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Fifty-third session

SUMMARY RECORD (PARTIAL*) OF THE 1395th MEETING

Held at Headquarters, New York,
on Friday, 24 March 1995, at 10 a.m.

Chairman: Mr. AGUILAR

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* No summary record was prepared for the rest of the meeting.

95-80490 (E)

The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Third periodic report of New Zealand (continued) (CCPR/C/64/Add.10; HRI/CORE/1/Add.33)

1. At the invitation of the Chairman, Mr. Keating, Mr. Rata and Ms. Rush (New Zealand) took places at the Committee table.

2. The CHAIRMAN invited the delegation of New Zealand to continue with its replies to questions previously asked by the members of the Committee.

3. Mr. KEATING (New Zealand) referred to a question in section III (g) of the list of issues, concerning the way in which the rights of Maori, women and minority groups were protected, and also concerning the term "Maori option" used in connection with the new Electoral Act 1993. He said that New Zealand's electoral system was about to undergo a fundamental change; proportional representation was to be introduced, probably with effect from the next election. One of the main reasons for the change was that the new system would improve the representation of Maori, women and minority groups.

4. The Maori option was not a new provision. Any voter of Maori descent had the option of enroling on either the general electoral roll or the Maori electoral roll. That choice, which was known as the Maori option, could be exercised when the voter first enrolled, and thereafter periodically, during the Maori option period, which occurred approximately once every five years. Those who opted to be on the Maori electoral roll were registered in Maori electoral districts. As a result of the new electoral system, the number of Maori representatives elected to Parliament was expected to be five, as opposed to four under the previous system.

5. Certain Maori groups had unsuccessfully sought to obtain a ruling in the High Court, and subsequently in the Court of Appeal, that the Government had not given sufficient publicity to the 1994 Maori option to Maori voters, and that the process should be rerun.

6. Referring to a question in section III (h) of the list of issues, concerning the return of state and private land to Maori, he said that, apart from occasional exceptions, private land was not generally available to the Crown for use in settlements. Almost all of the land available for settlement of claims was owned by the Crown itself, government departments, state-owned enterprises, and other state entities. In reply to a question regarding the jurisdiction of the Waitangi Tribunal, he said the latter had the power to make mandatory recommendations to the Crown on the return of certain categories of land. Claims could be settled through a process of direct negotiation, or through negotiation following a recommendation of the tribunal; claims settled through either process had exactly the same legal status.

7. There was also a statutory provision for the return to Maori, by special Order in Council, of certain lands which had been held by a state enterprise. Maori could apply to the Crown for the return of such lands when they were considered to be of special spiritual, cultural, or historical significance to them.

8. Mr. KRETZMER, referring to paragraph 107 of the report, concerning the prohibition of certain "objectionable" publications, expressed concern at the very broad definition of the meaning of the term "objectionable" contained in the Films, Videos and Publications Classification Act. That was particularly problematic in light of the provision, described in paragraph 108 of the report, that a person in possession of such a publication could be held liable even if that person had no knowledge or reasonable cause to believe that it was objectionable. He wondered whether in that case the right balance had been struck between freedom of expression and the legitimate need to control certain types of publication.

9. Referring to the provisions of the Human Rights Act 1993 relating to incitement to discrimination, he asked why there was no mention of advocacy of religious hatred, whereas article 20, paragraph 2, of the Covenant referred to advocacy of national, racial or religious hatred.

10. Referring to the provisions of the Covenant regarding freedom of expression, he requested additional information regarding the ownership of the press and electronic media in New Zealand.

11. Mr. ANDO, wondered whether any cases involving "objectionable" publications had come before the courts or had been brought to the attention of the public. He also asked whether there had been any developments in respect of the problem of freedom of expression described in paragraph 109 of the report.

12. He inquired whether the very restrictive attitude adopted towards certain types of publication reflected any particular trend in New Zealand society.

13. Mrs. EVATT requested additional information regarding the number of requests for refugee status that had been granted, whether any progress had been made in reducing the delays in processing applications and appeals, and whether any new legislation was planned on that subject.

