Report of the Independent Monitoring Mechanism regarding the implementation of the UN Declaration on the Rights of Indigenous Peoples in Aotearoa New Zealand

Intervention to the Committee on Economic, Social and Cultural Rights

Information for the Committee's 63rd Session, March 2018 – Review of New Zealand

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Introduction

This report is made by the Independent Monitoring Mechanism for the United Nations Declaration on the Rights of Indigenous Peoples in Aotearoa New Zealand (the Monitoring Mechanism).

The Monitoring Mechanism is a working group created by Māori in 2015 and is independent of government. Members of the Monitoring Mechanism have been selected by their iwi (tribal nation) and endorsed by the National Iwi Chairs Forum (the Forum)[1] to act as independent experts. The Monitoring Mechanism is supported in its work by technical advisers. The objective of the Monitoring Mechanism is to promote and monitor the implementation of the UN Declaration on the Rights of Indigenous Peoples (the Declaration) in Aotearoa/New Zealand.

2017 Monitoring Report

Since its establishment, the Monitoring Mechanism has reported annually to the United Nations Expert Mechanism on the Rights of Indigenous Peoples (EMRIP). The Monitoring Mechanism's 2017 annual report (attached as **appendix 1**) outlined six priority areas; proposed as the basis for further work with government to develop a National Action Plan for the Declaration. The priorities are:

A. An overarching priority of constitutional transformation
B. Self-determination, underpinned by participation in decision-making and free, prior and informed consent
C. Lands, territories and resources
D. Cultural rights
E. Equality and non-discrimination
F. Practical implementation of the Declaration and technical assistance.

[1] The Iwi Chairs Forum is the national collective of iwi chairpersons who represent hapū (groupings of extended families) and iwi. It functions in accordance with tikanga (Māori law) and on the basis of He Whakaputanga o te Rangatiratanga o Nu Tireni (He Whakaputanga), Te Tiriti o Waitangi (Te Tiriti) and the Declaration. It meets regularly to discuss and act collectively on issues ranging from constitutional transformation, resource protection and recovery and economic development. The Iwi Chairs Forum also addresses government policy and practice as it impacts on iwi and hapū and engages in regular dialogue with government representatives on priorities, issues and projects.

The 2017 report commented on developments within each of the areas. It highlighted some areas of positive progress – such as new legislation to support Māori language revitalization; increasing numbers of children learning Māori language; and new resource management processes to provide for Iwi (tribal nations) participation. The report also noted ongoing challenges – including participation in decision-making, the exercise of self-determination and free, prior and informed consent regarding lands and resources, and lack of Government action to respond to climate change.

Overall, the Monitoring Mechanism concluded that:

- self-determination is not fully recognized or protected
- law and policy processes don't guarantee Māori participation in decision-making
- a fundamental shift in approach is needed to ensure that tikanga (Māori law and culture) is properly valued and is reflected in law and policy and
- urgent action is required to address the persistent and severe inequalities experienced by Māori.

In making the present report to this Committee, the Monitoring Mechanism wishes to highlight the relevance of those issues raised in the 2017 monitoring report to the International Covenant on Economic, Social and Cultural Rights (ICESCR) and to this Committee's List of Issues. Namely:

- Progress on constitutional review, and compatibility of laws with international human rights and with the Treaty of Waitangi (List of Issues, para 1)
- Consultation with Māori in relation to trade agreements (List of Issues, para 2)
- Enjoyment of economic, social and cultural rights by Māori and how structural issues have been addressed (List of Issues, para 3)
- Free, prior and informed consent regarding lands, territories and resources (List of Issues, para 5; Article 1(2))
- Māori rights to language and culture (List of Issues, para 5; Article 1(2))
- Māori health outcomes (List of Issues, para 22; Article 12)
- Educational outcomes for Māori (List of Issues, para 24; Article 13-14).

