

**Universal Periodic Review of New Zealand
18th session of the Working Group on the UPR, January 2014**

Joint NGO submission

Indigenous Peoples' Rights and the Treaty of Waitangi

Submitted by:



Aotearoa Indigenous Rights Trust

and



Peace Movement Aotearoa

Jointly submitted by: Auckland Catholic Diocese Bicultural Working Party, Corso Aotearoa New Zealand Inc, Disabled Persons Assembly NZ Inc, Network Waitangi Otautahi, Ngati Huarere ki Whangapoua Trust, Pax Christi Aotearoa New Zealand*, Pacific Centre for Participatory Democracy, Poutama First Nation Iwi and Nga Hapu o Poutama, Quaker Treaty Relationships Group*, Tamaki Treaty Workers, Tauwi Solutions, Te Runanga o Nga Kaimahi Maori o Aotearoa (New Zealand Council of Trade Unions Runanga)*, Te Runanga o te Whanau, Wellington Treaty Educators Network, and Women's International League for Peace and Freedom Aotearoa*.

Supported by: Action for Children and Youth Aotearoa, Auckland Anglican Social Justice Council, Christian World Service*, Freedom Roadworks, Human Rights Foundation, Interchurch Northland Urban Rural Mission Inc, and Network Waitangi Whangarei.

* Indicates national sections of, or organisations otherwise affiliated to, international NGOs with ECOSOC Consultative Status.

Information about submitting and supporting organisations is attached in Annex A.

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Joint NGO submission: Indigenous Peoples' Rights and the Treaty of Waitangi

Executive Summary

1. This submission provides information about the New Zealand (NZ) government's approach to indigenous peoples' rights and the Treaty of Waitangi. It is submitted jointly by the Aotearoa Indigenous Rights Trust and Peace Movement Aotearoa, fifteen other organisations, and is supported by seven other organisations¹.

2. Our comments are based on referenced NGO reports submitted to UN treaty monitoring bodies², and are focused on the rights contained in particular in three of the international instruments that NZ is a state party to: the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR); as well as the United Nations Declaration on the Rights of Indigenous Peoples (the UN Declaration). We also refer to some recommendations made during NZ's first Universal Periodic Review (UPR)³.

3. Reference is made throughout to the Treaty of Waitangi (the Treaty)⁴ - based on the internationally recognised 1835 Declaration of Independence, and signed by representatives of the British Crown and Maori in 1840 - whereby the continuance of tino rangatiratanga (sovereignty or independence) was guaranteed to hapu and iwi Maori (the indigenous peoples of Aotearoa NZ). This can be seen as somewhat analogous to the right of self-determination of all peoples as articulated in the shared Article 1 of the ICCPR and ICESCR, and in the UN Declaration, and in that sense NZ's approach to the Treaty clearly falls within the scope of the state party's obligations under those instruments, and others.

4. This submission is based on the layout of the OHCHR UPR stakeholders' compilation document, and has seven main sections:

A) Background and Framework - focuses on the scope of NZ's international obligations and the constitutional and legislative framework; and covers the lack of protection from violations of the Treaty and human rights arising from legislation, and government policy and practice, due to NZ's constitutional arrangements. While this lack of protection applies to everyone, it is a particular concern for hapu and iwi as minorities within a majoritarian political system;

B) Cooperation with human rights mechanisms - highlights the lack of implementation and follow-up of treaty monitoring bodies' and Human Rights Council Special Procedures' recommendations;

C) Implementation of international human rights obligations:

1) The right of self-determination - outlines NZ's failure to recognise this right with respect to hapu and iwi. This is not only problematic in itself, but is also the underlying foundation from which other human rights violations arise;

2) The right to free, prior and informed consent - provides two examples of NZ's failure to respect this right - by granting permits to extractive industries, and partially privatising state-owned energy companies, without the free, prior and informed consent of hapu and iwi;

3) Equality and non-discrimination - outlines concerns about the foreshore and seabed legislation, and comments on NZ's approach to structural discrimination;

4) Human rights and counter-terrorism - provides an example of racially discriminatory treatment of Maori communities in the name of counter-terrorism; and

5) Some other Treaty and indigenous peoples' rights issues - outlines concerns about the process of settlement of historical Treaty breaches, and local authorities' statutory obligations; and comments on the World Conference on Indigenous Peoples.

5. We appreciate this opportunity to contribute to the UPR process, and thank you for your attention to our comments. For any clarification of the points below, or further information, please contact Aotearoa Indigenous Rights Trust, aotearoaindigenoustrust@gmail.com and Peace Movement Aotearoa, pma@xtra.co.nz

A) Background and Framework

6. Since NZ's first UPR, there has been a steady and accelerating erosion of government respect for, and protection of, the full range of civil, political, economic, social and cultural rights: examples of which have been provided in other NGO submissions. The rising levels of poverty and socio-economic inequality; dismantling of social welfare; increase in low-wage and part-time employment, and the weakening of workers' rights; as well as cuts in the provision of health, education and housing services and legal aid, have had a particularly negative impact on Maori individuals, families and communities. While these are serious cause for concern, such matters are not detailed in this submission, which is mainly focussed on NZ's international obligations in relation to the collective rights of Maori in the constitutional, legal and political framework.

1) The scope of NZ's international obligations

7. NZ's international obligations with regard to Maori begin with the 1835 Declaration of Independence and the Treaty, which guaranteed the continuance of tino rangatiratanga (sovereignty or independence), and is somewhat analogous to the right of self-determination of all peoples as articulated in the shared Article 1 of the ICCPR and ICESCR, and the UN Declaration. States' obligations with regard to indigenous peoples' rights have also been clarified by, for example, the Committee on the Elimination of Racial Discrimination (CERD) in General Recommendation 23⁵ and the Committee on Economic, Social and Cultural Rights (CESCR) in General Comment 21⁶. CERD, the CESCR, the Human Rights Committee, the Special Rapporteur on the Rights of Indigenous Peoples (the Special Rapporteur)⁷, and other human rights mechanisms⁸ have all expressed concern about NZ's failure to fully meet its international human rights obligations with regard to the collective and individual rights of Maori.

• **Recommendation:** *that New Zealand puts in place mechanisms - developed through a process of negotiation with hapu and iwi, and Maori civil society organisations - to ensure all of its international obligations with regard to the collective and individual human rights of Maori are met.*

8. NZ has not ratified the Optional Protocols providing a complaints mechanism for three of the instruments it is a state party to⁹, nor has it made an Article 14 declaration under ICERD.

• **Recommendation:** *that New Zealand takes immediate steps to ratify the Optional Protocols that provide a complaints mechanism to the ICESCR, CRPD and CRC; to make an Article 14 declaration under ICERD, and to ratify the two core human rights treaties¹⁰ and ILO Conventions¹¹ it is not yet a state party to.*

2) The constitutional and legislative framework

9. NZ's ability to protect the human rights of Maori, and others, is seriously hampered by its constitutional structure¹². There is no provision for the continuance of tino rangatiratanga as guaranteed in the Treaty, nor even for any power sharing among the parties to the Treaty; rather the constitutional arrangements emanate from a historically imposed Westminster system based on majority rule.

