



Peace Movement Aotearoa

PO Box 9314, Wellington 6141, Aotearoa New Zealand. Tel +64 4 382 8129

Email icanz@xtra.co.nz Web site www.converge.org.nz/pma

Epic fail: Independent human rights experts assess New Zealand's performance Concluding Observations of the Committee on the Elimination of Racial Discrimination

18 December 2025

One of the most damning and detailed assessments of New Zealand's failings by any human rights treaty monitoring body is contained in the Committee on the Elimination of Racial Discrimination's Concluding Observations on New Zealand's (lack of) compliance with the International Convention on the Elimination of all Forms of Racial Discrimination, released earlier this month and available at <http://www.converge.org.nz/pma/cerd116.htm>

This update provides an overview of what the Committee considered; the four main sections of the Concluding Observations, with a focus on the concerns and recommendations covering Te Tiriti o Waitangi (referred to throughout as the Treaty of Waitangi); and government responses.

The Committee on the Elimination of Racial Discrimination (the Committee), which comprises 18 independent human rights experts, considered the government's performance during its 116th session which was held in Geneva from 17 November to 5 December 2025. The Concluding Observations are based on information supplied by the government in its Periodic Report, statistical information, and discussion during two interactive dialogues with a government delegation led by Minister of Justice Paul Goldsmith on 25 and 26 November.

The Committee also took into account information provided in parallel reports from fourteen NGOs or iwi organisations - including Te Puna Rangahau o te Wai Ariki / Aotearoa Centre for Indigenous Peoples and the Law, Te Hunga Roia Māori o Aotearoa / Māori Law Society, and the National Iwi Chairs Forum - and four reports from individuals (see 'NGO parallel reports to CERD' at <https://www.converge.org.nz/pma/cerd116.htm> for links), as well as information from other human rights treaty monitoring bodies and procedures, and the Human Rights Commission. During the 116th session, additional updated information was provided in writing and verbally by NGO representatives in Geneva.

The Concluding Observations follow the standard format of UN human rights monitoring bodies with four main sections:

A. Introduction: This section has a brief introductory paragraph.

B. Positive aspects: This section has two paragraphs welcoming various legislative, institutional and policy measures intended to ensure implementation of human rights protected in the Convention. It should be noted that none of these positive developments was initiated after the 2023 election; and of the ten specific measures listed in the first paragraph, most have now

either already been dismantled or are under imminent threat, and are included in the ‘Main areas of concern’.

C. Main areas of concern and recommendations: This section has forty-eight paragraphs listing concerns and recommendations on a range of issues. Of the twenty-four sets of recommendations, five relate specifically to the Treaty of Waitangi and the collective and individual rights of Māori, as summarised here (for the full text, please refer to the Concluding Observations):

- **Treaty of Waitangi** (paras 35 and 36): The Committee is concerned about recent initiatives to reinterpret the Treaty and its established principles, efforts to review or replace legislative references to Treaty principles, and various proposals that may weaken mechanisms for shared decision-making and co-governance; attenuation of Treaty principles or co-governance arrangements, which could undermine progress towards reconciliation and risk entrenching historical, structural, and systemic discrimination against Māori, including by restricting the scope of Māori customary rights and weakening the exercise of Māori self-determination in matters guaranteed by the Treaty; and lack of attention to implementing the recommendations of WAI 262 report. The Committee’s recommendations include that the state party (New Zealand): a) uphold its commitment to the Treaty of Waitangi as a constitutional framework for equal participation and partnership between Māori and the Crown, and take measures to counter misinformation and divisive narratives regarding the Treaty and to promote public understanding of its role in advancing harmony and equality; b) ensure any review of relevant legislative or regulatory frameworks is undertaken in full and effective consultation and partnership with Māori; and c) preserve and strengthen existing co-governance and partnership arrangements established under the Treaty and relevant legislation, recognising them as essential mechanisms for realising the Treaty’s safeguards and for guaranteeing the right to self-determination and substantive equality.

- **Māori land rights** (paras 37 and 38): The Committee is concerned about redress for land, territories, and resources; recent legislative developments that risk significantly curtailing statutory protections of Māori land rights, particularly with regard to their right to self-determination over lands, territories; and that significant shortcomings remain in ensuring meaningful Māori participation and safeguarding the principle of free, prior, and informed consent in legislative and administrative processes, and in other decisions affecting traditional lands and resources, including marine and coastal areas, forests, freshwater, and geothermal resources. The Committee’s recommendations include that the state party: a) ensure that settlement processes facilitate the effective restoration of Māori lands, territories and resources; b) ensure that legislation, regulations, and administrative practices affecting Māori lands and resources, including marine and coastal areas, forests, freshwater, and geothermal resources, fully respect Māori rights to self-determination and to the ownership, use, development, and control of their traditional lands and resources; and c) ensure that legislation, regulations, and administrative practices affecting Māori lands and resources, including marine and coastal areas, forests, freshwater, and geothermal resources, fully respect Māori rights to self-determination and to the ownership, use, development, and control of their traditional lands and resources.