We also draw the Committee's attention to the separate intervention and specific recommendations provided by Catherine Murupaenga-Ikenn, who is a member of the Monitoring Mechanism. That report provides further detailed information on recent developments particularly in relation to the following issues of ongoing concern to the Monitoring Mechanism:

- Climate Crisis (List of Issues, para 5; Articles 1(2), 11, 12)
- TPPA (List of Issues, para 2)
- Water and democratic decision-making (List of Issues, para 5, 23; Articles 1(2), 12).

Recommendations

As outlined in its 2017 report, the Monitoring Mechanism considers that implementing the Declaration and progressing constitutional conversations are critical mechanisms for achieving greater realisation of human rights and improving outcomes for Māori.

The Mechanism has identified constitutional transformation as an overarching priority – given that the fundamental constitutional structures of the country have such an impact on every aspect of peoples' lives. Getting those constitutional foundations right is critical to making any meaningful improvements in the enjoyment of economic, social and cultural rights for Māori – including addressing the severe, ongoing disparities that Māori continue to experience.

The 2016 *Matike Mai Aotearoa* report[2] proposed models for an inclusive constitution, based on Te Tiriti o Waitangi and which have a focus on improved relationships that reflect self-determination, partnership and equality. The report recommended further dialogue over the next five years – amongst Māori and with other groups and the government – to develop, agree and implement an inclusive, Treaty-based constitution.

In August 2017, the United Nations Committee for the Elimination of Racial Discrimination, recommended that the Government:[3]

> Issue, without delay, a timetable for debating, in partnership with Māori, the recommendations of the Constitutional Advisory Panel regarding the role of the Treaty of Waitangi within its constitutional arrangements along with the proposals of the report of Matike Mai Aotearoa and all stakeholders.

The Committee may wish to reiterate this recommendation and seek a commitment from government to its implementation.

Proposed recommendations:

That the government:

1. **Work with the Monitoring Mechanism to progress constitutional transformation discussions.**

2. **Work with the Monitoring Mechanism to develop and implement a National Plan of Action for the implementation of the Declaration.**

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[2] *He Whakaaro Here Whakaumu mō Aotearoa: Report of the Independent Constitutional Transformation Working Group* (2016). Accessible at: http://www.converge.org.nz/pma/MatikeMaiAotearoaReport.pdf

[3] UN Committee for the Elimination of Racial Discrimination, (2017), *Concluding Observations: New Zealand*, CERD/C/NZL/CO/21-22, at para 13(a).

3. **Provide resourcing, cooperation and support to the Monitoring Mechanism to support its independent monitoring of the Declaration's implementation.**

APPENDIX 1

Report of the Independent Monitoring Mechanism regarding the implementation of the UN Declaration on the Rights of Indigenous Peoples in Aotearoa New Zealand

July 2017

Introduction

1. This is the third annual monitoring report by the Independent Monitoring Mechanism for the United Nations Declaration on the Rights of Indigenous Peoples in Aotearoa New Zealand (the Monitoring Mechanism).

2. The Monitoring Mechanism is a working group created by Māori in 2015 and is independent of government. Members of the Monitoring Mechanism have been selected by their iwi (tribal nation) and endorsed by the National Iwi Chairs Forum (the Forum)[4] to act as independent experts. The Monitoring Mechanism is supported in its work by technical advisers. The objective of the Monitoring Mechanism is to promote and monitor the implementation of the UN Declaration on the Rights of Indigenous Peoples (the Declaration) in Aotearoa/New Zealand.

Engagement with Government

3. Since its establishment, the Monitoring Mechanism has consistently and proactively sought to engage with the New Zealand Government on implementation of the Declaration. While in previous years these efforts were unsuccessful, following the Monitoring Mechanism's report and statements to the ninth session of the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) in 2016, there has been a renewed willingness on the part of Government to engage with the Monitoring Mechanism, and several meetings and discussions have been held.

