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NGO information for the 93rd session of the Committee on the Elimination of Racial Discrimination, May 2017

List of Themes: 21st and 22nd Periodic Report of New Zealand under the International Convention on the Elimination of All Forms of Racial Discrimination

Introduction

1. This report provides an outline of some issues of concern with regard to the state party's compliance with the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD, the Convention) to assist the Committee on the Elimination of Racial Discrimination (CERD, the Committee) to prepare the List of Themes in relation to New Zealand's combined 21st and 22nd Periodic Report (the Periodic Report)[1].

2. The information below is arranged into seven main sections:

A. Information on Peace Movement Aotearoa

B. Overview of our concerns

C. Constitutional framework and the Treaty of Waitangi: i) Overview, ii) Constitutional Advisory Panel Report, iii) WAI 1040: The Declaration and the Treaty / He Whakaputanga me te Tiriti, and iv) Matike Mai Aotearoa Report

D. Land and resources: i) Overview, ii) New Plymouth District Council (Waitara Lands) Bill, iii) Ihumatao and Otuataua Stonefields Historic Reserve, iv) Kermadec Ocean Sanctuary, v) Deep-sea oil seismic exploration and drilling, and vi) Marine & Coastal Area (Takutai Moana) Act 2011

E. Care and protection of Maori children: i) Proposal to deprioritise placing Maori children in state care with whanau, hapu or iwi, and ii) Treatment of Maori children in state care

F. Institutional racism and the administration of justice

G. Impact of the activities of New Zealand companies on indigenous communities overseas

3. Thank you for this opportunity to provide information to the Committee. We apologise for the lateness of this report, but hope nevertheless that it will help to inform your consideration of the topics raised.

A. Information on Peace Movement Aotearoa

4. Peace Movement Aotearoa is the national networking peace organisation, registered as an incorporated society in 1982. Our purpose is networking and providing information and resources on peace, humanitarian disarmament, social justice and human rights issues. Our membership and networks mainly comprise a range of Pakeha (non-indigenous) organisations and individuals; and our national mailing lists currently include representatives of more than one hundred national or local peace, human rights, social justice, faith-based and community organisations, as well as more than three thousand individuals.

5. Promoting the realisation of human rights is an essential aspect of our work because of the crucial role this has in creating and maintaining peaceful societies. In the context of Aotearoa New Zealand, one of our main focuses in this regard is on support for indigenous peoples' rights - in part as a matter of basic justice, because the rights of indigenous peoples are particularly vulnerable where they are outnumbered by a majority non-indigenous population as in Aotearoa New Zealand, and because this is a crucial area where the performance of successive governments has been, and continues to be, particularly flawed. Thus the Treaty of Waitangi, domestic human rights legislation, and the international human rights treaties to which New Zealand is a state party, and the linkages among these, are important to our work; and any breach or violation of them is of particular concern to us.

6. We regularly provide NGO information to human rights treaty monitoring bodies, and to Special Procedures and mechanisms of the Human Rights Council.[2]

7. We wish to emphasise that the comments which follow are from our perspective and observations as a Pakeha organisation; we do not, nor would we, purport to be speaking for Maori in any sense.

8. We are happy to provide clarification of any points in this report or further information if that would be helpful to Committee members.

B. Overview of our concerns

9. During the time covered by the Periodic Report, there have been a considerable number of developments which are of concern with regard to the government's compliance with the Convention, and in particular with the Committee's General Recommendation No. 23: Indigenous Peoples (GR 23).[3]

10. In this Report we cover some of those developments, referenced to the Committee's 2013 Concluding Observations[4] or to relevant paragraphs in the Periodic Report where appropriate.

11. While this report brings to your attention urgent issues around the state party's approach to the care and protection of Maori children (Section E) to assist with the preparation of the List of Themes, it should be noted that most of it highlights only some examples of how

things have essentially remained unchanged since 2013 - we will provide more detailed and updated information on these and other matters in our report to the Committee for the 93rd session.

C. Constitutional framework and the Treaty of Waitangi

i) Overview

12. Since the state party last reported to the Committee, there has been no progress towards ensuring that Convention rights in relation to indigenous peoples, as well as those elaborated in the other human rights treaties that New Zealand is a state party to, are fully protected; and no progress towards constitutional recognition of the Treaty of Waitangi (the Treaty)[5], let alone towards the power sharing arrangement between hapu and the Crown that is required by the Treaty.

13. As mentioned in section A above, our main focus with regard to human rights is on support for indigenous peoples' rights, an area where the performance of successive governments has been, and continues to be, particularly flawed. As the Committee is aware, there has been a persistent pattern of government actions, policies and practices which discriminate against Maori (collectively and individually), both historically and in the present day.

14. Underlying this persistent pattern of discrimination has been the denial of the inherent and inalienable right of self-determination. Tino rangatiratanga (somewhat analogous to self-determination) was exercised by hapu and iwi prior to the arrival of non-Maori, was proclaimed internationally in the 1835 Declaration of Independence[6], and its continuance was guaranteed in the 1840 Treaty.

15. In more recent years, self-determination was confirmed as a right for all peoples, particularly in the shared Article 1 of the two International Covenants - in its 2012 Concluding Observations on New Zealand, the Committee on Economic, Social and Cultural Rights specifically referred to Article 1 in its recommendations on the inalienable rights of Maori[7] - and in the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration)[8], which the state party announced partial support for in 2010, where it is explicitly re-affirmed as a right for all indigenous peoples.

16. Allied to the right of self-determination is the right of indigenous peoples to own, develop, control and use their communal lands, territories and resources, as articulated in GR 23 and in the UN Declaration.

17. In addition, both GR 23 and the UN Declaration include the requirement that no decisions affecting the rights and interests of indigenous peoples are to be taken without their free, prior and informed consent - a minimum standard that the state party is yet to meet, as illustrated by the examples in the sections below.

18. Furthermore, Article 32 of the UN Declaration, for example, specifies that such consent should be obtained via indigenous peoples own representative institutions, and that indigenous peoples: "*have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources*"- another minimum standard that the state party has not achieved.

19. It should be noted that while the state party regularly refers to the Treaty as the founding document of the nation, there is no reference to the Treaty in the Constitution Act 1986 nor is it a formal part of domestic law.
20. The Treaty is not legally enforceable against the legislature, 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 the state party'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.

21. Furthermore, the Waitangi Tribunal's recommendations are not binding on the Executive or the legislature, and are frequently ignored by the government of the day. The courts have generally refused to review the fairness of settlements of historic breaches of the Treaty between iwi and hapu and the Crown on the basis that they are political matters; and the processes and substance of settlements, policy and practice cannot be legally challenged.

22. We note that the Periodic Report states: "*The constitutional framework increasingly reflects the fact the Treaty is regarded as a founding document of government in New Zealand"*[9]; but there is no evidence to support that assertion.