14. She expressed concern regarding the provisions of the Films, Videos and Publications Classification Act, particularly in respect of the offence of possession of "objectionable" publications. It was a problem that raised important issues of freedom of expression.

15. She also expressed concern regarding the restriction on freedom of association involved in the prohibition of strikes intended to persuade more than one employer to take part in collective bargaining.

16. Mrs. HIGGINS, referring to the passage into law of the Privacy Act 1993, asked for confirmation that matters related to interference with personal privacy in the area of the printed word would be dealt with solely by means of the law on defamation. She also wondered whether it was generally felt in New

Zealand that the correct balance had been found between freedom of information and protection of privacy.

17. Mrs. MEDINA QUIROGA congratulated the New Zealand delegation for the quality of the report, as well as the enviable human rights situation in that country. However, regarding paragraph 108 of the report, she failed to understand how a person could be found guilty of an offence in the absence of any criminal intent.

18. Mr. PRADO VALLEJO asked whether the Government had any plans to simplify the formalities faced by persons seeking refugee status in New Zealand or attempting to avoid expulsion. He also wondered, with reference to the freedom of information, whether a decision to give or to withhold information could be made for political reasons or in order to protect the interests of members of government.

19. Mr. KEATING (New Zealand) said that his delegation had prepared some statistical information in response to questions asked at a previous meeting; that information was being distributed to members of the Committee.

20. Referring to the question asked by Mrs. Evatt regarding applications for refugee status, he recalled that the principal international obligation in that respect was that of non-refoulement. Applicants were well looked after during the time they spent in New Zealand, being provided with access to social services and the right to seek employment. Rapidity in processing applications should not be the only measure of performance; fast processing was a double-edged sword, since it could lead to a swift negative response.

21. Since the comparative data requested were not immediately available, they would be conveyed as soon as possible to members of the Committee, through the Secretariat. The long delays that had been mentioned were due to extraordinary growth in the number of applications during the period under review. However, the situation had improved somewhat since the early 1990s. The formalities could not have been significantly speeded up without an unacceptable lowering of staffing standards in the evaluation of applications.

22. Referring to the questions that had been raised regarding the prosecution of persons found in possession of offensive material, he said that the impetus for introducing strict legislation was not due to any repressive instinct to restrict freedom of expression, but rather from a desire on the part of women's groups and others wishing to prevent exploitation of the most vulnerable members of society, such as children. The issue was a sensitive one, and would clearly require further efforts in order for the right balance to be found between individual and group rights; the matter would be dealt with in greater detail in the next report.

23. Referring to Mrs. Higgins' question regarding the law of defamation, he said that the whole area had been under review, and a new Defamation Act had become law in 1993, as stated in paragraph 96 of the report. He was unable to give immediate answers to the question from Mr. Prado Vallejo regarding official information or to the question from Mr. Kretzmer regarding incitement to

religious hatred; he would endeavour to convey replies to the Committee at a later stage.

24. In response to Ms. Evatt's request for details on the Government's position concerning proposals for settlements under the Treaty of Waitangi, he said that $NZ 1 billion had been earmarked for the settlement of historical treaty-based claims during a period of approximately 10 years. Known as the "settlement financial envelope", it would be used as a budgetary tool of the Crown. The settlement envelope demonstrated the Crown's commitment to the settlement of historical claims. It took into account the fiscal and economic constraints which might exist at any particular time. Guidelines had been established in order to ensure that all claims were dealt with equitably relative to other claims and that the settlement of earlier claims did not deplete the funds available to settle subsequent claims. The Maori were not obligated to accept the settlement envelope or to institute claims immediately. Compensation for current or future breaches was not provided for under the Treaty; such cases must be dealt with according to normal legal practice.

25. As for whether the Government could impose a final settlement if the parties failed to reach a negotiated settlement, he said that the Crown was willing to act in good faith and recognized that some claimants would not wish to negotiate immediately. However, a cut-off date for the filing of claims would have to be fixed in consultation with claimant groups. He wished to assure Committee members that settlement of historical claims did not affect the status of the Treaty of Waitangi or the rights it enshrined, including the right to health services, education and welfare entitlements. Nor could the Crown request that proceeds of the settlement should be used to provide such services in lieu of the Government. While the settlement of claims must be full and final, it did not follow that that would result in the amendment or annulment of assertions made during the negotiations.