10. NZ operates under the most fundamental version of Parliamentary sovereignty compared to all other Commonwealth countries, even that of the United Kingdom (which is constrained by the European Convention on Human Rights and other obligations). For example, the legislature is not legally bound to comply with domestic human rights law, nor with international instruments - a situation described by NZ thus: "*As Parliament is supreme, the Bill of Rights Act, other human rights instruments and the Courts cannot directly limit Parliament's legislative powers.*"¹³

11. The NZ Bill of Rights Act 1990 and the Human Rights Act 1993 are not enforceable against the legislature meaning parliament can pass legislation that is racially discriminatory, as for example, the 2004 and 2011 foreshore and seabed legislation; is discriminatory on other grounds; or that violates other human rights. If legislation is found to breach either Act, the only remedy is a 'declaration of inconsistency' - there is no requirement for NZ to modify or repeal legislation that is discriminatory or that breaches human rights in other ways.

12. This highly irregular situation, of a state deciding that politicians are best placed to decide whether or not human rights obligations will be met, is not only a breach of the requirements on state parties to the international instruments to protect human rights and to provide effective remedies for any violations, but while it continues, is also a breach of the obligation to take measures to prevent a recurrence of any human rights violation. The Human Rights Committee most recently reiterated concern about this state of affairs in 2010:

*The Committee also remains concerned that the Bill of Rights does not take precedence over ordinary law, despite the 2002 recommendation of the Committee in this regard. Furthermore, it remains concerned that laws adversely affecting the protection of human rights have been enacted in the State party, notwithstanding that they have been acknowledged by the Attorney-General as being inconsistent with the BORA. (Art. 2). The State party should enact legislation giving full effect to all Covenant rights and provide victims with access to effective remedies within the domestic legal system. It should also strengthen the current mechanisms to ensure compatibility of domestic law with the Covenant.*¹⁴

13. The Treaty is not legally enforceable against the legislature either, and requires legislative incorporation to be enforced generally. Even where the Treaty is incorporated into legislation, this does not guarantee protection for the rights of Maori - in part because of NZ's tendency to minimise or ignore such provisions for political purposes, and in part because the rights and interests of other New Zealanders are generally given priority over those of Maori. In addition, there are concerns about how local authorities approach their statutory Treaty obligations, as outlined in section C5 below.

14. The Waitangi Tribunal's¹⁵ recommendations are not binding on the Executive or the legislature, and are frequently ignored by NZ. The courts have refused to review the fairness of Treaty settlements between iwi and hapu and the Crown on the basis that they are political matters, and the processes and substance of Treaty settlements, policy and processes cannot be legally challenged.

15. The legislature's omnipotent power is aggravated by the legislature's institutional and political structure. There is only one house and the legislature is dominated by the Executive. Thus there is no effective protection for human rights, nor an effective remedy for any human rights violations, as required by all of the international instruments. While this lack of protection and possibility of remedy applies to everyone, it is a particular concern for hapu and iwi as minorities within a majoritarian political system.

16. In 2010, NZ announced there would be a process of consideration of constitutional issues, and in 2011 appointed a Constitutional Advisory Panel to lead public engagement. However, it is not clear whether this process will effect real change for several reasons, including: the lack of any commitment to follow through on the Panel's recommendations; and the comparatively restricted Terms of Reference, which, among other things, refer only to "*the role of the Treaty of Waitangi within our constitutional arrangements*", rather than to the key issue of developing Treaty-based constitutional arrangements to ensure that the rights of Maori are fully protected. It should be noted that NZ regularly refers to the Treaty of Waitangi as the founding document of the nation, yet there is no reference to the Treaty in the Constitution Act 1986 nor is it a formal part of domestic law, as outlined above, and noted with regret by CERD in 2013¹⁶.

• **Recommendation:** *that New Zealand begins a process of negotiation with hapu and iwi on Treaty-based constitutional arrangements to ensure the full protection of the collective and individual rights of Maori.*

• **Recommendation:** *that New Zealand clearly affirms in domestic law all human rights contained in the instruments it is a state party to; adopts clear government and parliamentary mechanisms for ensuring legislation, policies and regulations are consistent with New Zealand's international human rights obligations; and provides clear domestic remedies for all human rights violations.*

B) Cooperation with human rights mechanisms

17. While NZ is generally cooperative with international human rights mechanisms, to the extent that it engages in regular reporting to the treaty monitoring bodies and is open to Human Rights Council Special Procedures, there is rarely discussion of the recommendations of such bodies in parliament, there is no coherent approach to implementing those recommendations, and indeed, it is often difficult for civil society organisations to ascertain which government department is responsible for the rights elaborated in any particular human rights instrument.

• **Recommendation:** *that New Zealand ensures reports from all international human rights bodies and mechanisms, and government responses to them, are discussed in parliament; establishes a cross-party Parliamentary Select Committee to consider such reports and responses; and establishes a clear governmental mechanism for monitoring protection and implementation of the human rights elaborated in the international instruments it is a state party to.*

C) Implementation of international human rights obligations

1) The right of self-determination

18. NZ's failure to respect the right of self-determination in relation to hapu and iwi remains a constant concern. Generally, NZ's position on the UN Declaration illustrates its approach to the right of self-determination. NZ voted against the UN Declaration when it was adopted by the General Assembly in 2007, and although it did announce partial support for the UN Declaration in 2010, this was qualified by the statement that its engagement would be defined by the bounds of

NZ's legal and constitutional frameworks.¹⁷ As outlined above, those frameworks clearly do not allow for the full expression of the collective or individual rights of Maori.

19. NZ's failure to respect the right of self-determination is not only problematic in and of itself, but is also the underlying foundation from which other violations of the human rights of Maori arise. These include, but are not limited to: the right to freedom from racial discrimination; the right to free, prior and informed consent; the right to enjoy their own culture and to take part in cultural life; access to, and protection of, the law; to own property alone, and in association with others, and not be arbitrarily deprived of it; and the full range of economic and social rights.

20. There is a clear link between the denial of the right of self-determination, both historically and in the present day, and the extreme disadvantage in the social and economic conditions of Maori in comparison to the rest of NZ society, aspects of which have been raised by all of the treaty monitoring bodies that have considered NZ¹⁸ and the UN Special Rapporteur in 2006 and 2011¹⁹. If hapu and iwi had been in a position to freely determine their political status and to freely pursue their economic, social and cultural development since 1840 as specified in Article 1 of the ICCPR and ICESCR, as well as the UN Declaration, and to exercise tino rangatiratanga without interruption as guaranteed in the Treaty, then the situation would be very different today. Furthermore, the effects of the denial of the right of self-determination is clearly evident in the issues currently facing hapu and iwi, some of which are outlined below.