23. The overall situation can be readily illustrated by comments made by the (then) Prime Minister's last year in relation to the establishment of the Kermadec Ocean Sanctuary, which would unilaterally nullify Maori commercial fishing rights and interests under the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992[10], who said: *"Parliament is supreme and can pass whatever laws it wants"*.[11]

24. The state party repeatedly makes announcements about policy changes, and introduces legislation, that breach the Treaty and affects Maori rights and interests, without proper consultation with hapu and iwi - and often, with none whatsoever. Instead, it tries to gain support from the other political parties in parliament - in particular, the two Maori Party Members of Parliament - to pursue its own agenda.

25. As illustrated by the examples in the sections below, the state party's approach does not come anywhere near the requirement to obtain the free, prior and informed consent of Maori on matters that affect their rights and interests; indeed, it simply ignores its obligations in that regard.

ii) Constitutional Advisory Panel Report

26. We note that the Periodic Report has four paragraphs[12] on the Constitutional Advisory Panel (the Panel)[13], whose report was released by the state party in December 2013.

27. The Periodic Report outlines some of the recommendation of the Panel, including:

> *Set up a process to develop a range of options for the future role of the Treaty, including options within the existing constitutional arrangements and arrangements in which the Treaty is the foundation.*[14]

28. The state party has done nothing about implementing that recommendation.

iii) WAI 1040: The Declaration and the Treaty / He Whakaputanga me te Tiriti

29. Despite its obvious constitutional importance, there is no reference in the Periodic Report to *The Declaration and the Treaty / He Whakaputanga me te Tiriti* - the Waitangi Tribunal Report on Stage 1 of the Te Paparahi o Te Raki Inquiry (WAI 1040), which was released in November 2014[15]. The Report covered the Tribunal's inquiry into the meaning and effect of the 1835 of the Declaration of Independence of New Zealand (He Whakaputanga o te Rangatiratanga o Nu Tireni) and of the Treaty (te Tiriti).

30. The Waitangi Tribunal concluded that the rangatira (hapu leaders) who signed the Treaty in February 1840 did not cede sovereignty to the British Crown - an *"inescapable"* conclusion, and what Maori have always said. In brief, the Tribunal said:

> *"Though Britain went into the Treaty negotiation intending to acquire sovereignty, and therefore the power to make and enforce law over both Maori and Pakeha, it did not explain this to the rangatira.*
>
> *Rather, Britain's representative William Hobson and his agents explained the Treaty as granting Britain 'the power to control British subjects and thereby to protect Maori', while rangatira were told that they would retain their 'tino rangatiratanga', their independence and full chiefly authority.*
>
> *The rangatira who signed te Tiriti o Waitangi in February 1840 did not cede their sovereignty to Britain. That is, they did not cede authority to make and enforce law over their people or their territories.*
>
> *The rangatira did, however, agree 'to share power and authority with Britain. They agreed to the Governor having authority to control British subjects in New Zealand, and thereby keep the peace and protect Maori interests".*[16]

31. In response to the release of the Tribunal Report, the Attorney General, and Minister of Treaty Negotiations, Christopher Finlayson, said: *"There is no question that the Crown has sovereignty in New Zealand. This report doesn't change that fact."*[17]The state party has made no further response to the Tribunal's findings, but has simply carried on using one of the English mistranslations of the Treaty rather than the Maori text which was signed by almost all of the rangatira and the British Crown.

iv) Matike Mai Aotearoa Report

32. Similarly, the Periodic Report has no reference to 'He Whakaaro Here Whakaumu Mo Aotearoa: The Report of Matike Mai Aotearoa' (the Independent Iwi Working Group on Constitutional Transformation) which was released in January 2016.[18]

33. Matike Mai Aotearoa, the Independent Working Group on Constitutional Transformation, was formed at a meeting of the Iwi Chairs' Forum at Haruru in February 2010. Its terms of reference were:

> *"To develop and implement a model for an inclusive Constitution for Aotearoa based on tikanga and kawa, He Whakaputanga o te Rangatiratanga o Niu Tireni of 1835, Te Tiriti o Waitangi of 1840, and other indigenous human rights instruments which enjoy a wide degree of international recognition".* [19]

34. Members of the Working Group were nominated by iwi and other organisations, or were co-opted, for their tikanga or constitutional expertise; Professor Margaret Mutu (Ngati Kahu, Te Rarawa, Ngati Whatua) was appointed as the Working Group Chair, and constitutional lawyer Moana Jackson (Ngati Kahungunu, Ngati Porou) was invited to be its Convenor. The Chairperson and Convenor facilitated 252 hui between 2012 and 2015, and 70 wananga involving young Maori were held by the ropu rangatahi that was convened by Veronica Tawhai (Ngati Porou, Ngati Uepohatu). The Working Group also invited written submissions, organised focus groups, and conducted one-on-one interviews.

35. The resulting report 'He Whakaaro Here Whakaumu Mo Aotearoa: The Report of Matike Mai Aotearoa' clearly demonstrates the historical and ongoing need for transformation to Treaty-based constitutional arrangements; the Report provides a comprehensive overview of Maori constitutional concepts and values, past and present, proposals for what Treaty-based constitutional arrangements might look like, and encourages all New Zealanders to seek a more inclusive understanding of the relationships that are meant to be constitutionally acknowledged through te Tiriti.

36. A parallel (smaller scale) Pakeha process - 'Time for change: A framework for community discussion on values-based and Treaty-based constitutional arrangements' - found that there is Pakeha concern about the current arrangements, and a higher level of support for Treaty-based constitutional arrangements than was anticipated.[20]

D. Lands and resources

i. Overview

37. While there have been some positive developments since 2013 - most recently for example, Te Awa Tupua (Whanganui River Claims Settlement) Act 2017[21] - the overall trend remains the same: the government of the day continually pursues its own political agenda to the detriment of Maori rights and interests.

38. The state party has made no coherent or sustained attempt to implement the recommendations in the Committee's 2013 Concluding Observations with regard to lands and resources, which included:

> *"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."*[22]

39. This section provides some examples to illustrate the state party's ongoing failure to protect Maori lands and resources, and its failure to respect the right of free, prior and informed consent.

ii) New Plymouth District Council (Waitara Lands) Bill

40. If enacted, the New Plymouth District Council (Waitara Lands) Bill[23] will set in place an historical injustice that began when the land was confiscated by the Crown from Waitara hapu in 1865. The Bill enables the New Plymouth District Council and Taranaki Regional Council to turn leasehold land in the Waitara area - land which was confiscated from Te Atiawa and Waitara hapu Otaraua and Manukorihi - into freehold. It would enable the freeholding of 780 leasehold properties, while returning about 60 hectares of reserve land to Te Atiawa, with a further 16 hectares becoming available for development. The New Plymouth District Council (and earlier local authorities such as the Waitara Borough Council) has received lease payments for the land for more than 100 years. Some of the confiscated land within Waitara has already been converted to freehold, sometimes without the knowledge of the local hapu who are opposed to this Bill.