4. Through these discussions, the Monitoring Mechanism has sought to work with Government on a National Action Plan to implement the Declaration. To that end, the Monitoring Mechanism developed a draft framework for a National Action Plan, based on key priorities:

    A. An overarching priority of constitutional transformation
    B. Self-determination, underpinned by participation in decision-making and free, prior and informed consent
    C. Lands, territories and resources
    D. Cultural rights

[4] The Iwi Chairs Forum is the national collective of iwi chairpersons who represent hapū (groupings of extended families) and iwi. It functions in accordance with tikanga (Māori law) and on the basis of He Whakaputanga o te Rangatiratanga o Nu Tireni (He Whakaputanga), Te Tiriti o Waitangi (Te Tiriti) and the Declaration. It meets regularly to discuss and act collectively on issues ranging from constitutional transformation, resource protection and recovery and economic development. The Iwi Chairs Forum also addresses government policy and practice as it impacts on iwi and hapū and engages in regular dialogue with government representatives on priorities, issues and projects.

E. Equality and non-discrimination
F. Practical implementation of the Declaration and technical assistance.

5. At the time of writing, progress on working with government towards a National Action Plan for the Declaration has slowed. In the meantime, the Monitoring Mechanism continues to focus on these priorities and has used the framework it developed for a National Action Plan, as the basis for this report. The Monitoring Mechanism has also proposed goals under each priority. The following sections of this report, make comment on the current status of these goals and progress towards their achievement.

A and B Constitutional Transformation, Self Determination (Participation, good faith cooperation and free, prior and informed consent)

Goal: Government will recognise and protect Rangatiratanga (self-determination) in its laws, policies and practices

Constitutional Transformation

6. From 2010-15 Matike Mai Aotearoa, the Independent Constitutional Transformation Working Group (Matike Mai) appointed by the Iwi Chairs Forum held over 300 meetings with Māori and developed possible models for a constitution that reflect self-determination, partnership and participation, in line with Te Tiriti o Waitangi and the Declaration. In its final report, Matike Mai recommended further discussion is needed among Māori and with other groups and the government, to develop, agree and implement an inclusive constitution.

7. The Iwi Chairs Forum resolved at its May 2017 meeting to work with the Minister of Māori Development to initiate a 'longer conversation' about constitutional transformation. Discussions are continuing with the Minister and agencies with regard to progressing this recommendation.

Participation

8. In its 2016 report, the Monitoring Mechanism raised concerns about the extent to which the right to participate in decision-making is given effect, including in relation to law and policy making. The Monitoring Mechanism continues to hold these concerns, as Government continues to develop laws and policies without always ensuring the meaningful participation of Māori.

9. A recent example is the reform of the child protection system and introduction of new legislation without substantive Māori participation. The resulting bill proposes to remove current provisions that give priority, where practicable, to hapū, iwi and wider family group placements for children.[5] This proposal, if enacted, would significantly impact on

[5] Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Bill 2016

the right to self-determination of whānau (family), hapū and iwi in relation to caring for their children.

10. The Monitoring Mechanism remains of the view that government law and policy making processes do not currently "guarantee the informed participation of indigenous communities in all relevant national and international consultation processes, including those directly affecting them".[6]

11. A further concern, also raised in the last report, relates to Māori participation in local government decision-making. The Local Electoral Act 2001 contains added requirements around the establishment of Māori wards, as opposed to general wards, thereby creating a double standard. A Member's Bill was recently introduced to address this issue, but was voted down at its first reading.[7]

C Lands, Territories and Resources

Goal: Government will recognise and protect Rangatiratanga over our lands, territories and Resources

12. In the past year, key developments in this area include: reforms to the law governing Māori land; ongoing discussions and a Waitangi Tribunal urgent inquiry regarding Māori proprietary rights in freshwater and geothermal resources; and a recent Supreme Court decision dealing with historical land purchases.