26. Replying to a question concerning the Treaty of Waitangi (Fisheries claims) Settlement Act, he said that full and final settlement of claims applied only to commercial fisheries and did not mean that no further domestic remedies would be available to the Maori. Individual and customary fishing rights had not been settled and were dealt with under a separate provision.

27. Replying to Mrs. Evatt's question as to whether the Human Rights Commission had conducted inquiries under the Human Rights Act 1993, he said that the Commission had completed an inquiry concerning the rights of elderly persons in long-term residential care, which it had launched on its own initiative. Concerning the question as to whether New Zealand social security legislation dealing with long-term residential care of the elderly was compatible with articles 2, 17 and 26 of the Covenant, he said that the Commission had just completed its examination and that its findings would be discussed in New Zealand's next periodic report.

28. Replying to a question raised by Mr. Prado Vallejo on the concept of indirect discrimination, he said that it was involved in section 65 of the Human Rights Act as a safety net provision in order to ensure that acts which had the effect of excluding certain groups but did not fall into the category of direct discrimination were investigated.

29. Turning to Mr. Lallah's question on administrative procedures and the operation of family courts under the Child Support Act 1991, he said that, where an application was made to the Inland Revenue Department Child Support Agency under the Child Support Act, liability was calculated according to specific formulas designed to ensure consistent standards. Where there was a voluntary agreement between the parents and a custodial parent was receiving a benefit, the formula must be assessed by the Agency. If the custodial parent was receiving a benefit, he or she would not receive child support paid by the liable parent unless the amount paid exceeded the amount of the benefit paid. In that case, only the excess amount was paid to the custodial parent. Recognizing that a generalized formula might not be adequate in all cases, the Agency allowed for a review of the amount payable. The review was undertaken by independent review officers and the person concerned could appeal the decision in the Family Court. Application for review could be made by either a qualifying custodian or a liable parent.

30. Replying to Mr. Kretzmer's question concerning guarantees or monitoring mechanisms in order to ensure that the exceptions referred to in section 25 of the Human Rights Act were not exploited or abused, he said that any person who believed that his or her employment rights had been exploited or abused as a result of those exceptions could apply to the Human Rights Commission for review. The exceptions had been included in the belief that it would be necessary to protect the national security.

31. Replying to the question concerning voting procedures in Tokelau and election processes unique to the island, he said that voting procedures and election processes reflected Tokelauan customs and traditions, not New Zealand electoral law, and that a number of electoral processes were unique to the island. Currently, two officials were elected on each island by universal adult suffrage on a triennial basis: the Faipule, who was the head of the island, and, at the national level, a Minister within the Council of Faipule and the Pulenuku, who was the equivalent of a village mayor. There was no nationwide voting in Tokelau and the 27 delegates to the General Fono were not elected.

32. The atoll or village was the main political unit; the concept of Tokalau as one political entity was still taking root. The atolls were at a great distance from each other and had developed different traditions and social orders. Thus, the method of appointing General Fono delegates differed from village to village. Generally, the process was managed by the Taupulega or village council, comprising male elders or family heads or both.

33. In response to Mr. Buergenthal's question concerning cases in which the Attorney-General's report under the New Zealand Bill of Rights Act 1990 had been overridden by Parliament, he referred to section 58A of the Transport Act authorizing police officers to administer random breath tests. It had been argued that section 58 A was inconsistent with sections 21 and 22 of the Bill of Rights Act, which guaranteed security from unreasonable search or seizure and arbitrary detention. In the light of the numerous deaths caused by alcohol-related accidents, a Parliamentary Select Committee and, later, Parliament as a whole, had determined that, notwithstanding the Attorney-General's report, such search and seizure was justified by public policy considerations.

34. Replying to Mr. Buergenthal's question on overlap in the reporting procedures of the New Zealand Human Rights Commission and the Attorney-General, he said that the fact that the Human Right Commission reported to the Prime Minister and the Attorney-General reported to Parliament on inconsistencies with the Bill of Rights Act had not caused any problem.