- **Environment and climate change** (paras 39 and 40): The Committee is concerned about the harmful consequences of environmental degradation and climate change on the health, livelihoods, and traditional lifestyles of Māori. The Committee recommends that urgent and

comprehensive measures are taken to protect Māori from the disproportionate impacts of environmental degradation and climate change. In particular, the Committee urges the state party to ensure full participation of Māori in climate change related decision-making, policy development and implementation processes, in accordance with the Treaty of Waitangi and the principle of free, prior and informed consent, and provides three further practical recommendations on what must be done.

- **Māori cultural rights** (paras 43 and 44): The Committee remains concerned that Māori arts, crafts, music, cultural heritage, and cultural property (including mātauranga Māori related to indigenous plant and animal species, ecological systems, customary practices, and biodiversity stewardship) continue to be insufficiently protected from misappropriation and commercial exploitation. Recommendations include strengthening legislative and policy measures to ensure the effective protection of Māori intellectual and cultural property rights, including safeguards against the misappropriation and commercial exploitation; increasing sustainable funding and support for Māori-led cultural institutions, artists, and heritage initiatives; and enhancing recognition and protection of mātauranga, through meaningful consultation and participation of Māori.

- **Māori language** (paras 45 and 46): The Committee is concerned about the ongoing challenges to te reo Māori as reflected in the limited number of students receiving instruction in the language and the shortage of qualified teachers; and recommends intensification of efforts to revitalize te reo, *“ensuring that more students have the opportunity to receive instruction in the language, including by investing in teacher training”*.

A further two of the sets of recommendations mainly relate to Māori (paras 19 and 20 on children in alternative care, including recommendations to take steps *“to reform the child protection agency Oranga Tamariki and to revise child protection laws and policies, including by restoring Section 7AA of the Oranga Tamariki Act so as to enable the adoption of a ‘whanau-first’ placement approach”*), and paras 41 and 42 on political participation (which includes recommendations that appropriate measures be taken *“to ensure that Māori have equitable opportunities to meaningfully reflect their perspectives in legislative and policy decision-making processes at all levels, including in local councils”*, and to *“safeguard the right of Māori to express their cultural and political identity without disproportionate sanction or scrutiny, including through reviewing parliamentary procedures and disciplinary practices to ensure they do not indirectly restrict Māori political expression”*).

Four of the sets of recommendations are mainly focused on the human rights of Māori and Pacific peoples in relation to: the administration of criminal and juvenile justice (paras 17 and 18, which expresses concerns about *“systemic racism in the administration of criminal and juvenile justice, which contributes to the over-representation of Māori and Pacific peoples at every stage”*, and particular alarm about the introduction of military-style “boot camps”); structural discrimination (paras 25 and 26, which includes concerns about *“misrepresentation of affirmative action as ‘racial privilege’ and ‘at odds with universal human rights’ by some political and public figures”*); education (paras 31 and 32, which includes a recommendation that mechanisms and processes that give effect to the Treaty of Waitangi within the education sector be restored and reinforced); and health (paras 33 and 34, which among other things highlights concern about persistent and significant health disparities and structural and systemic

barriers affecting Māori and Pacific peoples, and recommends revitalising the Māori health authority, as well as intensification of efforts to remove structural and systemic barriers).

The other recommendations in this section are about: data collection (in particular the discontinuation of the five-yearly census and the impact this may have on affirmative action measures and other targeted policies); the Convention and the domestic legal order; the Human Rights Commission and Race Relations Commissioner; complaints of racial discrimination; access to justice (including the need to *“develop a comprehensive, systemic implementation strategy to ensure that special measures addressing systemic barriers, including cultural, linguistic and financial, are embedded across the justice system”*); and racist hate speech and hate crimes (including the limited progress in implementing recommendations of the Royal Commission of Inquiry into the Terrorist Attack on Christchurch Mosques, *“particularly those aimed at improving social cohesion and preventing and combating white supremacist, Islamophobic, and other hate-motivated crimes and hate speech, both online and offline”*, and the need for the government of the day to *“unequivocally condemn all forms of racist hate speech, including by politicians and public figures, publicly distance itself from such expressions, and intensify efforts to prevent and combat racist hate speech”*).

