

## NEW ZEALAND

### CESCR E/1994/23

179. The Committee considered the initial report of New Zealand, Tokelau and Niue on articles 1-15 of the Covenant (E/1990/5/Add.5, 11 and 12) at its 24<sup>th</sup>, 25<sup>th</sup> and 26<sup>th</sup> meetings on 23 and 24 November 1993 and, at its 40<sup>th</sup> meeting, on 3 December 1993, adopted the following concluding observations.

#### A. Introduction

180. The Committee expresses its appreciation to the Government of New Zealand for the comprehensive report it submitted in 1990. The Committee regrets that its consideration of the report was deferred for two sessions upon the request of the State party itself. In the interim period from submission of the report to its consideration by the Committee, major changes in policy and legislation in New Zealand have taken effect and their impact on the implementation of the Covenant has rendered obsolete significant part of the report.

181. The Committee therefore appreciates the additional written information, provided by the State party to update its report. The Committee expresses its hope that in future similar circumstances, updated information will be received prior to its dialogue with States parties.

182. The Committee also expresses its appreciation to the representative of the State party for their considerable efforts to provide detailed information in response to written and oral questions raised by members of the Committee.

#### B. Positive Aspects

183. The Committee welcomes the adoption of the Human Rights Act 1993, consolidating and amending the Race Relations Act 1971 and the Human Rights Commission Act 1977, to provide better protection of human rights in New Zealand in accordance with United Nations Covenants and Conventions on Human Rights.

184. The Committee appreciates the renewal of the mandate of the Human Rights Commission, and the enlargement of the scope of the Human Rights Act 1993. The Committee takes special note in this regard of the innovative recognition of age as a ground covered by the Act.

185. The Committee notes with satisfaction the enactment of the Health and Safety in Employment Act 1993, as well as the renewed efforts strictly to implement the Equal Pay Act 1972 particularly as it affects women.

186. The Committee takes note of the State's party programme to realign the system of education in the primary, secondary and tertiary levels aimed at increasing the participation rate of youth, especially in vocational education and in industry skills training.

187. The Committee takes note with satisfaction of the repeal of the Labour Relations Act of 1987 which appeared to have been in conflict with article 8 of the Covenant. It also notes its appreciation of the fact that the age up to which education is compulsory has been raised to 16.

188. In relation to Maori and Pacific Islands people, the Committee notes the measures being taken by the State party to improve employment opportunities for Maori and Pacific Islands people, and to facilitate their full participation at all levels of the educational system.

#### C. Factors and difficulties impeding the implementation of the Covenant

189. The Committee notes with regret that the balance-of-payments situation and budgetary constraints have led the New Zealand Government to adopt restrictive economic and social policies, thereby affecting the realization of economic, social and cultural rights, particularly of the most vulnerable groups of society.

#### D. Principal subjects of concern

190. The Committee, while regarding the adoption of a Bill of Rights as a positive development, expresses its concern that no reference is made to economic, social and cultural rights in the text of the Bill. The Committee notes that the Bill of Rights is in the form of an ordinary statute, and can therefore be overridden by other legislation at any time.

191. The Committee expresses its concern that recent extensive reforms in the social security and labour relations system may negatively affect the enjoyment of economic, social and cultural rights. In particular, the Committee notes that reforms introduced by the Employment Contracts Act of 1991 raise questions of compatibility in relation to the rights recognized in articles 7 and 8 of the Covenant.

192. The Committee notes with concern that, despite relevant efforts by the Government, the Maori and Pacific Island people continue to figure disproportionately in relation to unemployment, low salary levels, and poor educational and technical qualifications.

193. The Committee notes with regret that, according to the statement of the representative of New Zealand, the State party does not keep statistical information as to the extent of malnutrition, hunger and homelessness in New Zealand, which various welfare groups have claimed to be significant.

#### E. Suggestions and recommendations

194. The Committee strongly recommends the reinforcement of the work of the Human Rights Commission in relation to economic, social and cultural rights. The Commission should also ensure the translation of the Covenant into all the principal languages spoken in the country, its widespread dissemination, and the reflection of its content in community education activities.

195. The Committee encourages the Government of New Zealand to increase its efforts towards ensuring equity for Maori and Pacific Islands people, especially in their access to education, training and employment.

196. The Committee urges the State party carefully to monitor the effects of unemployment and of the reduction in welfare services with respect to the realization of economic, social and cultural rights of the most vulnerable sectors of society and to take the necessary measures in order to diminish such negative effects.