41. As Manukorihi hapu chairperson Patsy Bodger told the Maori Affairs Select Committee who are considering the Bill:

> *"Waitara hapu - Manukorihi and Otaraua - had waited 150 years for the land to be given back, to no avail.*
>
> *Although in 1927 the Sim Commission report on the Waitara lands recommended that the land be returned to hapu and in 2003 the New Plymouth District Council offered that the lands be returned. We are still waiting."...*
>
> *She rejected the Bill and said the bottom line was that the land should be returned.*
>
> *"If the land is not returned it will only perpetuate the grievance that exists to this today and our tamariki and mokopuna will be left to continue the challenge to have the stolen lands returned.*
>
> *"We want our lands back so that our whanau and our community can start healing and build towards a positive future."*[24]

42. Peter Moeahu, who was part of the team that negotiated Te Atiawa's settlement, described the Bill as *"morally unjust,*.[25] and Te Kotahitanga o Te Atiawa chairwoman Liana Poutu told the Select Committee that the iwi is *"overwhelmingly opposed"* to the Bill.[26]

43. The Select Committee was due to report back to parliament in March, but the reporting deadline was extended last month to the end of May.[27]

iii) Ihumatao and Otuataua Stonefields Historic Reserve

44. Ihumatao is the longest continuously occupied papakainga (village) in the Auckland region, and is adjacent to the Otuataua Stonefields Historic Reserve and the site of an ancient pa on the slopes of two volcanoes, Otuataua and Puketapapa.[28] It contains New Zealand's oldest stone-walled field systems, windbreaks, heat-conservation areas for tropical crops, burial caves,[29] and is the site of New Zealand's earliest gardens. It is a significant archaeological site on land considered wahi tapu, or sacred, by local hapu and iwi,[30] and an internationally significant heritage landscape.[31]

45. At the opening of the Otuataua Historic Stonefield Reserve in 2001, the then Conservation Minister Nick Smith (now Minister of Housing) described the importance of the area, saying:

> *"On this small piece of land it is possible to trace the history of human settlement in Auckland over the whole millennium, from the earliest Maori agricultural settlement, to the arrival of Europeans with their pastoral farming. Manukau has secured its birthplace."*[32]

46. In 2007, a Notice of Requirement was placed on a 33 hectare block of land bordering Ihumatao and the Otuataua Stonefields Historic Reserve, the Wallace Block[33] (land confiscated by the Crown in 1863 and granted to a Pakeha settler named Wallace in 1867), and the Manukau City Council[34] announced its intention to purchase the land to complete the Otuataua Historic Stonefield Reserve. The Wallace Block was zoned as Public Open Space, with provision of a strip of residential zoned land adjacent to the Ihumatao Papakainga for future village expansion. When that zoning change became operative in July 2011, the land owners appealed the designation, and in 2012 the Court changed the zoning and ordered the extension of the Metropolitan Urban Limit to the Otuataua Stonefield Historic Reserve boundary and the coastline.[35]

47. In May 2014, the Wallace Block was designated a Special Housing Area (SHA) under the Auckland Housing Accord that was agreed by the Minister of Housing and the Auckland Mayor to urgently increase the supply of housing in Auckland.[36] SHA housing developments can be fast tracked with no public consultation, with lesser environmental protections than are specified in the Resource Management Act 1991, and with no consultation with Maori.[37] The Wallace Block was purchased by Fletcher Residential Ltd, who received permission to build a high-density subdivision of 480 houses on it in May 2016.

48. The decision around the designation of the Wallace Black as a SHA was subsequently challenged by Auckland Councillors who said they had been given insufficient information to make an informed decision in the first place, because the significant cultural, historical, ecological, and geographical importance of Ihumatao had not been communicated to them[38] and they were unaware of the promises made to the Ihumatao whanau.

49. One Councillor, Cathy Casey, obtained sufficient support to force a full Council meeting in August 2015 to vote on her notice of motion revoking the SHA. A letter from the Minister of Housing was appended to the Council's agenda for the meeting - the letter said that the SHAs were activated by Orders in Council[39] and as such could only be revoked by him as Minister of Housing, not by Auckland Council.[40]

50. The Ihumatao whanau are totally opposed to the SHA and the high-density housing subdivision, and instead want the land added to the Otuataua Stonefields Historic Reserve as was promised in 2007 by Manukau City Council.

51. In December 2015, the Ihumatao whanau, descendants of the customary owners of Ihumatao who continue to live there, lodged an application for an urgent inquiry into the Crown's actions concerning the Housing Accords and Special Housing Areas Act 2013 (the SHA Act), and the development of the Ihumatao SHA, with the Waitangi Tribunal.[41]

52. Among other things, their Statement of Claim points out that the Ihumatao whanau were not party to any consultation on the SHA Act which was passed under urgency; the Minister of Housing did not consult with them about the inclusion of land from Ihumatao, and the SHA Act prevents participation of any kind by Maori in relation to the development of their traditional customary land regardless of the level of potential impact from developments proposed the legislation. The Statement of Claim points out a number of Treaty breaches that have occurred in relation to Ihumatao, including the state party's failure act in good faith, to consult, and to actively protect their taonga and their role as kaitiaki of the area.[42]

iv) Kermadec Ocean Sanctuary

53. In September 2015, the (then) Prime Minister John Key announced the establishment of a Kermadec Ocean Sanctuary, covering 15% of New Zealand's Exclusive Economic Zone, at the United General Assembly.[43] Although the establishment of the Sanctuary would unilaterally nullify Maori commercial fishing rights and interests under the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 - the *"full and final settlement of all Maori claims to commercial fishing rights"*[44] - there was not even a pretence of consultation with Maori, as detailed in the state party's Departmental Disclosure Statement on the Kermadec Ocean Sanctuary Bill:

> *"Due to the secrecy afforded the project before the announcement, no engagement occurred with affected Maori interests. Since then consultation has occurred with Ngati Kuri, Te Aupouri and Te Ohu Kaimoana. The Crown may be subject to criticism*

that this is insufficient to take fully informed decisions on how to actively protect Maori interests.