Recommendation: *that New Zealand establishes mechanisms to ensure that all legislation, policy and practices are consistent with the right of self-determination and the other rights of indigenous peoples articulated in international human rights instruments.*

2) The right to free, prior and informed consent

21. This section provides two examples of NZ's failure to respect the right to free, prior and informed consent.

22. Exploration, mining and drilling permits: Since NZ's first UPR, it has granted exploration, mining and drilling permits to extractive industries - now covering almost all of the country, coastline and surrounding seabed - without the free, prior and informed consent of hapu and iwi, and despite their concerted opposition to this. One example is around NZ awarding Petrobras a five-year exploration permit for oil and gas in the Raukumara Basin (a marine plain that extends 4 to 110 kilometres to the north-northeast of the East Coast of the North Island) in June 2010. The permit included permission for seismic testing and drilling of a deep-sea exploratory well. Local iwi, Te Whanau a Apanui, did not give their consent to the permit being issued, to the seismic survey, or to the drilling of an exploratory well:

*This activity is being permitted in the rohe of Te Whanau a Apanui and Ngati Porou: without our agreement or consent; in the face of strong opposition, contrary to the acknowledged mana of our hapu; contrary to agreements either entered into or being concluded with the Crown; without assurances regarding environmental standards and protection, in breach of the Treaty of Waitangi, and the Declaration of the Rights of Indigenous Peoples; and which detrimentally affects the lives, livelihoods and survival of the communities of Te Whanau a Apanui and Ngati Porou.*²⁰

23. NZ freely admitted that it had neither sought nor obtained the free, prior and informed consent of Te Whanau a Apanui in relation to the Petrobras permit: for example, when the Acting Minister of Energy and Resources was asked in parliament if it had been obtained, she answered "No"²¹. Radio New Zealand reported: *Court documents obtained by Te Manu Korihi show ... the legal team*

for the Minister of Energy and Resources say **there was no obligation to consult** with the iwi about the granting of the permit to the Brazilian company, Petrobras.²² [our emphasis]

24. Te Whanau a Apanui was unsuccessful in legal action seeking a judicial review of the Petrobras permit, which highlights the inability of the constitutional and legal system to protect the rights and interests of hapu and iwi. Although Petrobras withdrew from the Raukumara permit in December 2012, there is no guarantee that it will not be issued to another oil company in future.²³

25. **Partial privatisation of state-owned energy companies:** In early 2012, NZ confirmed it would introduce legislation to remove four state-owned energy companies from the State-Owned Enterprises Act 1986 (SOE Act) in order to partially privatise them. While there was much public opposition to this, Maori were particularly concerned because the SOE Act is one of the few pieces of legislation that has specific Treaty of Waitangi requirements²⁴ and it seemed those requirements would not be included in the proposed legislation.

26. The government then initiated a hasty and inadequate ‘consultation’ process; and while this was underway, the Maori Council (which was in large part responsible for the Treaty provisions in the SOE Act) and ten hapu lodged an urgent application with the Waitangi Tribunal for a hearing into the partial privatisation. In response, the Prime Minister announced that *“the government is going to sell shares in state-owned energy companies regardless of Maori opposition”*.²⁵

27. Despite widespread and ongoing opposition from hapu and iwi; an Interim Direction to the Crown by the Waitangi Tribunal stating *“that the Crown ought not to commence the sale of shares in any of the Mixed Ownership Model companies”*²⁶; and court action by the Maori Council and others, the partial privatisation legislation was enacted²⁷.

28. The Waitangi Tribunal Interim Report, released subsequently, pointed out *“In our view, the recognition of the just rights of Maori in their water bodies can no longer be delayed. The Crown admitted in our hearing that it has known of these claims for many years, and has left them unresolved”*²⁸; and:

*“If the Crown proceeds with its share sale without first creating an agreed mechanism to preserve its ability to recognise Maori rights and remedy their breach, the Crown will be unable to carry out its Treaty duty to actively protect Maori property rights to the fullest extent reasonably practicable. Its ability to remedy well-founded claims will also be compromised.”*²⁹

29. The Waitangi Tribunal recommended that any sale of energy companies be delayed, and *“that the Crown urgently convene a national hui, in conjunction with iwi leaders, the New Zealand Maori Council, and the parties who asserted an interest in this claim, to determine a way forward”*³⁰.

30. The government rejected the Tribunal’s recommendation for a national hui (gathering or meeting). A hui organised by Maori - attended by more than 700 Maori representing hapu and iwi, Maori urban authorities and other Maori organisations - passed a resolution calling on national negotiations to take place before the sale of shares in state-owned power companies.³¹ In response, the Prime Minister said that there would be no national settlement of water rights³², and subsequently commented that *“Maori had more positions on water than Lady Gaga had outfits”*.³³ Trading of shares in Mighty River Power began in May 2013; and shares in another company, Meridian Energy will be sold later this year.

31. The CESCR and CERD have expressed concern about both of the developments outlined above, and called on NZ to:

... ensure that the inalienable rights of Maori to their lands, territories, waters and marine areas and other resources as well as the respect of the free, prior and informed consent of Maori on any decisions affecting their use are firmly incorporated in the State party's legislation and duly implemented.³⁴ ... The Committee recalls its general recommendation No. 23 (1997) and reiterates the importance of securing the free, prior and informed consent of indigenous groups regarding activities affecting their rights to land and resources owned or traditionally used, as recognized in the United Nations' Declaration on the Rights of Indigenous Peoples. It urges the State party to enhance appropriate mechanisms for effective consultation with indigenous people around all policies affecting their ways of living and resources.³⁵ and ... to ensure that any privatisation of energy companies is pursued in a manner that fully respects the rights of Maori communities to freshwater and geothermal resources, as protected by the Treaty of Waitangi.³⁶

• **Recommendation:** *that New Zealand takes immediate action to ensure that the inalienable rights of Maori to their lands, territories, waters and marine areas and other resources, as well as the respect of the free, prior and informed consent of Maori on any decisions affecting their use are incorporated in legislation, policy and practice.*

• **Recommendation:** *that New Zealand halts the sale of state-owned power companies until agreement has been reached with hapu and iwi about how their rights and interests can be fully protected.*

3) Equality and non-discrimination

32. **Foreshore and seabed legislation:** In 2008, NZ announced a Ministerial Review of the Foreshore and Seabed Act 2004 (the 2004 Act). The Review Panel reported back in June 2009 and recommended repeal of the Act, and a longer conversation with Maori to find ways forward that respected the guarantees of the Treaty, domestic human rights legislation and the international human rights instruments. In response, in 2010, the government instead issued a consultation document with proposals for replacement legislation. Despite hapu and iwi representatives clearly rejecting the government's proposals, on the grounds that the replacement legislation was not markedly different from the 2004 Act, the Marine and Coastal Area (Takutai Moana) Bill was introduced in September 2010.