35. Replying to Mrs. Higgins' question, he said that a sentence of preventive detention could be appealed to a higher court under section 115 of the Summary Proceedings Act 1957 and section 383 of the Crimes Act 1961. A sentence of preventive detention carried a minimum statutory non-parole period of 10 years. After that time, it was considered by the Parole Board on the basis of certain criteria, for example the risk of a repeat offence. If parole was denied, the Parole Board would then have to consider the issue of release once a year. Under the Criminal Justice Act 1985, the detainee could request a review every six months.

36. Concerning remedies for alleged acts of abuse by prison officers or police, he said that most such cases involved damage to property, defamation, false arrest or false imprisonment. In only a few cases had remedies been sought for alleged police assault. The remedies available ranged from informal remedies such as a full apology and compensation for losses, for example, property loss or damage, to formal remedies available through civil proceedings in tort for trespass or false imprisonment, through an action for exemplary damages in tort or through a public law proceeding under the Bill of Rights Act. In most instances, remedies consisted of monetary compensation provided at the initiative of the police, as a result of a complaint submitted to the Police Complaints Authority, or as a result of civil proceedings.

37. Turning to a question asked by Mrs. Evatt concerning the situation of prisoners in private prisons, he said that, under section 41C of the Penal Institutions Act, for the purposes of the Ombudsmen Act and the Official Information Act, every contract penal institution was considered to be part of the Department of Justice. That guaranteed that prisoners in private prisons would have recourse to the Ombudsmen and the same rights as prisoners in public prisons. Contract-managed prisons must comply with the same statutory requirements as State-managed prisons, including the Human Rights Act, the Health and Safety in Employment Act and the Privacy Act. The observance of minimum standards in the private prisons was guaranteed by such mechanisms as prison inspectors' reports, access to the Ombudsmen and the monitoring of the contractor's compliance with judicial and legislative requirements.

38. The Penal Institutions Act set forth in detail the minimum content of a private prison contract. It required the performance standards of private prisons to be the same as those applicable to State prisons. The contractor must also undertake to comply with the relevant legislation, including the New Zealand Bill of Rights Act and the United Nations Standard Minimum Rules for the Treatment of Prisoners. The Minister of Justice was responsible for the administration of all prisons. The next periodic report would doubtless contain information on a major review of the Department of Justice currently under way. The review would have major implications for the administration of the prison system.

39. Concerning Mrs. Evatt's question about the trafficking in Asian women for the purposes of prostitution in New Zealand, he said that recent years had seen an increase in the number of foreign women who entered New Zealand on tourist visas and remained as sex workers. Currently, there were no specific measures in place for the protection of such women. The Government believed that their situation must be addressed. The legal proceedings and the conviction described in paragraph 45 of the report should act as a deterrent and should also encourage police and immigration authorities to investigate such cases.

40. Replying to Mr. Ando's question concerning the Mental Health (Compulsory Assessment and Treatment) Act 1992, he said that the Director of Mental Health was under the authority of the Minister and Director General of Health and was appointed by the Director-General of Health under the State Sector Act. The Mental Health Act did not specify qualifications for the post; however, he or she was generally expected to have experience in the field of mental health and to be a qualified health professional.

41. Addressing Mr. Bán's request for clarification on the distinction between in-patient and out-patient compulsory treatment, he said that compulsory assessment and treatment occurred either in a hospital or in the community. In-patient treatment was administered at a psychiatric hospital, within the psychiatric unit of a general hospital or in a general ward of a general hospital. In-patients were granted up to three months' leave, which could be extended. An in-patient order could be changed to a community treatment order by the patient's responsible clinician. Patients on community treatment orders could be treated at home or in a community facility. If they required in-patient treatment, they could be readmitted for assessment under section 11 of the Act. Under the Act, patients must be reviewed three months after a compulsory treatment order had been issued and every six months thereafter. The normal six-month compulsory treatment order could be extended for another six months by the Court, and indefinitely thereafter. The responsible clinician could release the patient from compulsory status at any time.