Some active protection of Maori interests is provided in the Bill for the iwi most directly affected through providing a role in conservation planning processes. However, there is no proposal to protect area-specific Maori commercial fishing interests awarded under the Fisheries Deed of Settlement or any customary fishing interests from the impact of the Sanctuary's creation. This lack of protection is likely to be criticised as failing to uphold Maori interests protected by the principles of the Treaty of Waitangi."[45]

54. Soon after the announcement, Ngati Porou said the way the Crown had acted was inconsistent with its obligations to iwi under the Treaty and its 1992 settlement between the iwi and the Crown[46]; and Te Ohu Kaimoana pointed out that the Deed of Settlement between the Crown and iwi signed as part of the full and final settlement for Maori interests in fishing guaranteed that the Crown would consult with its partners - iwi (and its agents) - on matters relating to the management of fisheries and ecosystems.[47]

55. As mentioned in Section B.i above, the Prime Minister responded by stating *"Parliament is supreme and can pass whatever laws it wants"*[48], and the Minister for the Environment gave the state party's typical reply when Maori express concern about lack of consultation, saying:

"All New Zealanders, including iwi and Te Ohu Kaimoana, will have the opportunity to make submission when the legislation to create the Kermadec Ocean Sanctuary is introduced to Parliament." [49]

56. The Kermadec Ocean Sanctuary Bill[50] was introduced and had its first reading in March 2016, and was referred to the Local Government and Environment Select Committee. The Select Committee reported back to parliament in July 2016[51].

57. When the Bill was introduced, Te Ohu Kaimoana - with support of some iwi[52], the Iwi Chairs Forum[53], and Maori leaders[54] - began legal proceedings in the High Court about the unilateral creation of the Sanctuary and the extinguishment of all iwi customary commercial and non-commercial fishing rights in the area.[55] In August 2016, the High Court granted an application by the Attorney General for a temporary stay on the legal proceedings, saying no further steps could be taken in court until the legislative process was complete.[56]

58. Since the Bill was reported back to parliament, it has been on hold because all the political parties other than National (the government party) have withdrawn their support for it. The delay in enacting the legislation was welcomed by iwi.[57]

59. In September 2016, Te Ohu Kaimoana announced that its proposals to reach a compromise with the state party - an offer to voluntarily shelve the use of Maori fisheries quota in the Kermadec region while maintaining extant fishing rights, rather than those rights being unilaterally extinguished - had been rejected.[58]

60. In February 2017, a preliminary hearing on a legal challenge to the proposed Sanctuary by two iwi - Te Whanau a Apanui and Ngati Mutunga o Wharekauri - was held; once more the state party is trying to stop the case proceeding on the basis that it interferes with the privilege of Parliament to enact legislation.[59]

v) Deep-sea oil seismic exploration and drilling

61. In our 2013 report to the Committee, we provided information on the failure of the state party to obtain the free, prior and informed consent of indigenous peoples in relation to it awarding the Brazilian oil company Petrobras a five-year exploration permit for oil and gas in the Raukumara Basin in June 2010. In 2011, a deep-sea oil survey ship, the Orient Express, conducted seismic surveying in the Raukumara Basin on behalf of Petrobras in 2011, despite the vehement opposition of local iwi, Te Whanau a Apanui, who also took legal action in an attempt to stop it, albeit with no success in the court.[60]

62. Although Petrobras withdrew from the Raukumara Basin permit in December 2012[61], the state party has continued to pursue its deep-sea oil seismic exploration programme regardless of the view of coastal hapu and iwi.

63. In 2015, the state party sought block offers for the areas on the east coast to the south of the Raukumara Basin; and at the end of 2016, the world's largest seismic testing vessel, Amazon Warrior, began seismic surveying along the eastern seaboard - despite a petition opposing the survey that has been endorsed by more than 80 hapu and iwi, and has more than 23,000 signatures of support in total.[62]

64. Last month, the Ngati Kahungunu traditional ocean waka 'Te Matau a Maui' intercepted the Amazon Warrior to deliver a message on behalf of the peoples of Ikaroa Rawhiti objecting to its presence and ... *"to declare your flagrant disregard for our rights as indigenous peoples as unacceptable. We have communicated to you on numerous occasions that your presence and activity is not permitted by us, the peoples of this coastline."* [63]

65. Last week, Te Ikaroa - Defending our Waters (the indigenous group coordinating opposition to the seismic surveying) made a statement at the Permanent Forum on Indigenous Issues highlighting the negative effects of seismic testing, noting that iwi and hapu rely upon the coastal waters for *"spiritual, cultural, emotional and physical sustenance"*, and calling upon the Permanent Forum to support increased indigenous rights in relation to ocean governance. [64] The statement included:

> *"In 2015, against the objections of local government and indigenous communities, the NZ government opened up large areas of our coastline for the oil and gas industry to prospect, explore and/or extract. The process resulted in the allocation of a prospecting permit to Statoil/Chevron which is being carried out through seismic surveying of our seabed, and is with a view to drilling at unprecedented depths of over 3000m. This depth by far exceeds the capacity for Maritime New Zealand to tend to any spill. For these reasons and more we have the support of over 80 indigenous communities along our coastline in petitioning for the removal of Statoil and Chevron from our waters.*

We are ocean peoples, we rely upon the delicately balanced ecosystems of our coastal waters for spiritual, cultural, emotional and physical sustenance. Our ancestral genealogies link us to the marine populations within our territory. Seismic testing has been proven to disturb, injure and kill marine life. Over the course of the recent seismic surveying we have experienced unprecedented levels of marine mammal beachings, including over 600 pilot whales in just two days.

We consider the block offer process, the seismic surveying and the proposed drilling to all be clear violations of our rights as secured by the Declaration for the Rights of Indigenous Peoples.

Madam Chair, we recall that article 26 of the Declaration secures our rights to our territories which we possess by reason of traditional ownership or other traditional occupation or use. The ocean is our unceded ancestral territory. Our sustained occupancy is primarily evidenced by our living voyaging traditions. "[65]

vi) Marine & Coastal Area (Takutai Moana) Act 2011

66. Finally in this section, it should be noted that the deadline for hapu and iwi to apply for recognition of "customary interests" under the Marine & Coastal Area (Takutai Moana) Act 2011 was 3 April 2017[66] and the state party will not accept any new applications. More than 380 claims have been made under the Marine and Coastal Area Act but, even before they have been considered, the Prime Minister has already said that only a handful of them will be successful.[67]

E. Care and protection of Maori children

i) Proposal to deprioritise placing Maori children in state care with whanau, hapu or iwi

67. This section outlines urgent issues around the state party's approach to the care and protection of Maori children, which are part of its wider policy and legislative changes around the care and protection of children, including the establishment of a new Ministry[68] to replace Child, Youth and Family. Sixty-one percent of children in the care and protection system, and up to seventy percent of those in Child, Youth and Family or Youth Justice residences, are Maori.[69]

68. In September 2016, Cabinet papers released by the Minister of Social Development revealed that the state party plans to axe the provisions of the Children, Young Persons, and Their Families Act 1989[70] which require child protection staff to consider the effects of their decisions on whanau, hapu and iwi, and which prioritise placing children who are removed from their immediate family with their whanau, hapu or iwi.