13. In Wakatu v Attorney-General the Supreme Court found that the Crown owed fiduciary duties to the Māori customary owners of land in Nelson, dating back to 1839.[8] The land had been sold on the basis that a tenth would be reserved for the original Māori owners, however the terms of the arrangement had not been met and the land was never fully allocated. A majority of the Court found that a fiduciary duty existed in these circumstances, and that it had been breached. The decision is significant for its recognition of enforceable fiduciary duties in relation to 19th century land purchases. Whereas historical grievances are partially addressed through the Treaty claims settlement process, the decision recognises a further means of redress through the courts in certain circumstances.

14. Changes to resource management legislation have recently come into force, that introduce a new process for establishing agreements between Tangata Whenua (indigenous peoples) – through iwi authorities – and councils, called Mana Whakahono a Rohe: Iwi participation arrangements. Iwi leaders advocated for this amendment and its inclusion is a positive step towards better enabling Māori participation in local government processes.

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[6] UN Human Rights Committee, (2016), *Concluding observations on the sixth periodic report of New Zealand*, CCPR/C/NZL/CO/6, at para 46 (b)

[7] See https://www.parliament.nz/en/pb/bills-and-laws/bills-digests/document/51PLLaw24861/local-electoral-equitable-process-for-establishing-m%C4%81ori

[8] Wakatu v Attorney-General [2017] SCNZ 17

15. Despite some positive developments, the Monitoring Mechanism is of the view that self-determination over lands and resources is not well protected, and influencing decision-making regarding lands and resources continues to be challenging for many Māori attempting to protect lands and waters from the ill-effects of activities such as resource extraction.

Climate change

16. The Monitoring Mechanism has particular concerns regarding climate change and the far-reaching implications for people and the environment. In particular, despite numerous calls for urgent action to plan and address this issue,[9] the Government has yet to produce a climate crisis plan[10] and only recently created a group to advise it on the specific imperative of transitioning to a low carbon economy.[11] New Zealanders are also awaiting the outcome of a recent High Court case challenging the Government for "the perceived failure to set emissions targets that reflect the science of climate change". This comes at a time when New Zealand's backsliding climate crisis efforts have earned a Climate Change Performance Index (**CCPI**) overall appraisal as "poor".

17. The CCPI evaluates and compares countries' climate protection performance (most notably, with respect to energy efficiency and greenhouse gas emissions). As compared to the 58 countries monitored, the CCPI Report (released December 2015)[12] ranked New Zealand:
    - 42nd in terms of overall results (a regression from its 2015 ranking of 35), with an overall score of 52.41 (20 points behind the leading ranked country, Denmark); and
    - In the lowest bottom five countries (along with the Ukraine and Turkey) in terms of our climate policy.

18. This scathing evaluation is wholly consistent with an earlier criticism of the Government's failure to communicate the "scope and urgency of the issues" concerning our climate crisis.[13] It is also in line with concerns raised at the 22nd UN Climate Change Conference

[9] The Royal Society of New Zealand (April 2016), p8, at http://royalsociety.org.nz/assets/documents/Climate-change-implications-for-NZ-2016-report-web.pdf and http://www.wwf.org.nz/take_action/climate_change_open_letter/?utm_source=website&utm_medium=banner.
[10] "Editorial: New Zealand needs a climate change plan" (24 March 2017), at http://www.stuff.co.nz/dominion-post/comment/editorials/90772280/editorial-new-zealand-needs-a-climate-change-plan.
[11] "Productivity Commission to look at low carbon economy" (2 May 2017), at https://www.beehive.govt.nz/release/productivity-commission-look-low-carbon-economy.
[12] https://germanwatch.org/en/download/13626.pdf.
[13] "Climate change needs to be treated with more urgency, says scientist" (18 July 2016), at http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11676325.

in Marrakech regarding government hypocrisy for action (notably its fossil fuel policy) which dangerously exacerbates our climate crisis.[14]

19. The Monitoring Mechanism proposes the New Zealand Government urgently establish effective systems and procedures to develop and implement comprehensive and integrated climate crisis mitigation and adaptation action in Aotearoa. In addition to a periodically reviewable national strategy, it must also include meaningful Tangata Whenua participation in its design and implementation.