197. The Committee recommends that consideration be given to a careful review by the State party of the impact of the Employment Contracts Act 1991 and related legislation on the provisions set forth in articles 6, 7, and 9 of the Covenant and to the elimination of any conflicts identified by such a review.

198. The Committee expresses its hope that the State party will consider the possibility of ratifying ILO Conventions Nos. 87 (Freedom of Association and Protection of the Rights to Organize, 1948) and 98 (Right to Organize and Collective Bargaining, 1949).

199. The Committee urges the State party to collect and publish the statistics on the topics referred to in paragraph 192 above and to provide that information to the Committee in its next periodic report. The Committee also requests, in that context, the provision of statistics of the school drop-out rates broken down by race.

200. The Committee expresses its hope that the State party will consider the possibility of withdrawing its reservations to the Covenant.

## **CESCR E/2004/22**

174. The Committee considered the second periodic report of New Zealand on the implementation of the Covenant (E/1990/6/Add.33) at its 11th and 12th meetings, held on 12 May 2003, and made public, at its 29th meeting, held on 23 May, the following concluding observations.

### **A. Introduction**

175. The Committee welcomes the second periodic report of the State party, which was prepared in conformity with the Committee's guidelines. The Committee is particularly satisfied with the comprehensive information provided in the report and in the written replies given by the State party. The Committee also notes with satisfaction that the State party's core document had recently been updated.

176. The Committee welcomes the open and constructive dialogue with the high-level delegation of the State party.

### **B. Positive aspects**

177. The Committee notes with appreciation the State party's continuing efforts to comply with its obligations under the Covenant.

178. The Committee welcomes the Human Rights Amendment Act 2001 which transformed the Office of the Race Relations Conciliator and the New Zealand Human Rights Commission into a new Human Rights Commission with a broader human rights mandate charged with developing a national plan of action for human rights.

179. The Committee notes with appreciation the efforts undertaken by the State party to ensure that the indigenous Maori people enjoy their rights under the Covenant. The Committee notes with satisfaction that the State party's delegation included a senior official of the Ministry of Maori Development.

180. The Committee welcomes the Employment Relations Act 2000 which facilitates collective bargaining, strengthens the role of trade unions and introduces measures of protection against harassment and discrimination in the workplace. The Committee also welcomes the State party's indication of the imminent ratification of ILO Convention No. 98 (1949) concerning the Application of the Principles of the Right to Organise and to Bargain Collectively.

181. The Committee welcomes the introduction of new legislation providing for a government-funded parental leave scheme, whereby 12 weeks' paid parental leave is granted to either parent. The Committee also notes the statement made by the State party that it intends to withdraw its reservation under article 10, paragraph 2, of the Covenant.

182. The Committee appreciates the information on the right to water provided in the report of the State party (paras. 417-418), which was submitted even prior to the adoption of the Committee's

general comment No. 15 (2002), on the right to water (arts. 11 and 12 of the Covenant).

C. Factors and difficulties impeding the implementation of the Covenant

183. The Committee notes the absence of any significant factors or difficulties impeding the effective implementation of the Covenant by the State party.

D. Principal subjects of concern

184. The Committee notes with regret the view expressed by the State party's delegation that economic, social and cultural rights are not necessarily justiciable.

185. The Committee notes with concern the relatively high unemployment rate among young people.

186. The Committee notes with regret that the State party has not ratified a number of ILO conventions in the area of labour and social security rights, namely Conventions No. 87 (1948) concerning Freedom of Association and Protection of the Right to Organise, No. 117 (1962) concerning Basic Aims and Standards of Social Policy and No. 118 (1962) concerning Equality of Treatment of Nationals and Non-Nationals in Social Security.

187. While noting that measures are being taken by the State party to redress inequality between men and women with regard to employment conditions, the Committee is concerned about the persistence of a gap between the wages of women and men, in contradiction with the principle of equal pay for work of equal value.

188. While taking note of the measures taken by the State party to confront domestic violence under the Ministry of Health Family Violence Project, the Committee is concerned about the persistence of the phenomenon among all socio-economic groups and especially among the indigenous Maori people.

189. The Committee is concerned about the relatively high suicide rate, especially among young people, in the State party.

190. The Committee notes with concern that nearly one in four persons lives in poverty according to the measurement commonly used in the State party, and that clear indicators are lacking to assess the effectiveness of measures to combat poverty.

191. The Committee notes with concern that despite improvements in some health indicators, the general health situation of the indigenous Maori people continues to be worse than that of other segments of the population in the State party. In particular, the Committee is concerned that the life expectancy of Maoris is significantly lower than the national average.

