to improve the situation of children in alternative care, the same Committee remained seriously concerned about the persistent overrepresentation of Māori children in State care, including the high number of infants taken into State custody, the disproportionate number of incidents of harm experienced by such children and allegations that children in secure residential care facilities were often denied the opportunity to have their opinions heard in decisions about their placement.⁷⁹

56. The same Committee urged New Zealand to strongly invest in measures developed and implemented by Māori children and communities to prevent the placement of Māori children in out-of-home care, limit removal, when it was deemed necessary, to the shortest time possible, provide them with adequate support while in alternative care and to reduce the number of children removed from their family environment by providing appropriate assistance and support services to parents and caregivers in the performance of child-rearing responsibilities.⁸⁰

3. Older persons

57. The Independent Expert on older persons welcomed the adoption of the new comprehensive strategy entitled “Better Later Life – He Oranga Kaumātua 2019 to 2034”, which was guided by the principles of the Treaty of Waitangi, the founding document of New Zealand.⁸¹

58. The Independent Expert noted that the continued prevalence of abuse of older persons indicated that normative action was not enough and that further measures and mechanisms were required to detect, report and prevent all forms of abuse of older persons in all care settings, including institutional and domestic settings.⁸²

59. The Independent Expert stated that, as the ageing of the population gathered pace, there would be an ever-growing proportion of older persons in need of long-term care and indicated that, unless the Government adopted substantial measures, a significant lack of long-term care professionals would arise.⁸³

4. Persons with disabilities

60. The Committee on the Rights of Persons with Disabilities and the Committee against Torture welcomed the establishment, in 2022, of Whaikaha – Ministry of Disabled People.⁸⁴

61. The same Committee was concerned about the slow progress in implementing the Building Act 2004, which had prolonged the inaccessibility of public buildings, the lack of affordable and accessible housing and the modest target of 15 per cent accessibility for new-build public housing.⁸⁵ It recommended that New Zealand expedite the implementation of the Building Act 2004, commit to targets and time frames for implementation measures, adopt the principle of universal design and commit to a target of 100 per cent accessibility for any newly built public housing.⁸⁶

62. The same Committee recommended that New Zealand immediately place a moratorium on sterilization, contraception and abortion procedures performed without personal consent, take urgent action to adopt uniform legislation prohibiting such procedures on women and girls with disabilities and ensure that people with fetal alcohol syndrome disorder, chronic fatigue syndrome and other chronic and rare conditions had access to the disability support system.⁸⁷

5. Indigenous Peoples and minorities

63. The Expert Mechanism on the Rights of Indigenous Peoples advised the State and/or Māori to ensure that the future plan of action on the United Nations Declaration on the Rights of Indigenous Peoples made explicit reference to the Declaration and the relevant articles thereof, ensure respect for the self-determination of Māori in the process of developing a national plan of action, including through their full participation, and ensure that the priorities established in the plan were priorities for Māori as much as for the Government.⁸⁸

64. The Committee on the Rights of the Child was deeply concerned about the inequitable survival and development outcomes for Māori children, including the disproportionate mortality rate among Māori infants, the suicide rate among Māori young people and the

overrepresentation of Māori children among victims of homicide, family violence, child abuse and neglect.⁸⁹

65. The same Committee urged New Zealand to systematically assess the impact of policies, legislation and government services in addressing the root causes of the vulnerability experienced by Māori children and their families and to finalize the national action plan against racism and the action plan on the United Nations Declaration on the Rights of Indigenous Peoples and include Māori children in developing them.⁹⁰

6. Lesbian, gay, bisexual, transgender and intersex persons

66. The Committee against Torture stated that New Zealand should consider adopting legislative provisions that explicitly prohibited the performance of non-urgent and non-essential medical or surgical treatment on intersex children before they were of sufficient age or maturity to make their own decisions and provide their free, prior and informed consent.⁹¹ The Committee on the Rights of the Child recommended that New Zealand finalize the guidelines and protocol being developed by the Intersex Working Group, ensuring that it set out guarantees for the mental and bodily integrity, autonomy and self-determination of intersex children.⁹²