The Act currently includes:

5. Principles to be applied in exercise of powers conferred by this Act

Subject to section 6, any court which, or person who, exercises any power conferred by or under this Act shall be guided by the following principles:

(c) the principle that consideration must always be given to how a decision affecting a child or young person will affect -

(i) the welfare of that child or young person; and

(ii) the stability of that child's or young person's family, whanau, hapu, iwi, and family group" - and ...

13. Principles

(1) Every court or person exercising powers conferred by or under this Part, Part 3 or 3A, or sections 341 to 350, must adopt, as the first and paramount consideration, the welfare and interests of the relevant child or young person (as required by section 6).

(2) In determining the welfare and interests of a child or young person, the court or person must be guided by the principle that children and young people must be protected from harm and have their rights upheld, and also the principles in section 5 as well as the following principles:

(g) where a child or young person cannot remain with, or be returned to, his or her family, whanau, hapu, iwi, and family group, the principle that, in determining the person in whose care the child or young person should be placed, priority should, where practicable, be given to a person -

(i) who is a member of the child's or young person's hapu or iwi (with preference being given to hapu members), or, if that is not possible, who has the same tribal, racial, ethnic, or cultural background as the child or young person".

69. When the Minister of Social Development announced the changes, there was an immediate concerned response from Maori - for example, Dame Tariana Turia pointed out that the principles of Puao-te-ata-tu which shaped the 1989 Child, Young Persons and their Families Act were being tampered with despite a wealth of expertise upholding the fundamental value of a whanau-centred approach.[71]

70. Puao-te-ata-tu[72] was a landmark report in 1988 which reviewed the Department of Social Welfare, and:

"identified a number of problems across the government in policy formation, service delivery, communication, racial imbalances in staffing, appointments, promotion and training practices. It said "The most insidious and destructive form of racism, though, is institutional racism. It is the outcome of mono-cultural institutions which simply ignore and freeze out the cultures of those who do not belong to the majority. National structures are evolved which are rooted in the values, systems and viewpoints of one culture only".

Puao-te-ata-tu informed the Children and Young Persons and their Families Act in 1979. It established procedures such as family group conferences and restorative justice. It created a new best practice of Maori-led solutions. But regrettably, the fundamental

issues raised around institutional racism were minimised, ignored and forgotten by officials of the day and those that followed."[73]

71. Tariana Turia comments on the state party's proposal also included:

It makes a mockery of the Expert Panel's recommendation[74] *that the policy and practices of the new Ministry will be designed "in strategic partnerships with iwi and Maori organisations as a primary mechanism for providing opportunity and inviting innovation to improve outcomes for vulnerable Maori children, young people and their whanau" ...*

"I was hopeful that when I read in the expert report that "Maori children deserve the best staff, the best expertise and the highest expectations" (2015, p13) that this Minister would do what was right; would establish strategic partnerships with those closest to whanau; would appoint significant Maori positions in the new Ministry that were in touch with whanau, hapu, iwi; and that all of us would be able to contribute to the solutions we so desperately need to achieve for all our children to live a great life.

What we needed to see was Puao-te-ata-tu put into policy and practice. Instead the latest announcement just feels like a big step backwards."[75]

72. It should be noted that in its September 2016 Concluding Observations, the Committee on the Rights of the Child expressed serious concern about the *"enduring inadequate cultural capability of the State care system, despite recent efforts, which disproportionally impacts Maori families and children, who make up over half of the children in State care"*, and urged the state party to *"strengthen its efforts to improve the cultural capability of care and protection system and its engagement with Maori communities, whanau, hapu and iwi"*[76] - advice the state party has clearly ignored.

73. The Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Bill[77], which was introduced and had its first reading in December 2016, then referred to the Social Services Select Committee for consideration, does not include the priorities listed in the 1989 Act (provided on the previous page).

74. The legislative changes have been widely condemned by Maori, being described as yet another example of institutional racism[78], *"another ugly chapter in the Crown's history of state imposed abuse"*[79], as risking creating another *"stolen generation"* of Maori children[80], and as dislocating Maori children *"from the essence of who they are"*[81]. During the first reading debate in parliament, Maori Members of Parliament also condemned the changes; for example, Green Party Co-Leader Metiria Turei's statement included:

... "the fundamental provision in this legislation is the deliberate intention to remove Maori children from Maori whanau for good. It is an assimilationist policy in this legislation. It is a crime against the rights of the child and their whanau. It is a breach of Te Tiriti o Waitangi. It is extremely serious. This is a policy that the Government members know will have its greatest negative impact on Maori children and Maori whanau. They know that it will mean that more of our kids are taken, and more of our kids will be unsafe. It is one of the most disgraceful policy decisions by Government I have seen in a long time."[82]

75. Maori Party Co-Leader Marama Fox's comments included:

> *"We should not have a Maori issues paper on the side, to decide what we might do or might not do. The entire make-up, the entire structure, the entire rebuild of CYF needs to be done in accordance with Maori principles.*
>
> *What has happened is a systematic failure, where even the Children's Commissioner said that some of those children would have been better off staying in their abusive families than going into CYF care. In fact, going into CYF care has been detrimental to them. They are more likely to fall out of school without a qualification, more likely to be arrested, more likely to be incarcerated, and more likely to be abused in State care. That is double jeopardy. We cannot repeat the tragedy of the past. We cannot have a new stolen generation by removing links to whakapapa in this new design. It was not Maori families that failed all of their children; the system has failed all of their children.*
>
> *Lastly, I want to say it is not a question of having a safe, loving, stable home or a Maori home, as if they are mutually exclusive."*[83]

76. Green Party MP Marama Davidson described the racist narrative underlying the legislation, saying:

> *"The narrative that we continue in this House by supporting this legislation, which wants to weaken the priority to keep tamariki Maori with whanau Maori. When we uphold that legislation, we are feeding the narrative that Maori do not love our children as much, and that we do not understand how to properly and safely care for our children."...*
>
> *"Instead of State removal of Maori children, we should be looking at State responsibility to ensure that all whanau have what they need to live good lives. That is when our housing is working, that is when our education is delivering, and that is when our justice system is not blatantly and systemically racist. That is when everything is working to ensure that families have what they need to live good lives."*[84]

77. In the week the Bill was introduced, the Maori Women's Welfare League (MWWL) filed a claim with the Waitangi Tribunal challenging the changes, explaining:

