

**QUESTIONS PUT BY THE RAPPOREUR IN CONNECTION WITH THE
CONSIDERATION OF THE 15th to 17th PERIODIC REPORTS OF**

**NEW ZEALAND
(CERD/C/NZL/17)**

Article 2

1. Please provide updated information on the response to the Human Rights Commission's New Zealand Action Plan for Human Rights, in particular on Race relations issues. (Periodic report, § 14 and 22)
2. Please provide more information on the discussion held in 2004 about special measures for the advancement of ethnic groups, which led to a re-targeting of policies and programmes on the basis of need rather than ethnicity. What is the expected outcome of this new policy? Which special measures and programmes based on ethnicity have been re-targeted? (Periodic report, § 54-55)
3. Please explain why the State party considers that historical treaty settlements constitute special measures for the adequate development and protection of Maori and indicate the consequences of such qualification on the approach adopted by the State party to treaty settlements. (Periodic report, § 51 and following)
4. Please provide updated information on the outcome of the public and political discussions which took place over the Treaty of Waitangi, and on the position adopted by the State party in this regard. Was the question of possible entrenchment of the Treaty in constitutional law discussed? (Periodic report, § 7 and § 27-28)
5. Please indicate to what extent the policy to introduce in some new legislation clear references to the responsibilities of government or local government to provide for consultation with Maori or Maori participation in decision-making in relation to specific activities, instead of general references to the Treaty of Waitangi, impacts on the effect given to the Treaty. (Periodic report, § 27)
6. Please indicate to what extent the removal of statutory references to the Treaty of Waitangi, as reportedly planned through the Principles of the Treaty of Waitangi Deletion Bill (2006), will impact on the status of the Treaty and the ability of courts to adjudicate on Treaty matters. Please also comment on the information according to which references to the Treaty have been removed in some sectors, for example in the health and disability sectors. (Periodic report, § 7 and § 27-28).

Article 4

7. Please explain further why there is no hate speech offence in domestic law. Please also explain further what differences exist, in the view of the State party, between hate speech and incitement to racial disharmony. What avenues, criminal or otherwise, are at the disposal of persons subjected to offensive race -related comment, including through the media? (Periodic report, § 176-178)

8. Please explain why the police tend to prosecute offences of incitement to racial disharmony under the Crimes Act of 1961 or the Summary Offences Act of 1981, rather than under Sections 131 of the Human Rights Act. What differences does this entail? Is this the reason why only nine applications for prosecution under section 131 of the Human Rights Act have been made since 1994? Please also provide more detailed information on the eight cases to which the Attorney general has not given his/her consent for prosecution under Section 131. (Periodic report, § 176 and 186)

9. Please provide more detailed information on cases where section 9 (1) (h) of the Sentencing Act 2002 has been invoked by alleged victims and implemented by courts. Please also explain under which legislation “reported incidents where some ethnic groups have been subjected to some harassment and abuse” have been addressed. (Periodic report, § 177-178)

10. Please explain the reasons why there is no Police recording of complaints, prosecutions and sentences relating to racially motivated crime. Does the State party envisage establishing official databases on complaints, prosecutions and sentences for such crimes? (Periodic report, § 178 and Annex 3, Race Relations in 2005, p. 44)

11. Please explain the reasons why a procedural exemption has been introduced in the Immigration Act 1987, by which the publicly funded complaints process is not available for actions that allege discrimination in relation to the Immigration Act. What is the position of the State party in relation to the recommendation of the Human Rights Commission to repeal Section 149 D of the Immigration Act, which excludes the Act from the jurisdiction of the Human Rights Commission? (Periodic report, § 180 and Annex 4, New Zealand Action Plan for Human Rights, Summary report, p. 24)

Article 5

12. Please comment on the information according to which in 2005, approximately 6 per cent of land remained in Maori ownership and 94 per cent of Maori ancestral land base has been appropriated through various processes conducted over time.

13. Please explain why and how 2008 and 2020 have been chosen as cut-off dates for, respectively, the lodging and settlement of historical Treaty claims. Please also explain further what “contemporary matters” are, and why September 1992 has been chosen as criteria to distinguish between historical claims and contemporary matters. (Periodic report, § 34 and 38)

14. In relation to the Foreshore and Seabed Act 2004, please provide more detailed information on the proportion of indigenous groups that have entered into negotiations with the Crown or applied to the Maori Land Court for customary rights orders, in comparison to those that have not done so. What follow-up has been given by the State party to the recommendations made by the Committee in its decision 1 (66)? (Periodic report, § 64)

15. Please provide information on results achieved by the implementation of section 27 of the Sentencing Act 2002. In addition to the reasons provided in relation to the over-representation of Maori “as offenders”, has the State party assessed the extent to which the over-representation of Maori in prisons could be due to racial bias in arrests, prosecutions and sentences? How does the State party explain the over-representation of Pacific people in prisons? (Periodic report, § 151, 158 and 167).

16. Please indicate to what extent the support provided by the State party to Maori language learning is sufficient to satisfy the demand for such education. (Periodic report, § 109-110)

17. Please report on action taken by the State party to ensure that migrant selection criteria and procedures are not discriminatory in their effect, as recommended by the Human Rights Commission. (Periodic report, § 208 -210 and Annex 7; and Race relations in 2006, p. 7)

18. Please provide more concrete information on results achieved by the 2004 New Zealand Settlement Strategy. (Periodic report, § 211)

19. Please provide information on the extent to which undocumented children are entitled to benefits and other protection, in particular in the area of education and health.

20. Please provide updated information on the follow-up given by the State party to the concerns expressed by the Committee in paragraph 429 of its previous concluding observations, in relation to the detention of asylum-seekers (Periodic report, § 3).

Article 6

21. According to the Human Rights Commission, the effectiveness of procedures to address racial discrimination may be compromised by a lack of public knowledge about the most appropriate avenue for particular complaints, inadequate accessibility by vulnerable groups and a lack of confidence by such groups in their effectiveness. What measures has the State adopted to address this issue? (Annex 4, New Zealand Action Plan for Human Rights, Full report, p. 335)

Article 7

22. Please comment on information received by the Committee according to which the State party envisages removing references to the Treaty of Waitangi from the mainstream education curriculum.

23. Please explain to what extent information conveyed through the Treaty of Waitangi Information programme has been elaborated with the participation of Maori peoples. Please provide further information on the extent to which diverging views on the status and meaning of the Treaty are presented and addressed. (Periodic report, § 27)

24. According to the Human Rights Commission, there is insufficient public information, education, dialogue and exchange on issues of cultural diversity, the contemporary place of the Treaty of Waitangi, New Zealand history, and the stories and cultures of new Zealanders' countries of origin, and there is a lack of public education on human rights and race relations, including the rights of indigenous peoples, the human rights dimension of the Treaty of Waitangi, freedom from discrimination and the right to language and culture. Please comment. (Annex 4, New Zealand Action Plan for Human Rights, Full report, p. 336)