33. The replacement legislation retains most of the discriminatory aspects of the 2004 Act as it treats Maori property differently from that of others, and limits hapu and iwi control and authority over their foreshore and seabed areas. All but one of the submissions from marae, hapu, iwi and other Maori organisations to the Select Committee considering the Bill opposed it: despite this clear opposition, it was enacted in March 2011 (the 2011 Act).³⁷

34. In 2013, CERD stated:

The Committee remains concerned that the Marine and Coastal Areas (Takutai Moana) Act of 2011 contains provisions that, in their operation, may restrict the full enjoyment by Maori communities of their rights under the Treaty of Waitangi, such as the provision requiring proof of exclusive use and occupation of marine and coastal areas without interruption since 1840 (arts. 2 and 5). And ... urged NZ to continue to review the Marine and Coastal Area (Takutai Moana) Act of 2011 with a view to facilitating the full enjoyment of the rights by Maori communities regarding the land and resources they traditionally own or use, and in particular their access to places of cultural and traditional significance.³⁸

35. As CERD identified, one of the provisions of the 2011 Act that restricts the full enjoyment of human rights by Maori communities, is the test of “exclusive use and occupation” of foreshore

areas since 1840 - as many foreshore areas belonging to hapu and iwi were unlawfully taken or confiscated from the mid-nineteenth century until the present day, this provision represents a double injustice for those affected by such actions.

36. Under the 2011 Act, hapu and iwi can apply for recognition of limited 'customary title' or 'customary rights' by either: i) lodging an application directly with the government (with applications accepted at the discretion of the Office of Treaty Settlements, and "*nothing requir[ing] the Crown to enter into the agreement, or to enter into negotiations for the agreement: in both cases this is at the discretion of the Crown*"³⁹); or ii) application to the High Court (not to the Maori Land Court which has specialist knowledge of Treaty matters). In both cases, any application must be lodged before 3 April 2017.

37. There have only been 15 applications (from 10 applicant groups) for recognition agreements via direct negotiation, of which only three have progressed beyond the preliminary appraisal or pre-determination phase: all three began under the 2004 Act. There are 12 applications for recognition orders in the High Court; all remain in the first phase (application). According to the Office of Treaty Settlements, no determinations of customary title or customary rights have yet been made.⁴⁰

• **Recommendation:** *that New Zealand repeals the Marine and Coastal Area (Takutai Moana) Act and enters into proper negotiation with hapu and iwi about how their rights and interests in foreshore and seabed areas can best be protected.*

38. **Structural discrimination:** We note that in response to recommendations 33 and 34 in its first UPR, NZ stated that it: "*does not agree that the disproportionate representation of certain ethnic groups in the criminal justice system, such as Maori, is due to institutional bias. Other factors are responsible for this outcome.*"⁴¹ So far as we are aware, NZ has not changed its position on this and is unlikely to because:

*... while there is evidence of structural discrimination within the criminal justice system, and allegations of personal racism, there is a general reluctance to conduct research into these areas. The absence of research thus enables politicians and senior public servants to deny that such issues exist, in the absence of clear evidence to the contrary.*⁴² Furthermore: *What little research there is, points in the one direction; that the level of structural discrimination in the criminal justice system is unacceptably high.*⁴³

39. The criminal justice system is not the only area where structural discrimination occurs, for example, CERD referred also to employment and health in 2013.⁴⁴

• **Recommendation:** *that New Zealand takes immediate steps to identify and eliminate structural discrimination in access to, and provision of, all public services.*

4) Human rights and counter-terrorism

40. On 15 October 2007, NZ police, Armed Offender Squad and Special Tactics Group officers began 'Operation 8', a series of 'counter-terrorism' dawn raids in different parts of Aotearoa NZ⁴⁵. While non-Maori as well as Maori were affected by the raids, Maori individuals, families and communities were treated very differently - only Ngai Tuhoe communities in the Ruatoki valley were locked-down and blockaded by armed and masked police. A number of human rights violations occurred at that time, including the targeting of individuals with laser gun sights, the separation of children from their parents, illegal detention, the photographing of children and adults who were not under arrest nor subsequently charged with any offence, and the search of homes and

seizure of property belonging to people who were not under arrest nor subsequently charged with any offence.

41. None of the individuals arrested around the country were subsequently charged with offences under the Terrorism Suppression Act 2002, after the Solicitor General declared the legislation to be “*incoherent and unworkable*”⁴⁶; charges against 13 were dropped after the evidence was found to be inadmissible; and ultimately, in 2012, only four were tried on charges of unlawful possession of firearms (only one of whom was arrested in the Ruatoki valley).

42. In May 2013, the Independent Police Conduct Authority (IPCA) released the report of its investigation into ‘Operation 8’.⁴⁷ The IPCA found that: the road blocks in the Ruatoki valley were unlawful, unjustified and unreasonable; the police had no legal basis for stopping and searching vehicles or photographing drivers or passengers; the detention of the occupants at five properties examined by the IPCA was unlawful and unreasonable; and personal searches conducted by police on a number of occupants were unlawful.

43. While this is an obvious case of structural discrimination, as it is inconceivable that such actions on such a scale would have been perpetrated on Pakeha communities, curiously there is no reference to racism, discrimination or racial bias in the IPCA report.

• **Recommendation:** *that New Zealand takes immediate steps to implement all of the recommendations of the Independent Police Conduct Authority report on 'Operation Eight', and takes action to ensure that similar operations are not conducted in future.*

5) Some other Treaty and indigenous peoples’ rights issues

44. **Settlement of historical Treaty breaches:** While the process of settlement of historical injustices and Treaty breaches⁴⁸ has undeniably returned economic resources to some hapu and iwi at a level determined by the policies and priorities of the government of the day, although not anything like what was taken from them, there are nevertheless ongoing issues with it.

45. Of particular concern is the way in which the settlements process, intended to resolve historical Treaty breaches, is creating contemporary Treaty breaches. Treaty settlements policy and processes are determined wholly by the government, meaning that one party to the Treaty is also the arbiter of the fairness of the measures to provide redress for historical breaches; the government sets the terms of all settlements and decides what is on offer; and has treated hapu and iwi inequitably, for example, some settlements have relativity clauses whereas others do not. The government also decides who it will negotiate with, which has resulted in claims for redress by some hapu and iwi being denied (see, as one example, the Ngati Huarere ki Whangapoua Trust’s UPR submission), and unnecessary conflict.⁴⁹

46. While some recent settlements have included co-management of natural resources, such as rivers, NZ will not negotiate around oil, gas and other minerals. Under the current constitutional structure, even where co-management arrangements have been agreed, they could be removed by a future government. NZ has not as yet agreed to even discuss, let alone negotiate around, the key historical and ongoing breach of the guarantees of the Treaty - the denial of the right of self-determination. One recent Deed of Settlement, with Ngai Tuhoe, does refer to a form of mana motuhake (autonomy) to be discussed in five years time. However, at the time the Deed was signed, the Attorney General described this as “*a social service management plan*”⁵⁰, the motives seem to be about devolving government responsibility rather than a genuine commitment to self-determination (“*it's all good centre-right politics, people look after themselves*”⁵¹), and there has been no indication of how this will be adequately and sustainably resourced.

47. In 2007, NZ unilaterally set an arbitrary cut-off date of September 2008 for all claims relating to historical Treaty breaches, and subsequently set a goal of resolving all such claims by 2014.