> *"Essentially the claim is brought on the basis that the policy changes to a safe, stable, loving home without the existing priority of placement within whanau, hapu and iwi is a breach of the rangatiratanga and partnership guarantees under the Treaty of Waitangi.*
>
> *Last week the [MWWL National] President wrote to the Minister of Social Development and the Minister for Maori Development asking that any proposed legislation reflecting the policy is deferred until Maori have had a chance to consider and discuss the changes. The President has also asked the Iwi Leaders for their support in the call to delay the introduction of any new law.*
>
> *The policy outlines significant changes that will impact on our tamariki and rangatahi who make up the majority of children in state care. The existing provisions arose out of a report that identified institutional racism within the Department of Social Welfare and*

the urgent need to involve whanau, hapu and iwi in the decisions about proper care and protection. That the Department has fallen short of those requirements does not justify abandoning them. We know how important it is for our tamariki and rangatahi to know who they are and where they come from and to ensure that their whanau, hapu and iwi connection is made and maintained."[85]

78. The MWWL Statement of Claim filed with the Waitangi Tribunal includes the letter to the Minister of Social Development and the Minister for Maori Development outlining their concerns about the policy changes and the lack of consultation with Maori about them.[86]

79. As is standard for the state party, when questioned in parliament about the lack of consultation with Maori prior to the introduction of the Bill, the Minister speaking on behalf of the Minister of Social Development said, *"there would be significant consultation opportunities as part of the bill's Select Committee process"*.[87]

80. The MWWL submission to the Social Services Select Committee which is considering the Bill, states very clearly that the care and protection reforms have taken place *"without meeting the most basic elements of consultation with Maori"*, and also details their multiple reasons for opposing the legislation.[88]

81. The Social Services Select Committee is due to report back to parliament on the Bill on 13 June 2017. There have been rumours that some changes may be made to the Bill, but nevertheless, the repeated failure of the state party to consult with Maori at the planning stages of any policy of legislative proposals is unconscionable - not only because it causes totally unnecessary anguish and distress, but also because it is clearly a major breach of its Treaty and other international obligations with regard to indigenous peoples and their rights.

ii) Treatment of Maori children in state care

82. While the state party's proposal would be of the deepest concern at any time, bizarrely it has come at a time of heightened public awareness and concern about what happens to Maori children in state care. This has come about in part because of the state party's refusal to hold a full and independent inquiry into the physical, sexual and psychological abuse and neglect of children in state institutions between the 1940s and 1990s, which particularly impacted Maori children who were the majority of those taken from their families and put into those institutions.

83. In 2008, the state party established the Confidential Listening and Assistance Service (CLAS) to listen to the experiences of, and to provide assistance to, anyone who had concerns or alleges abuse or neglect whilst in State care.[89] CLAS was chaired by Judge Carolyn Henwood, and comprised an eight member panel which heard the stories of 1,103 individuals who had been in state care prior to 1992, before it was shut down in 2015.[90]

84. CLAS's report was released under the Official Information Act (OIA) in 2015[91]. The report describes the process undertaken by the panel, participants' stories and the impacts of their experiences, and ways to improve state care for the next generation. The report states:

"Our panel meetings revealed an alarming amount of abuse and neglect, with extreme levels of violence. We allowed people to lift the lid on those issues, to air their grievances in a safe way so their voices were heard. We tried to ensure that everyone who came forward was provided with appropriate assistance." ...

"The most shocking thing was that much of this was preventable. If people had been doing their jobs properly and if proper systems had been in place, much of this abuse could have been avoided with better oversight."[92]

85. Judge Henwood made seven recommendations to the state party, including that an independent body be set up to discover the extent of the abuse, to monitor the Ministry's care of children and to investigate complaints.[93] The recommendations were redacted in the CLAS report released under the OIA[94], although they were included in the report was publicly released[95] at an unknown date, possibly after the state party finally made a formal response to the CLAS report in November 2016 - a year and five months after it was submitted.[96]

86. The state party responded to the CLAS report by saying there would be no universal apology for the abuse of children in state care because *"there is no evidence it was systemic"*, and there would be no independent inquiry.[97] Instead, the state party is "fast tracking" compensation via the Ministry of Social Development for people alleging historic abuse in state care, a process advocates for child abuse victims have described as flawed and underfunded.[98]

87. The state party's refusal to hold an independent inquiry has been condemned by survivors of state abuse, by the Iwi Leaders Forum, Maori Women's Welfare League, the Human Rights Commission, and every political party, except National (the government party).[99] It has prompted some survivors to speak publicly about their inexcusable experiences of abuse while in state care[100], and their courage has been contrasted with the behaviour of the state party:

It's a shame that the Crown has not been similarly courageous in its response. Its refusal to hold any sort of inquiry shows a callous disregard for the trauma of the victims as well as an unwillingness to accept responsibility.

Yet in many ways the lack of response isn't surprising. The immediate reason may simply be a fear of the costs of possible compensation to the victims - petty politics too often prevails over the need to remedy injustice.

However, even petty politics have a whakapapa of sorts, a context within which decisions are made and interests determined. In this country that context is always the history of colonisation, and the way it is understood or misunderstood.

In this particular case, the Crown's refusal to publicly inquire into the abuse in its own institutions is consistent with a long-held misperception about its power, and the nature and consequences of colonisation within which it was assumed."[101]

88. In March 2017, an urgent application was lodged with the Waitangi Tribunal - the WAI 2615 'Maori Children placed in State care' claim[102] - calling for an independent inquiry into the disproportionate impact of state care, and abuse while in state care, on Maori. Auckland University Law School Senior Lecturer Andrew Erueti, who is assisting the claimants, said:

> *"the claim asks for an independent inquiry to find out why so many Maori children were put in welfare homes where they suffered abuse. It says there is an incomplete understanding of the policies and practices that led to the majority of children in state institutions being Maori, the abuse they suffered, and how it has affected successive generations." ...*
>
> *"Maori children were singled out by child welfare officers and those children were ill-treated in state institutions. The true extent and detail of the violations are unknown because the Crown has failed to establish an independent and comprehensive inquiry into the matter.*
>
> *Ministry of Social Development processes were inadequate and there had been no analysis of the impact on subsequent generations, the consequences in terms of Maori incarceration, gang membership, family violence, educational failure, and ill-health, both physical and mental. Until those matters were investigated independently, there was a risk that the same mistakes could be made again.*
>
> *A comprehensive independent inquiry was needed to inform current and future child policy and legislation, including the Oranga Tamariki Bill before parliament, Mr Erueti said. "It's important to look clearly at the circumstances that led to what we think was a systemic breakdown in the system," he said.*
>
> *"Unless we explore that in detail, unless there's a comprehensive inquiry into the reasons for the abuse and neglect - and it was extensive and pervasive - then there's a real risk that we may end up repeating the same mistakes under this new code."*[103]

F. Institutional racism and the administration of justice

89. Our focus in this section on the administration of justice is not intended to suggest in any sense that institutional racism against Maori only occurs in this context - it occurs in all of aspects of daily life, including health[104] and education[105].