7. Migrants, refugees and asylum-seekers

67. UNHCR stated that New Zealand traditionally maintained a positive refugee protection environment and that it had made positive developments in expanding opportunities for resettlement and complementary pathways in the previous few years.⁹³ New Zealand did not have a mandatory detention policy, but the Immigration Act 2009 allowed for the detention of asylum-seekers (both on arrival at the border and if liable to deportation).⁹⁴

68. UNHCR indicated that the Immigration (Mass Arrivals) Amendment Bill had been introduced into Parliament in 2023. Of primary concern were the amendments that would enable a member of a mass arrival group to be detained until an application for a mass arrival warrant had been determined.⁹⁵ The Committee against Torture was concerned that the Bill would allow for the detention of large groups of asylum-seekers arriving in New Zealand by sea for up to 28 days (up from 4 days under the current legislation) without a warrant and six months with a warrant and about reports that the Bill would prevent asylum-seekers from obtaining the entry permissions or temporary visas conferred on other travellers to New Zealand.⁹⁶

69. UNHCR recommended that New Zealand reconsider the measures contained in the Immigration (Mass Arrivals) Amendment Bill insofar as they related to the increased permissible period of detention without warrant for asylum-seekers arriving as part of a mass arrival group.⁹⁷ The Committee against Torture recommended that New Zealand ensure that detention was applied only as a last resort, when determined to be strictly necessary and proportionate in the light of the individual's circumstances and for as short a period as possible.⁹⁸

70. UNHCR noted that "derivative" refugee status was not recognized under the laws and policies of New Zealand and that every person in the family unit (including each child) was required to lodge a separate claim for asylum.⁹⁹ UNHCR recommended that New Zealand establish derivative status in law and policy, fully respect the principle of family unity and apply that principle consistently throughout the refugee procedure.¹⁰⁰ The Committee on the Rights of the Child recommended that New Zealand preserve the right of asylum-seeking, refugee and migrant children to family unity and improve case management frameworks.¹⁰¹

71. The Committee on the Rights of Persons with Disabilities recommended that New Zealand repeal section 392 (2) and (3) of the Immigration Act 2009, which prohibited the lodging of immigration-related complaints to the New Zealand Human Rights Commission.¹⁰²

8. Stateless persons

72. UNHCR noted that the absence of a statelessness determination procedure to verify identity or nationality could, among other things, lead to prolonged detention because statelessness, by its very nature, severely restricted access to basic identity and travel documents. UNHCR recommended that New Zealand establish a statelessness determination procedure in national legislation to better identify and protect stateless individuals and consider strengthening existing statutory pathways for stateless persons to acquire New Zealand nationality to avoid unnecessary delays.¹⁰³