D Cultural Rights

Goal: Government will strengthen policies and practices that will ensure sustainable revitalisation of reo and tikanga

20. The past year has seen some major developments in this area, with the passage of Te Ture mō Te Reo Māori 2016 and the creation of new body, Te Mātāwai to lead Māori language revitalisation efforts for Māori. The board of the new organisation includes members appointed by iwi, Māori language sector organisations and government. The new law also provides for two arms of a Māori Language strategy to be developed by the Crown and Te Mātāwai; one to guide Crown actions (te Maihi Karauna) and one for Māori (te Maihi Māori).

21. Statistics show a slight increase in numbers of children in Kura Kaupapa Māori (just over 7% of students) and increasing numbers of children learning te reo in mainstream schools (just over 20%).[15]

22. Despite some gains in relation to Māori language, the Monitoring Mechanism remains concerned that overall, tikanga Māori (Māori law and custom) continues to be marginalised. One example of concern to the Monitoring Mechanism relates to burials at sea that have been approved by the Environmental Protection Agency (EPA) within the territory of an iwi without their consent and in breach of their tikanga.

23. While there are increasing examples of tikanga influencing and being reflected in policy, in many areas, there has been little progress since the 2011 report of the Waitangi Tribunal, which noted:[16]

> [Current laws] sideline Māori and Māori cultural values from decisions of vital importance to their culture – for example, decisions about the flora, fauna and wider environment that created Māori culture, and decisions about how education, culture and heritage agencies support

[14] "NZ takes home 'Fossil of the Day' awards at Marrakech climate conference" (19 November 2016), at http://www.newshub.co.nz/home/new-zealand/2016/11/nz-takes-home-fossil-of-the-day-awards-at-marrakech-climate-conference.html.
[15] http://www.stats.govt.nz/browse_for_stats/snapshots-of-nz/nz-social-indicators/Home/Culture%20and%20identity/Māori-lang-educ.aspx
[16] https://waitangitribunal.govt.nz/news/ko-aotearoa-tenei-report-on-the-wai-262-claim-released/

> the transmission of Māori culture and identity. Iwi and hapū are therefore unable to fulfil their obligations as kaitiaki (cultural guardians) towards their taonga – yet these kaitiaki obligations are central to the survival of Māori culture.

24. In that report the Tribunal concluded that a fundamental shift in approach is needed regarding the value placed on Māori culture and identity so that real and equitable partnership can take place.

E Equality and Non-Discrimination

Goal: In partnership with Tangata Whenua, Government will develop laws, policies and practices that ensure the full participation of Tangata Whenua as equals in New Zealand society.

25. Tangata Whenua continue to experience poorer outcomes in health, education, justice, employment and income.

- Māori have higher rates than non-Māori for many health conditions and chronic diseases, including cancer, diabetes, cardiovascular disease and asthma. Māori also experience higher disability rates. The 2013 Disability Survey identified one in four Māori as disabled.[17]
- Despite some gains in relation to education and employment, Māori still experience a persistent education achievement gap and higher unemployment rate compared with other groups.[18]
- Alongside Pacific Peoples, higher proportions of Māori are on lower incomes, experience material hardship, unaffordable and overcrowded housing than other groups.[19]
- With an imprisonment rate more than three times more than the general population, Māori consistently make up over 50% of the prison population, and Māori women over 60% of the female prison population.

