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UN Committees assess New Zealand's human rights performance under the ICCPR and the ICESCR

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This update provides information on what two UN human rights monitoring bodies have said in the past two weeks about the government's performance on human rights: i) the UN Human Rights Committee in relation to the International Covenant on Civil and Political Rights (ICCPR); and ii) the UN Committee on Economic, Social and Cultural Rights in relation to the International Covenant on Economic, Social and Cultural Rights (ICESCR). The two documents outlined below - the Human Rights Committee's Concluding Observations and the Committee on Economic, Social and Cultural Rights' List of Issues Prior to Reporting - have many points that can usefully be included in submissions to central and local government, and in other aspects of your work for peace, human rights and social justice.

i) UN Human Rights Committee (ICCPR): Concluding Observations

The UN Human Rights Committee, which monitors state party compliance with the ICCPR, examined New Zealand's performance during its 116th session from 7 to 31 March in Geneva. The advance unedited edition of the Committee's Concluding Observations (CCPR/C/NZL/CO/6) were released by the Office of the High Commissioner for Human Rights last night and are available at <http://www.converge.org.nz/pma/iccpr.htm> The Concluding Observations are based on the Committee's consideration of the government's sixth Periodic Report, two interactive dialogues with a government delegation led by the Minister of Justice on 14 and 15 March and information provided by three New Zealand based NGOs - the Aotearoa Indigenous Rights Trust, the Aotearoa New Zealand Sexual Orientation, Gender Identity and Intersex UPR Coalition, and Peace Movement Aotearoa - and by the Monitoring Mechanism of the National Iwi Chairs Forum, Cooper Legal, the New Zealand Law Society, Tony Ellis (Barrister), Andrew Judd (New Plymouth District Mayor) and Privacy International.

The Concluding Observations follow the standard layout with an introductory section (A), a section on positive aspects of the government's performance since the Committee last considered New Zealand in 2010 (B), a section with 43 paragraphs on principal matters of concern and recommendations (C), and a section on dissemination of the Concluding Observations (D).

Section C includes many useful comments and recommendations on the following issues (the relevant paragraph numbers are in brackets for each): the government's reservations to the ICCPR (5 and 6); the National Action Plan on Human Rights (7 and 8); the New

Zealand Bill of Rights Act (9 and 10); counter-terrorism legislation and the activities of the intelligence and security services (13 and 14); right to privacy in connection with the New Zealand Bill of Rights Act, the activities of the GCSB and interception of communications (15 and 16); gender inequalities (17 and 18); measures to combat stereotypes, racism and other forms of intolerance (19 and 20); discrimination in employment and vocational training (21 and 22); discrimination in law enforcement, which includes comments and recommendations on racial profiling, "unconscious bias" towards Maori in police operations, and discrimination in the administration of justice (23 to 26); the Adoption Act (27 and 28); domestic and gender-based violence (29 and 30); child abuse (31 and 32); use of tasers / electro-muscular disruption devices (33 and 34); immigration issues, including detention and processing of migrants and asylum seekers (35 to 38); trafficking in persons, and other slavery-like practices (39 and 40); deprivation of liberty, including prison privatisation and conditions of detention (41 and 42); indigenous peoples' rights, including the 2001 Marine and Coastal Area (Takutai Moana) Act (43 and 44), the Treaty of Waitangi, Waitangi Tribunal, WAI 262, the Trans-Pacific Partnership Agreement (TPPA) and the right of free, prior and informed consent in relation to government decisions that impact on Maori rights and interests (45 and 46); and representation of Maori and Pasifika in national and local government (47 and 48).

There is however one point in the comments and recommendations in relation to the New Zealand Human Rights Commission (11 and 12) - that the Human Rights Amendment Act should be enacted as soon as possible - which Peace Movement Aotearoa and other NGOs would not support because the Amendment Act will change the role and structure of the Commission, and affect its functional independence. Among other things, two sections of the Act extend the involvement of the Minister of Justice in setting the work priorities and activities undertaken by the Commission: if enacted, the Commission will not meet the minimum requirements of real and perceived independence for a National Human Rights Institution (NHRI) as defined by the Paris Principles and by the General Observations of the International Coordinating Committee of NHRIs' Sub-Committee on Accreditation.