• **Recommendation:** *that New Zealand ensures that Treaty settlements comply, and can be legally compelled to comply, with the Treaty of Waitangi and its other international human rights obligations; enables historical claims to be lodged at any time; takes the time to fairly settle all claims; and enforces the recommendations of the Waitangi Tribunal.*

48. Local authorities and statutory obligations relating to the Treaty: Following the amalgamation of eight local authorities in the wider Auckland region into one unitary authority, the Independent Maori Statutory Board of Auckland Council (the local authority for NZ's largest urban area), commissioned an independent Treaty Audit to assess the Council's performance in relation to its statutory responsibilities to Maori and the Treaty.⁵²

49. The Audit results were released in March 2012, and provided a rating in ten areas: 1. Knowledge of obligations; 2. Policies; 3. Processes, Systems and Data; 4. Roles and Responsibilities; 5. Decision Making; 6. Consultation and Engagement; 7. Capacity; 8. Training and Awareness; 9. Communication; and 10. Monitoring. In four of these areas (knowledge of obligations; policies; consultation and engagement; and capacity), the Audit found significant weaknesses or gaps which are almost certain to compromise Maori legislative rights; and in the other six, found serious weaknesses or gaps which are likely to compromise Maori legislative rights.⁵³ While Auckland Council has expressed a willingness to address these deficiencies, this raises obvious questions about the government's own performance in relation to its statutory responsibilities to Maori (we suspect a national audit would reveal similar deficiencies), and how it is communicating such responsibilities to local authorities.

• **Recommendation:** *that New Zealand ensures that central government is meeting all of its statutory responsibilities to Maori and the Treaty of Waitangi, and that all local authorities are provided with the necessary information and resources to do the same.*

50. UN World Conference on Indigenous Peoples: There have been encouraging developments around the 2014 UN World Conference on Indigenous Peoples, an opportunity for indigenous representatives to come together to share learnings and experiences, particularly around the protection of their human rights, and the realisation of their right of self-determination.

• **Recommendation:** *that New Zealand supports hapu and iwi to participate fully in the planning, preparation and implementation of a World Conference by and for indigenous peoples; and that it uses every diplomatic means available to encourage other states to support this.*

17 June 2013

References

- ¹ Annex A provides information about the submitting and supporting organisations
- ² See, for example, NGO Submission to the Human Rights Committee on the 5th periodic report of New Zealand, Aotearoa Indigenous Rights Trust, 2 February 2010; NGO information for the 48th session of the Committee on Economic, Social and Cultural Rights: Third Periodic Report of New Zealand under the International Covenant on Economic, Social and Cultural Rights, Peace Movement Aotearoa, 5 April 2012; NGO information for the Human Rights Committee, 105th session: for consideration when compiling the List of Issues Prior to Reporting on New Zealand, Peace Movement Aotearoa, 19 June 2012; and NGO information for the 82nd session of the Committee on the Elimination of Racial Discrimination: Consolidated 18th, 19th and 20th Periodic Report of New Zealand under the International Convention on the Elimination of All Forms of Racial Discrimination, Peace Movement Aotearoa, February 2013
- ³ Report of the Working Group on the Universal Periodic Review: New Zealand, 4 June 2009, A/HRC/12/8
- ⁴ References to the Treaty of Waitangi (the Treaty) are to the Maori text (Te Tiriti o Waitangi), which was signed by representatives of the British Crown and by approximately 500 of the 540 hapu and iwi representatives who signed it, not to one of the English versions
- ⁵ General Recommendation 23: Indigenous Peoples, Committee on the Elimination of Racial Discrimination, 18 August 1997, A/52/18, Annex V
- ⁶ General Comment 21: Right of everyone to take part in cultural life, Committee on Economic, Social and Cultural Rights, 21 December 2009, E/C.12/GC/21
- ⁷ 'Mission to New Zealand', Report of the Special Rapporteur on the Human Rights and Fundamental Freedoms of Indigenous People, 13 March 2006, E/CN.4/2006/78/Add.3; Concluding Observations of the Human Rights Committee: New Zealand, 7 April 2010, CCPR/C/NZL/CO/5; 'The situation of Maori people in New Zealand', Report of the Special Rapporteur on the Rights of Indigenous Peoples, 31 May 2011, A/HRC/18/35/Add.4; Concluding Observations of the Committee on Economic, Social and Cultural Rights: New Zealand, 31 May 2012, E/C.12/NZL/CO/3; and Concluding Observations of the Committee on the Elimination of Racial Discrimination, 17 April 2013, CERD/C/NZL/CO/18-20
- ⁸ For example, twenty recommendations in NZ's first UPR raised these issues.
- ⁹ ICESCR, Convention on the Rights of Persons with Disabilities (CRPD), and Convention on the Rights of the Child (CRC)
- ¹⁰ International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and International Convention for the Protection of All Persons from Enforced Disappearance
- ¹¹ ILO Convention No. 87, Freedom of Association, and ILO Convention No. 138, Minimum Age
- ¹² 'Mission to New Zealand', Report of the Special Rapporteur on the Human Rights and Fundamental Freedoms of Indigenous People, 13 March 2006, E/CN.4/2006/78/Add.3 and 'The situation of Maori people in New Zealand', Report of the Special Rapporteur on the Rights of Indigenous Peoples, 31 May 2011, A/HRC/18/35/Add.4
- ¹³ Eighteenth to Twentieth Periodic Report submitted by states parties under Article 9 of the Convention on the Elimination of All Forms of Discrimination: New Zealand (submitted February 2012), CERD/C/NZL/20
- ¹⁴ Concluding Observations of the Human Rights Committee: New Zealand, 7 April 2010, CCPR/C/NZL/CO/5, para 7
- ¹⁵ The Waitangi Tribunal (Te Rōpu Whakamana i te Tiriti) is a Permanent Commission of Inquiry established by the Treaty of Waitangi Act 1975. It is charged with investigating and making recommendations on claims brought by Maori relating to actions or omissions of the Crown, in the period since 1840, that breach the Treaty of Waitangi.
- ¹⁶ Concluding Observations of the Committee on the Elimination of Racial Discrimination, 17 April 2013, CERD/C/NZL/CO/18-20, para 7
- ¹⁷ Announcement of New Zealand's support for the United Nation Declaration on the Rights of Indigenous Peoples, Minister of Maori Affairs, 20 April 2010
- ¹⁸ Most recently: Concluding Observations of the Committee against Torture: New Zealand, 4 June 2009, CAT/C/NZL/CO/5; Concluding Observations of the Human Rights Committee: New Zealand, 7 April 2010, CCPR/C/NZL/CO/5; Concluding Observations of the Committee on the Rights of the Child: New Zealand, 11 April 2011, CRC/C/NZL/CO/3-4; Concluding Observations of the Committee on Economic, Social and Cultural Rights: New Zealand, 31 May 2012, E/C.12/NZL/CO/3; Concluding Observations of the Committee on the Elimination of Discrimination Against Women: New Zealand, 27 July 2012, CEDAW/C/NZL/CO/7;

and Concluding Observations of the Committee on the Elimination of Racial Discrimination, 17 April 2013, CERD/C/NZL/CO/18-20 CRC/C/NZL/CO/3-4

¹⁹ 'Mission to New Zealand', Report of the Special Rapporteur on the Human Rights and Fundamental Freedoms of Indigenous People, 13 March 2006, E/CN.4/2006/78/Add.3 and 'The situation of Maori people in New Zealand', Report of the Special Rapporteur on the Rights of Indigenous Peoples, 31 May 2011, A/HRC/18/35/Add.4