90. There is a direct link between the incarceration of Maori children in significant numbers in state institutions, as outlined in the section above, and the subsequent disproportionate rate of incarceration of Maori in prisons, as referenced - for example - in the WAI 2615 Statement of Claim to the Waitangi Tribunal:

> *"129. For many Maori that entered the criminal justice system their first contact with the State was via the child welfare protection agencies of the Crown.*
>
> *130. The pathway from care into custody is entrenched, and has been demonstrated across numerous statistics.*

131. This is not the focus of the urgency request - which calls for an independent inquiry, but counsel notes the close connection between institutionalisation of Maori youth and their later institutionalisation in New Zealand's prisons."[106]

91. As the Committee is aware, institutional racism is a feature of the state party's criminal justice system - Maori are more likely than non-Maori to be apprehended, to be prosecuted, to be remanded awaiting trial, to be convicted, and to be given a custodial sentence.[107]

92. This has lead to appalling levels of incarceration, which were summarised in the Waitangi Tribunal report released last month ('Tu Mai te Rangi!'), which looks at how the Crown, through the Department of Corrections, is failing to meet its Treaty responsibilities to reduce Maori reoffending rates:

"Current estimates put the total prison population in 2017 at 10,000. As at June 2016, Maori made up 50.8 per cent of all sentenced prisoners in New Zealand's corrections system, despite comprising just 15.4 per cent of New Zealand's population. Of all sentenced male prisoners in New Zealand, 50.4 per cent are Maori men. Maori women make up 56.9 per cent of all sentenced female prisoners. Young Maori figure prominently. Some 65 per cent of youth (under 20 years) in prison are Maori, up from 56 per cent a decade ago. Recent estimates of the total prison population indicate that approximately 5,000 Maori men and women will be imprisoned in 2017."[108]

93. Furthermore, last year, Maori were imprisoned at a higher rate than any year since records began - 56.3 percent of those convicted - even while the overall number of people convicted has dropped significantly in the past decade.[109]

94. With regard to the recent efforts by the Department of Corrections to reduce the overall rate of reoffending by 25 per cent, in its April 2017 report the Waitangi Tribunal said ... *"the most recent statistics supplied by the Crown show Maori progress toward this target has slowed dramatically, while the gap between Maori and non-Maori progress toward the target has widened".* [110]

95. The Waitangi Tribunal concluded that:

... "the Crown, through the Department of Corrections, is not prioritising the reduction of Maori reoffending. This conclusion is supported by the fact that the Department has no specific plan or strategy to reduce Maori reoffending, no specific target to reduce Maori reoffending, and no specific budget to meet this end."[111] and

... "the Crown is not prioritising the reduction of the rate of Maori reoffending and is in breach of its Treaty obligations to protect Maori interests and to treat Maori equitably."[112]

96. Among the Waitangi Tribunal's recommendations is that *"the Department work with its Maori partners to design and implement a new Maori-specific strategic framework".*[113]

97. It should be noted that the state party's lack of interest in addressing institutional racism in the criminal justice system is evident in the fact that this Tribunal report comes twenty nine years after the landmark report 'Maori and the Criminal Justice System: He Whaipaanga Hou - A New Perspective' was published by the (then) Department of Justice[114].

98. 'He Whaipaanga Hou' was the result of extensive research undertaken in a Maori conceptual framework. It pointed out that any analysis of Maori and the criminal justice system must be contextualised within the historical and ongoing processes of colonisation and resulting cultural deprivation, looked at Maori and Pakeha concepts of justice, highlighted the monoculturalism and institutional racism of the New Zealand criminal justice system, made a number of recommendations, and concluded that a parallel system was necessary to ensure justice for Maori.

99. As both the number of Maori imprisoned and the rate at which they are imprisoned when compared with non-Maori continues to rise, it is clear that the state party has not addressed any of the issues raised in 'He Whaipaanga Hou' - despite the intervening twenty nine years.

G. Impact of the activities of New Zealand companies on indigenous communities overseas

100. We have a long standing concern about the negative impact of the activities New Zealand companies on indigenous communities overseas[115], in particular the fact that so far as we are aware the state party does not monitor those activities or their impact. We will provide information on this matter in our report for the 93rd session, but in the interim, suggest the Committee asks for information about how the state party monitors the impact of the activities of New Zealand companies on the enjoyment of Convention rights by indigenous communities in other parts of the world.

101. Thank you for your attention to our report.

References:

[1] Twenty-first and twenty-second periodic reports submitted by states parties under Article 9 of the Convention: New Zealand (submitted March 2016), 20 April 2016, CERD/C/NZL/21-22

[2] For example, to the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People in 2005; to the Committee on the Elimination of Racial Discrimination in 2007 and 2013; to the Human Rights Committee in 2009, 2010, 2014 and 2016; to the Committee on the Rights of the Child in 2010, 2011 and 2016; to the Committee on Economic, Social and Cultural Rights in 2011, 2012 and 2016; to the Committee Against Torture in 2015; to the Human Rights Committee for the General Discussion on Article 6 of the International Covenant on Civil and Political Rights in 2015; to the Committee on the Rights of the Child on the Draft General Comment on Article 4 of the Convention (Public Spending) in 2015; and jointly with

the Aotearoa Indigenous Rights Trust and others, to the Human Rights Council for the Universal Periodic Review of New Zealand in 2008, 2009 and 2014.

[3] General Recommendation XXIII: Indigenous Peoples, Committee on the Elimination of Racial Discrimination, 18 August 1997, A/52/18, Annex V

[4] Committee on the Elimination of Racial Discrimination: Concluding Observations on the eighteenth to the twentieth periodic reports of New Zealand, adopted by the Committee at its eighty-second session (11 February-1 March 2013), 17 April 2013, CERD/C/NZL/CO/18-20

[5] References to the Treaty of Waitangi in this report are to the Maori text signed at Waitangi on 6 February 1840 by the Crown, and on 6 February and subsequently, by more than 500 rangatira, not to one of the English versions

[6] 1835 Declaration of Independence of New Zealand (He Whakaputanga o te Rangatiratanga o Nu Tireni) ... *"He Whakaputanga was an unambiguous declaration of Maori sovereignty and independence. The rangatira who signed it declared that rangatiratanga, kingitanga, and mana in relation to their territories rested only with them on behalf of their hapu and that no one else but them could make law within their territories, nor exercise any function of government except under their authority."* - 'Treaty Signatories Did Not Cede Sovereignty in February 1840', Waitangi Tribunal, 14 November 2014, https://www.waitangitribunal.govt.nz/news/report-on-stage-1-of-the-te-paparahi-o-te-raki-inquiry-released-2

[7] Concluding Observations of the Committee on Economic, Social and Cultural Rights: New Zealand, 18 May 2012, E/C.12/NZL/CO/3, paragraph 11