Notes

- ¹ [A/HRC/41/4](#), [A/HRC/41/4/Add.1](#) and [A/HRC/41/2](#).
- ² [CAT/C/NZL/CO/7](#), para. 4 (a); and [CRC/C/NZL/CO/6](#), para. 3.
- ³ [CRC/C/NZL/CO/6](#), para. 46. See also [A/HRC/45/14/Add.2](#), para. 88; [A/HRC/47/43/Add.1](#), para. 85 (h); and UNHCR submission for the universal periodic review of New Zealand, p. 3.
- ⁴ UNHCR submission, p. 4.
- ⁵ See <https://www.ohchr.org/en/hr-bodies/upr/upr-implementation>.
- ⁶ OHCHR, *United Nations Human Rights Report 2018*, pp. 72, 76, 78, 86, 96 and 155; *United Nations Human Rights Report 2019*, pp. 86, 90, 92, 100, 109 and 171; *United Nations Human Rights Report 2020*, pp. 104, 107, 108, 120 and 191; *United Nations Human Rights Report 2021*, pp. 110, 113, 114, 480 and 493; and *United Nations Human Rights Report 2022*, pp. 94, 97, 98, 115, 425, 437 and 479.
- ⁷ [CAT/C/NZL/CO/7](#), para. 52.
- ⁸ *Ibid.*, para. 9.
- ⁹ UNESCO submission for the universal periodic review of New Zealand, p. 2.
- ¹⁰ *Ibid.*, p. 6.
- ¹¹ Advisory note of the Expert Mechanism on the Rights of Indigenous Peoples on its mission to New Zealand from 8 to 13 April 2019, available at <https://www.ohchr.org/en/hrc-subsiidiaries/expert-mechanism-on-indigenous-peoples/country-engagement>.
- ¹² *Ibid.*
- ¹³ [A/HRC/47/43/Add.1](#), para. 17.
- ¹⁴ *Ibid.*, para. 85 (a). See also [A/HRC/47/43/Add.2](#).
- ¹⁵ [CRPD/C/NZL/CO/2-3](#), para. 8 (c).
- ¹⁶ [A/HRC/47/43/Add.1](#), para. 85 (g).
- ¹⁷ [CAT/C/NZL/CO/7](#), para. 36 (a).
- ¹⁸ *Ibid.*, para. 6 (b).
- ¹⁹ [CRC/C/NZL/CO/6](#), para. 49.
- ²⁰ [CRPD/C/NZL/CO/2-3](#), para. 8 (a).
- ²¹ [A/HRC/45/14/Add.2](#), para. 22. See also [A/HRC/45/14/Add.4](#).
- ²² [A/HRC/45/14/Add.2](#), paras. 93 and 94. See also [A/HRC/45/14/Add.4](#).
- ²³ [CRC/C/NZL/CO/6](#), para. 15.
- ²⁴ [CAT/C/NZL/CO/7](#), paras. 12 and 13.
- ²⁵ See [CAT/C/68/D/852/2017](#) and [CAT/C/73/D/934/2019](#).
- ²⁶ [CAT/C/NZL/CO/7](#), para. 48.
- ²⁷ [CRC/C/NZL/CO/6](#), para. 23.
- ²⁸ *Ibid.*, para. 24 (b). See also [CAT/C/NZL/CO/7](#), para. 20 (e).
- ²⁹ [CRPD/C/NZL/CO/2-3](#), para. 32.
- ³⁰ [CAT/C/NZL/CO/7](#), para. 42 (d) and (e).
- ³¹ *Ibid.*, para. 27.
- ³² *Ibid.*, para. 28 (a).
- ³³ *Ibid.*, para. 28 (g). See also [CRPD/C/NZL/CO/2-3](#), para. 30.
- ³⁴ [CAT/C/NZL/CO/7](#), para. 17.
- ³⁵ *Ibid.*, para. 18.
- ³⁶ *Ibid.*, para. 31.
- ³⁷ *Ibid.*, para. 32.
- ³⁸ [CRC/C/NZL/CO/6](#), para. 43 (e).
- ³⁹ [CRPD/C/NZL/CO/2-3](#), para. 24 (a) and (b).
- ⁴⁰ [CEDAW/C/NZL/CO/8](#), para. 48 (a).
- ⁴¹ See https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCEDAW%2FFUL%2FNZL%2F44529&Lang=en. See also [CEDAW/C/NZL/QPR/9](#), para. 23.
- ⁴² [CEDAW/C/NZL/QPR/9](#), para. 5 (a).
- ⁴³ [CAT/C/NZL/CO/7](#), para. 37 (a). See also [CRC/C/NZL/CO/6](#), para. 42 (a).