²⁰ Presentation to Petrobras, Te Whanau a Apanui, 7 December 2010, at <http://www.octoberlaw.maori.nz/resources/Te%20Whanau%20a%20Apanui%20Presentation%20to%20Petrobras.pdf>

²¹ Question 12: Petrobras, 'Petroleum Exploration Permit, Te Whanau a Apanui's Consent', Questions for Oral Answer - Questions to Ministers, Hansard Volume 672, Page 18323, 4 May 2011

²² 'Govt - Petrobras oil permit deal going to court', Radio New Zealand, 15 December 2011

²³ For more detailed information about the Petrobras permit, please refer to NGO information for the 82nd session of the Committee on the Elimination of Racial Discrimination: Consolidated 18th, 19th and 20th Periodic Report of New Zealand under the International Convention on the Elimination of All Forms of Racial Discrimination, Peace Movement Aotearoa, February 2013 at

<http://www.converge.org.nz/pma/cerd82-pma.pdf>

²⁴ State-Owned Enterprises Act 1986: Section 9, "Nothing in this Act shall permit the Crown to act in a manner that is inconsistent with the principles of the Treaty of Waitangi"; and provisions to protect existing and likely future claims relating to land currently in Crown ownership at Section 27A-D

²⁵ See, for example, 'Key stands firm on asset sales', NZ Newswire, 7 February 2012 -

<http://nz.news.yahoo.com/a/-/top-stories/12829124/key-stands-firm-on-asset-sales>

²⁶ Memorandum: Interim Direction to the Crown, Waitangi Tribunal, 30 July 2012, at para 61

²⁷ As the Public Finance (Mixed Ownership Model) Amendment Bill 2012 and the State-Owned Enterprises Amendment Bill 2012

²⁸ Interim Report on the National Freshwater and Geothermal Resources Claim: Letter of transmittal to the Prime Minister and other appropriate Ministers of the Crown, Waitangi Tribunal, 24 August 2012, p xiv

²⁹ Interim Report on the National Freshwater and Geothermal Resources Claim: Letter of transmittal to the Prime Minister and other appropriate Ministers of the Crown, p xvi

³⁰ Interim Report on the National Freshwater and Geothermal Resources Claim: Letter of transmittal to the Prime Minister and other appropriate Ministers of the Crown, p xvii

³¹ See, for example, the NZ Herald report on 14 September 2012 at

http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10833926

³² See, for example, 'Key will not negotiate nationwide water rights', TV One News, 14 September 2012 -

<http://tvnz.co.nz/national-news/key-not-negotiate-nationwide-water-rights-5080687>

³³ See, for example, 'Key compares Maori unity on water to Gaga's outfits', New Zealand Herald, 18 September 2012 - http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10834827

³⁴ Concluding Observations of the Committee on Economic, Social and Cultural Rights: New Zealand, 31 May 2012, E/C.12/NZL/CO/3, para 11 **and** Concluding Observations of the Committee on the Elimination of Racial Discrimination, 17 April 2013, CERD/C/NZL/CO/18-20, para 18

³⁵ Concluding Observations of the Committee on the Elimination of Racial Discrimination, 17 April 2013, CERD/C/NZL/CO/18-20, para 18

³⁶ Concluding Observations of the Committee on the Elimination of Racial Discrimination, 17 April 2013, CERD/C/NZL/CO/18-20, para 19

³⁷ As the Marine and Coastal Area (Takutai Moana) Act

³⁸ Concluding Observations of the Committee on the Elimination of Racial Discrimination, 17 April 2013, CERD/C/NZL/CO/18-20, para 13

³⁹ Marine and Coastal Area (Takutai Moana) Act 2011, Section 95(1)(3)

⁴⁰ Email received May 2013

⁴¹ Report of the Working Group on the Universal Periodic Review: New Zealand, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, 7 July 2009, A/HRC/12/8/Add.1, p 5

⁴² Maori Over-Representation in the Criminal Justice System - Does Structural Discrimination Have Anything to Do with It? A Discussion Paper, Kim Workman, Executive Director, Rethinking Crime and Punishment, 8 November 2011, p 2

⁴³ Comment on the Report submitted by the New Zealand Government to the Committee on the Elimination of Racial Discrimination (CERD/C/NZL/20), Kim Workman, Executive Director, Rethinking Crime and Punishment

⁴⁴ “*The Committee recommends that the State party intensify its efforts to improve the outcomes of the Maori and Pasifika in the fields of employment, health and in the administration of criminal justice by, inter alia, addressing the existing structural discrimination in the State party*”, Concluding Observations of the Committee on the Elimination of Racial Discrimination, 17 April 2013, CERD/C/NZL/CO/18-20, para 15

⁴⁵ The raids have been the subject of communications to UN Special Procedures, see, for example, 'Summary of cases transmitted to Governments and replies received: New Zealand', Addendum to the Report of the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People to the Human Rights Council. A/HRC/9/9/Add.1

⁴⁶ See, for example, ‘Act too complex to use, says Collins’, The Dominion Post, 9 November 2007

⁴⁷ Operation Eight: The Report of the Independent Police Conduct Authority, released 22 May 2013

⁴⁸ NZ defines historical breaches as those which occurred before 1992

⁴⁹ More information on these and other flaws in the process is available in ‘The situation of Maori people in New Zealand’, Report of the Special Rapporteur on the Rights of Indigenous Peoples, 31 May 2011, A/HRC/18/35/Add.4, paras 35 to 42, and NGO Submission to the Human Rights Committee on the 5th periodic report of New Zealand, Aotearoa Indigenous Rights Trust, 2 February 2010 at

<http://www.converge.org.nz/pma/ccpr-airt10.pdf>

⁵⁰ Crown and Ngai Tahu sign deed of settlement, Attorney General Christopher Finlayson, 4 June 2013

⁵¹ The Attorney General on TV One News, 4 June 2013

⁵² For more detailed information about the amalgamation of Auckland’s local authorities, the impact on Maori and the Treaty Audit, please refer to NGO information for the Human Rights Committee, 105th session: for consideration when compiling the List of Issues Prior to Reporting on New Zealand, Peace Movement Aotearoa, 19 June 2012 at <http://www.converge.org.nz/pma/nz-loipr2012.pdf>

⁵³ Information about the Audit and the Executive Summary of the Audit Report are available at <http://imsb.zes.zeald.com/English/Key+Programmes/Treaty+of+Waitangi+Audit.html>

Annex A: Information on submitting and supporting organisations

List of submitting and supporting organisations (* indicates national sections of, or organisations otherwise affiliated to, international NGOs with ECOSOC Consultative Status)

Coordinating submitting organisations: Aotearoa Indigenous Rights Charitable Trust and Peace Movement Aotearoa;

Jointly submitted by: Auckland Catholic Diocese Bicultural Working Party, Corso Aotearoa New Zealand Inc, Disabled Persons Assembly NZ Inc, Network Waitangi Otautahi, Ngati Huarere ki Whangapoua Trust, Pax Christi Aotearoa New Zealand*, Pacific Centre for Participatory Democracy, Poutama First Nation Iwi and Nga Hapu o Poutama, Quaker Treaty Relationships Group*, Tamaki Treaty Workers, Tauwi Solutions, Te Runanga o Nga Kaimahi Maori o Aotearoa (New Zealand Council of Trade Unions Runanga)*, Te Runanga o te Whanau, Wellington Treaty Educators Network, and Women's International League for Peace and Freedom Aotearoa*;

Supported by: Action for Children and Youth Aotearoa, Auckland Anglican Social Justice Council, Christian World Service*, Freedom Roadworks, Human Rights Foundation, Interchurch Northland Urban Rural Mission Inc, and Network Waitangi Whangarei.