42. Replying to a question concerning the determination as to whether an offender between the ages of 10 and 13 years old knew that his or her conduct was wrong or contrary to law, he said that, under section 22 of the Crimes Act 1961 and section 272 of the Children, Young Persons, and Their Families Act 1989, a person between the ages of 10 and 14 years could be charged only with murder, manslaughter or a traffic offence not punishable by imprisonment. Knowledge of wrongdoing, where relevant, was determined by the High Court of New Zealand. In the past 20 years, there had been no judicial discussion bearing directly on the question. In the early 1990s, there had been one case in which a 13-year-old boy had been charged with murder and other cases in which young persons had been held responsible for such crimes as rape.

43. Responding to a question concerning the family group conference, he said that it was designed to bridge the cultural gap between the traditional Maori way of dealing with offences and the New Zealand system of justice. Under Section 251 of the Children, Young Persons, and Their Families Act, the family group conference was composed of the child; a parent, guardian or family member; the Youth Justice Coordinator of the region; the victim or victims and a legal representative of the child. In certain cases, it might also include a social

worker, a representative of the Iwi Authority (the Maori tribe); a probation officer; where a youth had been sentenced to perform community service, a representative of the organization to which he or she had been assigned; persons appointed by the High Court; and the police officer who had filed the complaint.

44. Replying to a request for clarification of the phrase "unless public interest requires otherwise" in relation to section 208 (a) of the Children, Young Persons, and Their Families Act (para. 53 of the report), he said that under the Act, family group conferences determined the most appropriate course of action for young persons dealt with under the youth justice provisions of the Act. A decision to institute criminal proceedings could result from such a conference; however, the final decision would rest with the police. Sections 3 and 4 of the Judicature Amendment Act 1972 provided for review of any statutory power of decision.

45. Responding to Mr Bán's question on the number of juveniles who had been apprehended and prosecuted, he said that for the years ending June 1993 and June 1994 the juvenile arrest figures were 37,853 and 41,303 respectively. The figures for juvenile prosecutions were not available, but at the year ending June 1994 a total of 36,802 young offenders had been dealt with by alternative means, for example, youth aid warnings and action plans, family group conferences, or simple warnings. Regarding Mr. Bán's question on paragraph 85 of the third periodic report, he explained that a "unique identifier" was a reference code assigned to an individual by an agency for the purposes of that agency, an example being an individual's taxpayer number. It was not permitted to use a person's name as a unique identifier.

46. With reference to paragraph 26 (e) of the report and the Committee's request for more information about the kind of guidance that was available in deciding whether to pursue remedies under the Human Rights Act 1993 or the Employments Contracts Act 1991, it was explained that the Department of Labour issued free information booklets on personal grievance procedures and that all employees had access to a free telephone service providing help and advice on their rights and obligations, including advice on the choice of procedures open to them in the event of a grievance. In addition, the Human Rights Commission's consultancy activities included workshops relating to sexual harassment awareness, investigation and prevention.

47. Mrs. EVATT reiterated that New Zealand had provided an almost model report, but again stressed some of the areas that still needed attention. She was particularly concerned about the inconsistencies between the Bill of Rights and the Covenant, and also the status of the Bill of Rights in New Zealand's legal hierarchy. The willingness of New Zealand Parliament to contemplate passing laws which might be inconsistent with the Bill of Rights also gave cause for concern, because when domestic law did not comply with the Bill of Rights or the Covenant it could not be challenged by citizens in the courts; in such circumstances the only remaining recourse appeared to be a communication to the Human Rights Committee. There also appeared to be a lack of general remedies for violations of the Covenant. Furthermore, the Committee would have appreciated more information about the way in which its decisions were used as legal guidelines.

48. She hoped the new electoral provisions would meet the needs of minorities as intended, and said that the same considerations applied to the Waitangi Tribunal. She urged the New Zealand Government to ensure that the new equal employment opportunities system was continuously monitored, and indicated that the problem of trafficking in women should be dealt with more effectively.

49. Mr. KRETZMER said that the grounds for discrimination, specifically with regard to discrimination on the basis of language, was a particular area of concern. He saw no necessary connection between the grounds for discrimination and the formal status of a language within the constitutional regime of a country, and urged the New Zealand Government to bring the grounds for discrimination mentioned in the Human Rights Act and the Bill of Rights into line with the grounds recognized by the Covenant. Such an approach would eliminate cases where an individual's ability or lack of ability to use a particular language could be viewed as a ground for discrimination unless knowledge of that language was a genuine requirement in applying for a job, for example.