- 44 [CRC/C/NZL/CO/6](#), para. 43 (a). See also [CAT/C/NZL/CO/7](#), para. 38 (a).
- 45 [CAT/C/NZL/CO/7](#), para. 38 (h).
- 46 *Ibid.*, para. 21.
- 47 *Ibid.*, para. 22.
- 48 [CRPD/C/NZL/CO/2-3](#), para. 51 (a).
- 49 [CRC/C/NZL/CO/6](#), para. 31 (c).
- 50 *Ibid.*, para. 35.
- 51 *Ibid.*, para. 36 (a) and (c).
- 52 [CRPD/C/NZL/CO/2-3](#), para. 53 (a).
- 53 *Ibid.*, para. 54 (a).
- 54 [CRC/C/NZL/CO/6](#), para. 31 (a).
- 55 See [A/HRC/47/43/Add.1](#). See also [A/HRC/47/43/Add.2](#).
- 56 [A/HRC/47/43/Add.1](#), para. 62. See also [A/HRC/47/43/Add.2](#).
- 57 [A/HRC/47/43/Add.1](#), para. 85 (b), (d) and (p). See also [A/HRC/47/43/Add.2](#).
- 58 [A/HRC/45/14/Add.2](#), para. 101. See also [A/HRC/45/14/Add.4](#).
- 59 [CAT/C/NZL/CO/7](#), para. 5 (a).
- 60 [CRPD/C/NZL/CO/2-3](#), para. 25.
- 61 *Ibid.*, para. 26.
- 62 *Ibid.*, para. 18.
- 63 [A/HRC/45/14/Add.2](#), para. 110. See also [A/HRC/45/14/Add.4](#).
- 64 [A/HRC/45/14/Add.2](#), para. 108. See also [A/HRC/45/14/Add.4](#).
- 65 [CRC/C/NZL/CO/6](#), para. 18.
- 66 *Ibid.*, para. 33 (b).
- 67 *Ibid.*, para. 37.
- 68 *Ibid.*, para. 37 (b)–(d).
- 69 UNESCO submission, p. 6.
- 70 [CRPD/C/NZL/CO/2-3](#), para. 47 (a).
- 71 *Ibid.*, para. 48 (a) and (c).
- 72 Advisory note of the Expert Mechanism on the Rights of Indigenous Peoples.
- 73 For the relevant recommendation, see [A/HRC/41/4](#), para. 122.57 (Thailand).
- 74 [CRC/C/NZL/CO/6](#), para. 13 (b).
- 75 [CAT/C/NZL/CO/7](#), para. 19 (a).
- 76 *Ibid.*, para. 20 (a).
- 77 [CRC/C/NZL/CO/6](#), para. 14.
- 78 *Ibid.*, para. 25 (a).
- 79 *Ibid.*, para. 27 (a) and (b).
- 80 *Ibid.*, para. 28 (a) and (b).
- 81 [A/HRC/45/14/Add.2](#), para. 84. See also [A/HRC/45/14/Add.4](#).
- 82 [A/HRC/45/14/Add.2](#), para. 96. See also [A/HRC/45/14/Add.4](#).
- 83 [A/HRC/45/14/Add.2](#), para. 107. See also [A/HRC/45/14/Add.4](#).
- 84 [CRPD/C/NZL/CO/2-3](#), para. 4 (b); and [CAT/C/NZL/CO/7](#), para. 6 (a).
- 85 [CRPD/C/NZL/CO/2-3](#), para. 15 (a) and (c).
- 86 *Ibid.*, para. 16 (a) and (c).
- 87 [CRPD/C/NZL/CO/2-3](#), paras. 36 and 54 (c). See also [CRC/C/NZL/CO/6](#), para. 31 (d).
- 88 Advisory note of the Expert Mechanism on the Rights of Indigenous Peoples.
- 89 [CRC/C/NZL/CO/6](#), para. 39.
- 90 *Ibid.*, para. 40 (a) and (c).
- 91 [CAT/C/NZL/CO/7](#), para. 54 (b). See also [CRPD/C/NZL/CO/2-3](#), para. 36 (b).
- 92 [CRC/C/NZL/CO/6](#), para. 25 (b).
- 93 UNHCR submission, p. 1.
- 94 *Ibid.*, p. 2.
- 95 *Ibid.*, p. 3.
- 96 [CAT/C/NZL/CO/7](#), para. 39.
- 97 UNHCR submission, p. 3.
- 98 [CAT/C/NZL/CO/7](#), para. 40 (b).
- 99 UNHCR submission, p. 5.
- 100 *Ibid.*, p. 6.
- 101 [CRC/C/NZL/CO/6](#), para. 38.
- 102 [CRPD/C/NZL/CO/2-3](#), para. 38 (c).
- 103 UNHCR submission, p. 4.