A) Coordinating submitting organisations:

1. **Aotearoa Indigenous Rights Charitable Trust (AIR Trust)** - is a non-governmental organisation made up of Maori individuals, all of who are active in their hapu and iwi and Maori politics more generally. We seek to support the indigenous peoples' rights movement internationally and domestically. AIR Trust representatives attended, and played a role in, the negotiations on the United Nations Declaration on the Rights of Indigenous Peoples. Members have also represented a number of tribes, pan-Maori organisations and indigenous peoples' organisations in United Nations fora, such as before the Committee on the Elimination of Racial Discrimination and the Human Rights Council.

2. **Peace Movement Aotearoa (PMA)** - is the national networking peace organisation in Aotearoa New Zealand, an NGO registered as an incorporated society in 1982. We are a Pakeha (non-indigenous) organisation, and our membership and networks mainly comprise Pakeha organisations and individuals. As the realisation of human rights is integral to the creation and maintenance of peaceful societies, promoting respect for them is a key aspect of our work. We have provided NGO parallel reports to: the Special Rapporteur on Indigenous Peoples' Rights in 2005; the Committee on the Elimination of Racial Discrimination in 2007 and 2013; jointly with the Aotearoa Indigenous Rights Trust and others, to the Human Rights Council for New Zealand's Universal Periodic Review in 2008 and 2009; the Human Rights Committee in 2009 and 2010; the Committee on the Rights of the Child in 2010 and 2011; and the Committee on Economic, Social and Cultural Rights in 2011 and 2012.

B) Jointly submitted by:

3. **Auckland Catholic Diocese Bicultural Working Party** - was established 1991 to support the recommendation of the 1989 Auckland Diocesan Synod of the Catholic Church, which committed the Diocese to "honour the Treaty of Waitangi as a covenant" and to "a bicultural church in a

bicultural society”. The Bicultural Working Party is headed by the Diocesan Vicar for Maori, and consists of Maori and Pakeha members committed to carrying out the 1989 resolution.

4. Corso Aotearoa New Zealand Inc (Corso) - is a Pacific-based NGO active in local communities across Aotearoa New Zealand, and which acts in solidarity with communities in the Pacific and beyond. Corso supports tino rangatiratanga, as guaranteed in the Treaty of Waitangi, as the first step towards the liberation of all the people of Aotearoa. This is inseparable from Corso’s work for a just world. Corso believes human development is inseparable from justice and encompasses equal access to economic opportunity, production for peoples needs, participation in all levels of decision-making, respect for cultural diversity and respect for the human rights of all; and promotes human development by supporting people, both in New Zealand and overseas, to work together in transforming the conditions and structures of injustice and the attitudes that reinforce them.

5. Disabled Persons Assembly NZ Inc (DPA) - is the national assembly of people with disabilities. It is an umbrella organisation for the full range of people with disabilities in New Zealand. DPA has some 1,200 individual members who either have disabilities themselves, or are the parent, or guardian of a person with a disability and some 300 corporate members who represent or deliver services to people with disabilities. DPA advocates across the range of age and impairment at a societal level and this issue-level advocacy is grounded in human rights.

6. Network Waitangi Otautahi (NWO) - is a voluntary group, an educational incorporated society with charitable status, based in Christchurch / Otautahi. We are part of a wider national network of groups and individuals who are working towards a Treaty-based Aotearoa New Zealand. NWO's particular emphasis is on encouraging those who do not have Maori ancestry to understand the Treaty of Waitangi. We promote strong sustainability and are committed to taking a community development approach, so our workshops and other activities are designed to start where people are at and are non-confrontational.

7. Ngati Huarere ki Whangapoua Trust - is a Charitable Trust which was established in 1998. The Trust is mandated to promote and safeguard the spiritual, economic, social, cultural and physical well being of descendants of Ngati Huarere. This includes the settlement of its historical Treaty of Treaty grievances with the New Zealand government and to progress the WAI 475 claim to achieve the best outcome for claimants.

8. Pax Christi Aotearoa New Zealand (PaxANZ)* - is an independent national section of the international Catholic peace movement, Pax Christi International (PCI). As such, it is committed to the peaceful resolution of conflict by negotiation and dialogue. PaxANZ is committed to honouring Te Tiriti o Waitangi (Treaty of Waitangi) in its Mission and Values statements, and this comprises a large part of its work. PCI has 100 member organisations spread over 50 countries and 5 continents, and Special Consultative Status with ECOSOC.

9. Pacific Centre for Participatory Democracy (PCPD) - is a division of Te Ora Hou Aotearoa, a national Maori youth and community development organisation working in Maori communities around Aotearoa New Zealand for over 30 years. Te Ora Hou Aotearoa is a member of the NZ Council for International Development, and the PCPD facilitates learning and development opportunities in the Asia-Pacific region including inter-country exchanges and study sessions, regional networking events and public seminars with a focus on the participation of minority groups in democratic systems.

10. **Poutama First Nation Iwi and Nga Hapu o Poutama:** Poutama is one of the tuturu tangata whenua (First Nation Iwi) from the time before the great fleet arrived in Aotearoa. As the generations have passed, Poutama has been recognised as a man, an Atua, the land, and the iwi who are still on the land, carry his name to this day. Poutama are the collective hapu who descend from Poutama and Panirau through Rakeiora, who have chosen to remain on the land mass known as the Poutama land block, or remain connected to the same lands or those who are adopted according to Poutama Kawa and Tikanga. Te Whakapuakitanga O Poutama (Poutama Iwi Management Plan), lodged with the New Plymouth District Council under the Resource Management Act 1991, is based on the UN Declaration on the Rights of Indigenous Peoples. Nga Hapu o Poutama is the entity responsible for the business and cultural activity of Poutama First Nation Iwi and its hapu and whanau, and was created in accordance with Te Whakapuakitanga O Poutama.

11. **Quaker Treaty Relationships Group (TRG)*** - is a committee of the Religious Society of Friends in Aotearoa New Zealand, Te Haahi Tuuhauwiri, and TRG's brief is to promote understanding and honouring of the Treaty of Waitangi. The Society in Aotearoa New Zealand is part of the international Society of Friends (Quaker) movement that includes the Friends World Committee for Consultation, which has General Consultative Status with ECOSOC.