192. The Committee notes with concern that the provision of secondary and tertiary health-care services in rural and remote areas is considerably inferior to that in urban areas.

193. The Committee is concerned about persistent inequalities between the Maori and non-Maori people in access to education and the high dropout rates, especially among Maori children and young people and the disadvantaged and marginalized groups.

E. Suggestions and recommendations

194. Affirming the principle of the interdependence and indivisibility of all human rights, the Committee encourages the State party to reconsider its position regarding the justiciability of economic, social and cultural rights. Moreover, the Committee points out that the State party remains under an obligation to give full effect to the Covenant in its domestic legal order, providing for judicial and other remedies for violations of economic, social and cultural rights. In this respect, the Committee draws the attention of the State party to its general comment No. 9 (1998) on domestic application of the Covenant.

195. The Committee invites the State party to submit, in its next periodic report, its views and comments on the proposal for an optional protocol to the Covenant to be examined by the Open-Ended Working Group established by the Commission on Human Rights at its fifty-ninth session, in 2003.

196. The Committee recommends that the national Human Rights Commission take up economic, social and cultural rights as a comprehensive topic and that it ensure that those rights are duly reflected in the New Zealand Action Plan for Human Rights.

197. The Committee recommends that the State party strengthen its efforts to reduce unemployment among young people and requests further information on this matter in its next periodic report.

198. The Committee encourages the State party to ratify ILO Conventions Nos. 87 (1948), 117 (1962) and 118 (1962) and to withdraw its reservation to article 8 of the Covenant.

199. The Committee encourages the State party to take measures to increase awareness of the possibility of bringing complaints before the Employment Relations Authority or the national Human Rights Commission in cases of employment disputes.

200. The Committee recommends that the State party continue and intensify programmes to reduce inequality between men and women in the workplace, including ensuring equal pay for work of equal value.

201. While acknowledging the ongoing reform of the social welfare system, the Committee recommends that in targeting assistance more specifically to disadvantaged and marginalized groups, including persons with special needs, single-parent families and homeless persons, concerns to contain costs do not lead to a decrease in the level of effective social protection.

202. Given the complexity of the social welfare system with a range of different social security benefits, assistance measures and entitlement conditions, the Committee recommends that the State party widely disseminate accessible information on the system to all, and especially to those who,

owing to language, educational or cultural difficulties, need specific targeted information.

203. The Committee recommends that the State party intensify measures taken to combat domestic violence and that it provide, in its next periodic report, information on the results achieved in the implementation of the “Te Rito”: New Zealand Family Violence Prevention Strategy, including statistical data on cases of domestic violence, disaggregated by sex, ethnic group and age.

204. The Committee calls upon the State party to take effective measures to address the relatively high suicide rate, particularly among young people. The Committee requests the State party to provide further information on this matter, on a comparative and disaggregated basis, in its next periodic report.

205. The Committee recommends that the State party adopt a national plan to combat poverty with clear indicators to assess its impact on the incidence of poverty, in particular among disadvantaged and marginalized groups, the indigenous Maori people and Pacific Islanders. In this respect, the Committee refers the State party to its statement on poverty and the International Covenant on Economic, Social and Cultural Rights.<sup>7</sup>

206. The Committee requests the State party to adopt effective measures to improve the health situation of the indigenous Maori people.

207. The Committee recommends that the State party strengthen its efforts to ensure equitable access to health services in both rural and remote areas. The Committee draws the attention of the State party in this regard to its general comment No. 14 (2000) on the right to the highest attainable standard of health (art. 12 of the Covenant). The State party is also requested to provide detailed information, on a disaggregated and comparative basis, on progress made in this respect in its next periodic report.

208. The Committee urges the State party to take remedial action to ensure that the indigenous Maori people have equal access to education. Moreover, the Committee requests the State party to provide in its next periodic report disaggregated data on a comparative basis on enrolment and dropout rates among Maori children and young people, and the disadvantaged and marginalized groups.

209. The Committee encourages the State party to provide human rights education in schools at all levels and to raise awareness about human rights, in particular economic, social and cultural rights, among State officials and the judiciary.

210. The Committee requests the State party to disseminate the present concluding observations widely among all levels of society, including among State officials and the judiciary, and to inform the Committee on all steps taken to implement them in its next periodic report. It also encourages the State party to continue to consult with non-governmental organizations and other institutions of civil society when preparing its third periodic report.

211. The Committee requests the State party to submit its third periodic report by 30 June 2008.

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<sup>7</sup> *Official Records of the Economic and Social Council, 2002, Supplement No. 2 (E/2002/22-E/C.12/2001/17), annex VII).*

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