26. Māori children and young people are particularly affected by inequalities. Poverty, substandard housing conditions and the impacts of climate change are key issues affecting the health of Māori children. For example, Māori children have higher rates of

[17] Ministry of Health, (2015). Tatau Kahukura: Māori Health Chart Book 2015 (3rd edition). Wellington: Ministry of Health. http://www.health.govt.nz/publication/tatau-kahukura-Māori-health-chart-book-2015-3rd-edition and Statistics New Zealand (2015). He hauā Māori: Findings from the 2013 Disability Survey. Available at: http://www.stats.govt.nz/browse_for_stats/health/disabilities/He-haua-Māori-findings-from-2013-disability-survey.aspx at pp11-12

[18] Ministry of Social Development, (2016), The Social Report 2016 – Knowledge and skills. http://socialreport.msd.govt.nz/knowledge-and-skills/school-leavers-with-higher-qualifications.html#ethnic-differences

[19] MSD, (2016), The Social Report 2016 – Economic Standard of Living. http://socialreport.msd.govt.nz/economic-standard-of-living.html

asthma, with around one in five Māori children affected;[20] and Māori children are almost twice as likely to be either obese or morbidly obese compared with non-Māori children.[21] Māori young people have a suicide rate that is nearly three times higher than that of non-Māori youth.[22] Māori children are also over-represented in child abuse and neglect, and make up over 60% of children in state care.

27. In August 2016 the Iwi Chairs' Forum became the first signatory to a Covenant for Children, a document developed by Judge Carolyn Henwood. The Kawenata (covenant) is written in both Māori and English and commits to protecting children from violence, abuse, neglect and to provide a proper standard of living. It also promises to support their emotional and mental wellbeing, provide education and take children's views into account.[23]

28. The persistent negative statistics experienced by Tangata Whenua reflect inequality of outcomes, and as such, in the Monitoring Mechanisms' view represent a failure to protect fundamental rights.

29. In recent years the Waitangi Tribunal has instigated thematic Kaupapa Inquiries to examine nationally significant and systemic issues. The forthcoming Health Services and Outcomes Inquiry (Wai 2575) will investigate what needs to happen to the health system to improve Maori health services and outcomes. It will address claims that the Crown has not fulfilled its Treaty responsibilities in the delivery of health services to Māori and that it has not addressed other factors that contribute to worse health outcomes for Māori than for non-Māori.

30. In commencing its inquiry, the Waitangi Tribunal referred back to its 2011 report Ko Aotearoa Tēnei, where the Wai 262 Tribunal concluded that Māori were undergoing a serious health crisis: [24]

> In fact, contemporary Māori health status is so bad it would be wrong to describe it as anything other than a further calamity, even if it represents an undoubted improvement on a century earlier. Compared with non-Māori, Māori today have much higher rates of heart 2 disease, stroke, heart failure, lung cancer, diabetes, asthma, chronic obstructive pulmonary disease, infant mortality, sudden infant death syndrome (cot death), meningococcal disease, schizophrenia, and other illnesses. Māori males have much higher rates of motor vehicle accident deaths and suicides (in the latter case, after having had much lower rates of

[20] Ministry of Health, (2015), Annual Update of Key Results 2014/15: New Zealand Health Survey, at p 51. Accessible at: http://www.health.govt.nz/publication/annual-update-key-results-2014-15-new-zealand-health-survey
[21] Ibid., at p 17.
[22] Ibid., at p 19.
[23] http://www.henwoodtrust.org.nz/research-publications/a-covenant-for-our-nations-children
[24] Memorandum – Directions of the Chairperson Commencing a Kaupapa Inquiry into Health Services and Outcomes, Wai 2575, 16 November 2016, accessible at: https://www.waitangitribunal.govt.nz/inquiries/kaupapa-inquiries/health-services-and-outcomes-inquiry/

> suicide until the 1980s). Māori have much higher rates of interpersonal violence and unintentional injury. They are less likely to consult a doctor, with cost and the lack of access to a vehicle being more common reasons among Māori than among non-Māori. Māori also have worse oral health, and are less likely to visit a dentist. Māori have much higher rates of smoking, with 53 per cent of adult Māori women being smokers. Māori adults are much more likely to have potentially hazardous drinking patterns, and regular marijuana smoking is significantly more prevalent among Māori adults than non-Māori. Māori are also much more likely to be obese than non-Māori. Many of these illnesses and problems are practically at epidemic levels. (Te Taumata Tuarua, vol. 2, p 642) 9.