[8] United Nations Declaration on the Rights of Indigenous Peoples, GA Res. 61/295, UN Doc. A/RES/61/295 (13 September 2007)

[9] CERD/C/NZL/21-22, para 24

[10] Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, Preamble, l.viii, http://www.legislation.govt.nz/act/public/1992/0121/latest/096be8ed8155cd48.pdf

[11] See, for example, 'Key: Parliament's wishes 'supreme' over Treaty', Newshub, 21 March 2016, http://www.newshub.co.nz/home/politics/2016/03/key-parliaments-wishes-supreme-over-treaty.html

[12] CERD/C/NZL/21-22, paras 39 - 42

[13] Constitutional Advisory Panel, http://www.ourconstitution.org.nz Constitutional Advisory Panel Report, http://www.ourconstitution.org.nz/The-Report

[14] CERD/C/NZL/21-22, para 41

[15] 'Treaty Signatories Did Not Cede Sovereignty in February 1840', as above, https://www.waitangitribunal.govt.nz/news/report-on-stage-1-of-the-te-paparahi-o-te-raki-inquiry-released-2 - links to the Report, in two parts, are at the end of that page

[16] As at note above

[17] See, for example, 'Crown still in charge: Minister Chris Finlayson on Waitangi Treaty ruling', NZ Herald, 14 November 2014, http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11358560

[18] 'He Whakaaro Here Whakaumu Mo Aotearoa: The Report of Matike Mai Aotearoa', http://www.converge.org.nz/pma/iwi.htm

[19] 'He Whakaaro Here Whakaumu Mo Aotearoa: The Report of Matike Mai Aotearoa', p 7

[20] See, for example, the outcomes of 42 community discussions summarised in 'Submission to the Constitutional Advisory Panel', Peace Movement Aotearoa, 31 July 2013, http://www.converge.org.nz/pma/PeaceMovementAotearoaCAPSubmission.pdf

[21] After a century-and-a-half of struggle and eighty years of court action by the seven Whanganui Iwi, Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 finally provides appropriate recognition for the Whanganui River, appropriate acknowledgement of the inalienable and longstanding relationship of all River iwi and hapu with the River, gives the River legal personality and standing in its own right, and enshrines in law and protects its rights and innate values. See, for example, 'Te Awa Tupua passes in to law', Nga Tangata Tiaki o Whanganui, 15 March 2017, http://www.scoop.co.nz/stories/PO1703/S00187/te-awa-tupua-passes-in-to-law.htm the Nga Tangata Tiaki o Whanganui site is at http://www.ngatangatatiaki.co.nz and Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 is at is at http://www.legislation.govt.nz/act/public/2017/0007/latest/096be8ed81520106.pdf

[22] CERD/C/NZL/CO/18-20, para 18

[23] New Plymouth District Council (Waitara Lands) Bill, http://www.legislation.govt.nz/bill/local/2016/0174/latest/096be8ed813cb13d.pdf

[24] ' 'Give it back' refrain at Waitara Lands Bill hearing', Radio NZ, 17 February 2017, http://www.radionz.co.nz/news/national/324748/%27give-it-back%27-refrain-at-waitara-lands-bill-hearing The Manukorihi Hapu submission to the Mari Affairs Select Committee is at https://www.parliament.nz/resource/en-NZ/51SCMA_EVI_00DBHOH_BILL69946_1_A537698/595f45d19a8fa5ff098e39bfe158733a7335da1d Te Kotahitanga o Te Atiawa Trust submission is at https://www.parliament.nz/resource/en-NZ/51SCMA_EVI_00DBHOH_BILL69946_1_A537412/461a1000fe18e31e19040f157f8dd43f016afbd5 and the Otaraua Hapu submission is at https://www.parliament.nz/resource/en-NZ/51SCMA_EVI_00DBHOH_BILL69946_1_A537529/0912f52277686c0c30145924146c383f9be0bbc0

[25] ' 'Give it back' refrain at Waitara Lands Bill hearing', as above

[26] 'Te Atiawa opposes land bill but keen to be part of better solution', Taranaki Daily News, 20 February 2017, http://www.stuff.co.nz/taranaki-daily-news/news/89590631/Te-Atiawa-opposes-land-bill-but-keen-to-be-part-of-better-solution

[27] 'Extension granted regarding select committee consideration of Waitara land bill', Taranaki Daily News, 10 April 2017, http://www.stuff.co.nz/taranaki-daily-news/news/91418477/extension-granted-regarding-select-committee-consideration-of-waitara-land-bill

[28] About Ihumatao, http://www.soulstopsha.org/about-ihumatao-mangere.html

[29] See, for example, 'New subdivision planned for site of historic eviction reignites anger of the land wars', Sunday Star Times , 9 October 2016, http://www.stuff.co.nz/national/85029876/site-of-the-waikato-wars-in-battle-to-keep-heritage-from-housing-developers

[30] See, for example, 'Campaigners take fight against Auckland development to UN', Radio NZ, 25 April 2017, http://103.14.3.1/news/national/329477/campaigners-take-fight-against-akl-development-to-un

[31] 'Otuataua Stonefields Historic Reserve', Auckland Council, http://www.aucklandcouncil.govt.nz/EN/parksfacilities/premierparks/Documents/otautauastonefieldshistoricreservebrochure.pdf

[32] About Ihumatao, http://www.soulstopsha.org/about-ihumatao-mangere.html

[33] Maps showing the relationship of the Wallace Block to Ihumatao and the Otuataua Stonefields Historic Reserve are at http://www.soulstopsha.org/about-ihumatao-mangere.html

[34] Manukau City Council was subsequently subsumed into Auckland Council when the state party amalgamated the eight local authorities in the wider Auckland region into one unitary authority

[35] A full account of the history of Ihumatao is at http://www.soulstopsha.org/special-housing-area-sha.html

[36] As at note above

[37] See, for example, Waitangi Tribunal asked to review Auckland SHA, SOUL, 14 December 2015, http://www.scoop.co.nz/stories/AK1512/S00418/waitangi-tribunal-asked-to-review-auckland-sha.htm

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[47] 'Te Ohu Kaimoana considers government's plan to create marine reserve around the Kermadec Islands', Te Ohu Kaimoana, 2 October 2015, http://teohu.maori.nz/media-release/2015/02.10.15-Marine_Reserve_Kermadec_Is.htm

[48] See, for example, 'Key: Parliament's wishes 'supreme' over Treaty', Newshub, 21 March 2016, http://www.newshub.co.nz/home/politics/2016/03/key-parliaments-wishes-supreme-over-treaty.html

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[51] The Select Committee report is available at https://www.parliament.nz/en/pb/sc/reports/document/51DBSCH_SCR69634_1/kermadec-ocean-sanctuary-bill-120-2

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