Links to more information: Concluding Observations on New Zealand, <http://www.converge.org.nz/pma/iccpr.htm> - NGO reports to the Committee, Peace Movement Aotearoa's 2016 report is at <http://www.converge.org.nz/pma/hrc116-pma.pdf> and the other NGO reports are at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=1016&Lang=en - scroll down the page to the New Zealand heading, click on 'Info from Civil Society Organizations (for the session)' for the 2016 reports, the 2014 set of NGO reports are in the 'Info from Civil Society Organizations (for LOIPR)' section - Information about the ICCPR and its Optional Protocols, the Human Rights Committee, New Zealand and the ICCPR, previous NGO reports and the Committee's previous Concluding Observations on New Zealand, <http://www.converge.org.nz/pma/iccpr.htm> (click on the 2009 and 2010 link).

ii) UN Committee on Economic, Social and Cultural Rights (ICESCR): List of Issues Prior to Reporting

The Committee on Economic, Social and Cultural Rights, which monitors state compliance with the ICESCR, began New Zealand's next reporting round during its 57th session from 22 February to 4 March by putting together the List of Issues Prior to Reporting (LOIPR). The LOIPR (E/C.12/NZL/QPR/4) was released on 16 March, and the advance unedited

edition is available at <http://www.converge.org.nz/pma/icescr.htm> The LOIPR is the list of questions / topics that the Committee wishes the government to provide information on in its next Periodic report, the 4th, which is to be submitted to the Committee by May 2017.

The LOIPR provides a very useful overview of the main areas of concern the Committee has in relation to the government's performance in relation to economic, social and cultural rights; and there are three main sections in the document (the relevant paragraph numbers are in brackets for each):

I) Issues of particular relevance - including the constitutional review process, sources of constitutional law such as the New Zealand Bill of Rights Act and the Treaty of Waitangi, and developments relating to the protection of economic, social and cultural rights (1); the protection of human rights and consultation procedures with regard to the elaboration, negotiation and ratification of trade and investment agreements, including the Trans-Pacific Partnership Agreement (TPPA) and European Union Free Trade Agreement (2); structural inequalities in health, education and other economic, social and cultural rights (3); and violence against women, girls, persons with disabilities, children and transgender persons (4).

II) Implementation of the ICESCR - including the right of free, prior and informed consent in relation to government decisions that impact on Maori rights and interests, in particular with regard to their lands, territories, resources, traditional knowledge and intellectual property, and the Waitangi Tribunal (5); budgeting and spending on sectors such as social security, health, education and employment, what measures are taken to ensure private companies respect economic, social and cultural rights in their domestic and overseas operations, and what remedies are available for human rights violations by New Zealand companies here and overseas (6 and 7); non-discrimination in relation to persons with disabilities, asylum seekers, refugees and their reunified family members (8 and 9); gender inequalities (10); the right to work, the right to just and favourable conditions of work, and trade unions (11 to 16); the right to social security and the social welfare reforms (17 and 18); the right to an adequate standard of living, including levels of poverty, the increase in the number of families resorting to food banks, affordability and habitability of housing, and the waiting lists for social housing (19 to 21); the right to physical and mental health, water privatisation and freshwater pollution (22 and 23); the right to education (24); and

III) Good practices - including any good practices in government policy formation and implementation relating to economic, social and cultural rights, and what action the government has taken on the Committee's 2012 Concluding Observations (25).

Links to more information: Committee on Economic, Social and Cultural Rights List of Issues Prior to Reporting, 16 March 2016, <http://www.converge.org.nz/pma/icescr.htm> NGO information for the Committee - Peace Movement Aotearoa, February 2016, <http://www.converge.org.nz/pma/cescr57-pma.pdf> - Human Rights Foundation, January 2016, <http://www.converge.org.nz/pma/cescr57-hrf.pdf> Information on the ICESCR and its Optional Protocol, the Committee on Economic, Social and Cultural Rights, New Zealand and the ICESCR, previous NGO reports and the Committee's previous Concluding Observations on New Zealand, <http://www.converge.org.nz/pma/iccpr.htm> (click on the 2011 and 2012 link).