31. In April, the Tribunal released its report on disproportionate reoffending rates.[25] The Tribunal found that the Crown, through the Department of Corrections, had breached its Treaty obligations to promote equity and to actively protect Māori interests, and that it also risks breaching its partnership obligations if it does not follow through on its stated commitments to develop partnerships with Māori. The Tribunal noted that since 2013 the Department of Corrections had had no Māori-specific plan or strategy to reduce Māori reoffending rates, no specific target to reduce Māori reoffending rates, and no specific budget to meet that end. The Tribunal's recommendations included: a new Māori-specific strategic framework and targets to be developed in partnership with Māori, and that the Crown include a dedicated budget to appropriately resource these.

32. The Tribunal noted that the severity and entrenched nature of these disparities, heightened the need for the Crown to meet its Treaty obligations, and to take urgent, targeted and intensive actions; recommendations which were accepted by the Crown.

> As we see it, in this inquiry the Treaty principles of equity and active protection are two sides of the same coin. The current inequity between Māori and non-Māori reoffending rates heightens the Crown's obligation actively to protect Māori interests. This situation demands that balance be restored.26
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> … The Crown has said that the Department is doing all it reasonably can to address Māori reoffending. We have concluded that it can and must do more. The grossly disproportionate, decades-long, and increasing Māori overrepresentation in the nation's prisons is a devastating situation for Māori, and for the nation. Disproportionate Māori reoffending and reimprisonment rates contribute to this. That this has come to be seen as normalised only heightens the need for the Crown to meet its obligations under the Treaty principles of active protection and equity.27

[25] Waitangi Tribunal, (2017), Tū Mai Te Rangi: Report on the Crown and Disproportionate Reoffending Rates, Wai 2540. https://www.waitangitribunal.govt.nz/news/disproportionate-reoffending-rate/
[26] Waitangi Tribunal, (2017), Tū Mai Te Rangi, at p81.
[27] Ibid., at p83.

> … In our view, the current situation of disparity between Māori and non-Māori reoffending rates calls for a more thorough exercise of the Treaty partnership between the Crown and Māori. This needs to be a partnership that goes beyond the Crown simply informing itself of Māori interests. The Department must work together with Māori at a high level to achieve their mutual interests in reducing Māori reoffending. We cannot foresee a satisfactory resolution to this situation without Māori being at the table to design and implement both strategic level documents and Māori-centred programmes and initiatives.28
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> … We consider that in this situation, where Māori interests are so threatened, consultation with Māori in the design of high-level Department strategies to reduce the disproportionate rate of Māori reoffending is essential. These must be integrated into a broader strategic vision guided by a clear commitment to Treaty principles.29

33. The Monitoring Mechanism considers that these comments are equally applicable across a range of areas where inequalities experienced by Māori are at a critical and persistent level, and that urgent action is required to address these.

F Practical Implementation and Technical Assistance

Goal: Government will provide resources to enable Tangata Whenua to participate in the implementation of the Declaration.

34. Members of the Monitoring Mechanism are voluntary and their activities are self-funded. Resourcing continues to be a critical issue for this mechanism. While committed to maintaining its independence, the Monitoring Mechanism continues to pursue a range of funding options as well as seeking funding from government to support its participation in monitoring and reporting activities.

35. In May this year the National Iwi Chairs' Forum resolved to work with government to: develop and implement a National Plan of Action for the implementation of the United Nations Declaration on the Rights of Indigenous Peoples; and to facilitate a longer conversation about constitutional transformation. The Monitoring Mechanism continues discussions with government regarding support and resourcing for these initiatives.

[28] Ibid., at p 85.
[29] Ibid.