In addition, there are recommendations in this section about: racist organizations and propaganda (noting far-right extremist and white-supremacist groups *“have so far been able to promote and incite racial discrimination with limited accountability”*, *“the lists of organizations targeted under the Gangs Act 2024 largely excludes many far-right extremist and white supremacist groups, their activities as well as symbols, further reflecting systemic bias in the administration of criminal justice”*, and recommending immediate steps be taken *“to declare illegal and prohibit far-right extremist, white-supremacist and other racist organizations, as well as racist propaganda activities that promote or incite racial discrimination, and to ensure that participation in such organizations or activities constitutes a punishable offence”*); intersectional discrimination (*“the persistence of discrimination on grounds of race, colour, descent, and national or ethnic origin, where it intersects with sex, age, disability, sexual orientation, and gender identity”*); the situation of immigrants, refugees and asylum-seekers; situation of migrant workers; and the persistence of racial stereotypes towards Māori, Pacific peoples, migrants, refugees, and other ethnic communities, *“which continue to affect social cohesion and undermine respect for cultural diversity”*.

D. Other recommendations: This section has ten paragraphs with recommendations on topics including the ratification of other human rights instruments, Article 14 of the Convention (complaints mechanism), follow-up to the Durban Declaration and Programme of Action, the International Decade for People of African Descent, consultation with civil society, and public dissemination of information related to this process and of the Concluding Observations.

In this section, the Committee also draws the state party’s attention to the particular importance of the recommendations contained in three paragraphs (para 18 on administration of criminal and juvenile justice, para 38 on Māori land rights, and para 40 on the environment and climate change), requests follow-up information on three of the Committee’s recommendations be provided within one year (para 20 on children in alternative care, para 34(b) on the Māori Health Authority, and para 36(d) on the Treaty of Waitangi), and invites New Zealand to submit its next periodic report by 22 December 2029.

Government responses to the Concluding Observations

There was no official media release that the Minister for Justice would be travelling to Geneva to head the New Zealand delegation to speak with the Committee, nor any after the Concluding Observations were released. The only official response seems to be the non-answers given by the Minister for Pacific Peoples on behalf of the Minister for Māori Development in response to questions by Green MP Teanau Tuiono on 9 December, https://www3.parliament.nz/en/pb/hansard-debates/rhr/document/HansS_20251209_076680000/7-question-no-7-māori-development

In statements reminiscent of then PM Helen Clark's response to the Committee's decision on the foreshore and seabed confiscation (see, for example, our 2005 report at <https://www.converge.org.nz/pma/CERD71-PMA1.pdf> page 6) and by herself and then Deputy PM Michael Cullen reaction to the report of the Special Rapporteur (see, for example, our 2007 report at <https://www.converge.org.nz/pma/CERD71-PMA.pdf> pages 5 and 6), Deputy PM David Seymour described the Concluding Observations as "absolutely laughable" and said the United Nations was "a joke", while NZ First Minister Shane Jones asked in question time on 9 December (see link above) *"Is the Minister aware that a number of the people who sit on these UN pettifogging committees come from countries with far worse race relations than New Zealand?"*.

A useful time to reflect that New Zealand voluntarily joined the Convention, which requires all state parties to take immediate and effective action to end all forms of racial discrimination, as well as to eradicate racist ideas and practices ... not to promote racial discrimination and divisiveness, and denial of basic human rights as the current government seems intent on doing.

Where you can find more information

- **Updates and information on the 116th session:** when and where you can watch the session, who is in the government delegation to CERD, who said what in Geneva, and media coverage is available at <https://www.converge.org.nz/pma/cerd116-sess.htm>
- **Background information:** on the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Committee on the Elimination of Racial Discrimination (CERD), New Zealand and ICERD, the government's report to CERD, the List of Themes sent to the government by CERD, NGO parallel reports to CERD, and what CERD has said about New Zealand before is available at <https://www.converge.org.nz/pma/cerd116.htm>
- **New Zealand and the International Convention on the Elimination of All Forms of Racial Discrimination** index page, <https://www.converge.org.nz/pma/cerd.htm>
- **Links to this update** - on Facebook, <https://www.facebook.com/PeaceMovementAotearoa/posts/1310897947734001> - in pdf format for printing, <https://www.converge.org.nz/pma/cerd.htm>