12. **Tamaki Treaty Workers (TTW)** - is a regional network of Treaty of Waitangi and anti-racism activists and educators based in Auckland / Tamaki Makaurau. We affirm the Treaty of Waitangi as the basis for the future of Aotearoa. We support the rights of indigenous peoples and particularly the rights of Maori, the indigenous people of Aotearoa. We promote these rights, and the rights of all people living in Aotearoa by providing educational workshops on these issues.

13. **Tauiwi Solutions** - is an organisation of Dunedin based facilitators who have been involved in activism and support for issues of a Nuclear Free and Independent Pacific since the early 1980s. Originally working as Te Whanau a Matariki and later as Beams 'n Specks, Tauiwi Solutions have been delivering Treaty of Waitangi workshops since the early 1980s and decolonisation workshops since 1990. We are Pakeha with ancestry from Europe, China, Samoa, Tonga and Africa and are committed to the honouring of Te Tiriti o Waitangi (Treaty of Waitangi) and the restoration of tino rangatiratanga to tangata whenua in Aotearoa.

14. **Te Runanga o Nga Kaimahi Maori o Aotearoa (New Zealand Council of Trade Unions Runanga)** - is the representative body for Maori workers whose unions are affiliated to the New Zealand Council of Trade Unions (CTU) Te Kauae Kaimahi, and represents approximately 60,000 Maori workers. Unions are represented within the Runanga by at least one person, who is responsible for ensuring that the views of Maori workers within their union are included in the discussions and decision-making of the group. A priority area is working with the CTU and its officers to implement Treaty of Waitangi based change within the CTU. As well as representing Maori worker views within the national union body, the Runanga has a crucial role as a Treaty partner, working in conjunction with CTU officers and staff to ensure the rights and responsibilities of a partnership relationship are met. Both partners regard the ongoing development of this relationship as vital to ensuring a solid foundation for the future success of the CTU and its affiliates. The CTU is a national member of the International Trade Union Confederation (ITUC), which has ECOSOC General Consultative Status and works closely with the International Labour Organisation.

15. **Te Runanga o te Whanau** - is the tribal body representing the twelve hapu of Te Whanau a Apanui. It was formed in 1988 and is their vehicle for tribal development. The Runanga's mission is to serve a vision of a tribe – which is one that is living under the mantle of the creator, living in

balance and harmony with Te Ao Turoa and actively maintaining and developing internal and external relationships, its matauranga base, its mana, its reo, its tikanga and all taonga to ensure that present and future generations achieve environmental, economic, social, cultural and political security.

16. Wellington Treaty Educators Network (WTEN) - is a Wellington based network of people who work to support tino rangatiratanga and Te Tiriti o Waitangi (Treaty of Waitangi) in education, social services, community groups, community services and development, counseling, action research, workshops, and local government.

17. Women's International League for Peace and Freedom (WILPF) Aotearoa* - is the national Section of WILPF, an international non-governmental organisation with Sections in 40 countries, covering all continents. WILPF Aotearoa has two members on the International WILPF Board. WILPF has Special Consultative Status with ECOSOC, UNESCO and UNCTAD; and special relations with the ILO, FAO, UNICEF, and other UN organisations and agencies. Since its establishment in 1915, WILPF has brought together women from around the world who are united in working for peace by non-violent means, promoting political, economic and social justice for all. WILPF Aotearoa is committed to honouring the Treaty of Waitangi as a positive way to prevent conflict and to remedy past and present injustice.

C) Submission supported by:

18. Action for Children and Youth Aotearoa (ACYA) - is a coalition of non-governmental organisations, families and individuals promoting the rights and wellbeing of our children and youth through education and advocacy based on evidence, and Aotearoa New Zealand's human rights commitments. ACYA was founded in 1996. ACYA's principal work is the production and publication of Aotearoa New Zealand's Alternative NGO Report to the UN Committee on the Rights of the Child on Aotearoa's implementation of the International Convention on the Rights of the Child.

19. Auckland Anglican Social Justice Council - is appointed by the Auckland Diocesan Council each year. It is a structure of the Tikanga Pakeha Diocese of Auckland, that is, part of one of the three streams of the Anglican Church in Aotearoa, New Zealand and Polynesia that was created by changes to the its 1857 constitution in 1992. The Mission Statement of that part of the Anglican Communion includes the commitment 'to seek to transform unjust structures of society'. As part of its work, the Auckland Anglican Social Justice Council publishes a quarterly Treaty of Waitangi and Constitutional Change Newsletter that is circulated nationally within and beyond the Anglican church.

20. Christian World Service* - is the development, aid and justice agency of New Zealand churches. Originally set up by the former National Council of Churches in 1945, CWS has a long history of supporting development issues in the broadest sense, regularly corresponding, advocating and writing submissions on both domestic and international justice issues. We take seriously New Zealand's commitments under Te Tiriti O Waitangi (Treaty of Waitangi) and seek to be faithful to this in association with Maori sections of our member churches. In its core documents CWS acknowledges the rights of Maori and the responsibilities of Tauwiwi (non-Maori) in this regard. CWS is part of the World Council of Churches community, which brings together 349 churches, denominations and church fellowships in more than 110 countries and territories throughout the world. The Commission of the Churches on International Affairs of the World Council of Churches has General Consultative Status with ECOSOC.

21. **Freedom Roadworks** - was founded in 1993 and is a collection of Maori, Samoan, Cook Island, Tongan, Tokelauan and Pakeha families based in Dunedin. We came together to support each others' families deal with the outcomes of colonisation on our families and communities and to promote the liberation of peoples all over the world. Since we were founded we have been active supporters of independence and justice for tangata whenua in Aotearoa, also in East Timor, Bougainville, West Papua, Palestine, Kanaky (New Caledonia), Aboriginal Australia, Hawai'i, Tahiti.

22. **Human Rights Foundation (HRF)** - is a non-governmental organisation, established in December 2001, to promote and defend human rights through research-based education and advocacy. We have made submissions on new laws with human rights implications. We also monitor compliance and implementation of New Zealand's international obligations in accordance with the requirements of the international conventions New Zealand has signed, and have prepared parallel reports for relevant United Nations treaty bodies to be considered alongside official reports. Though the primary focus of the Foundation is on human rights in New Zealand, we recognise the universality of human rights and have an interest in human rights in the Pacific and beyond.

23. **Interchurch Northland Urban Rural Mission Inc (NURM)** - was formed in 1981, in response to social and economic developments in the Northland region of New Zealand, with the intention of providing positive responses to those developments from a combined church and community perspective. Maori leadership monitored and supported the formation and work of NURM, and - with the 150th anniversary of the signing of Te Tiriti o Waitangi (Treaty of Waitangi) coming up in 1990 - challenged the Pakeha side of NURM to consider and respond to the implications of Te Tiriti. Since 1988, NURM has structured ourselves along Te Tiriti lines, and worked in educational, legislative, environmental contexts to apply Te Tiriti in this country and this region.

24. **Network Waitangi Whangarei (NWW)** - is a voluntary, not-for-profit organisation based in Whangarei. NWW's aim is to provide education, resources and support for those wanting to implement Te Tiriti o Waitangi (Treaty of Waitangi).