50. On the issue of freedom of expression, he urged the New Zealand authorities to ensure that a genuine balance was being struck between the requirements of the Films, Videos, and Publications Classification Act 1993, which sought to control pornographic material, and the provisions of article 19 of the Covenant.

51. Mr. LALLAH, reiterating the concerns voiced by Mrs. Evatt, noted that the judiciary in New Zealand had been prevented from assessing the Bill of Rights as it would assess any other law. He was disappointed by the attitude displayed by the New Zealand public towards the power of the judiciary in that regard. He also repeated his earlier question about the practical steps that were being taken to ensure a suitable replacement for the Privy Council.

52. With regard to the settlement of Maori claims, he hoped that the New Zealand Government had contemplated providing constructive channels for the indigenous population's new-found liquidity.

53. Amplifying Mr. Kretzmer's point about freedom of expression, he suggested that the legal machinery that had been set up to control pornographic material was perhaps a little too rigid, establishing as it did a somewhat oracular view of what was and what was not objectionable. Furthermore, the law prevented courts from looking at the substance of a case to determine how objectionable its content actually was; appeals were limited to points of law. The law begged the question of different cultural attitudes to the material under consideration.

54. Mr. EL-SHAFEI said that he was still unclear as to how the New Zealand authorities intended to resolve any inconsistencies that arose between the Covenant and domestic law. He also restated his disappointment that the Human Rights Act, which was in any case not as comprehensive as the Covenant, had not been entrenched in New Zealand law. In addition, he expressed concern that the implementation of parts of the law dealing with the prohibition of discrimination on additional grounds which did not exist previously was to be postponed until 2000.

55. Lastly, he said that the Committee would have appreciated more positive information from New Zealand regarding the extent and scope of its reservations to the Covenant.

56. Mr. PRADO VALLEJO said he hoped the New Zealand authorities were devoting proper attention to the problem of refugees and foreigners who were subject to expulsion from New Zealand, and that the procedures involved would guarantee their fair treatment under the law.

57. He also asked the reporting State to clarify what it meant when it said that government ministers and their political status would be compromised in the event of their having to provide government-related information to citizens.

58. Finally, with regard to eliminating de facto discrimination against the Maori, he stressed that it was not enough for the Government simply to change laws, it had to put in place programmes designed to encourage the eradication of practices which were at variance with the provisions of the Covenant.

59. Mr. BUERGENTHAL noted that the more advanced the situation of human rights in a country, the more was expected, and the more probing the Committee's questions would be. No country would escape some degree of questioning, which was an important part of the dialogue process.

60. He shared the concerns expressed regarding the normative rank of the Covenant in New Zealand law. It was quite true that some countries gave the Covenant constitutional rank, yet systematically violated its provisions. However, he believed that if the Covenant had a higher rank in New Zealand domestic law, it would surely be observed, with the desired result. He was concerned about the absence of a reference to religion in the legislation implementing article 20 of the Covenant, as it might send an inaccurate message. He also associated himself with the concerns expressed regarding the Films, Videos and Publications Classification Act, which could be considered a retroactive penal law. The length of the post-conviction preventive detention period seemed disproportionate, even though he understood the effort to balance the rights of the individual with those of society. He also shared the concern regarding language discrimination, which was explicit not only in the Covenant but in the Charter of the United Nations.

61. New Zealand could boast of several laudable achievements in the area of human rights which should be recognized and emulated. Among them were the ratification of the first and second Optional Protocols to the Covenant and the participation of representatives of the High Commissioner for Human Rights in hearings to grant refugee status. The role of the Attorney-General and the Human Rights Commission regarding international human rights obligations was very important, and he was pleased at the possibility that a representative from the New Zealand Human Rights Commission could participate in the presentation of the fourth periodic report. The Committee could learn much from their experience.

62. Mr. KLEIN welcomed the constructive and positive dialogue which had taken place. He wished to stress, however, that the status of the Covenant and the Bill of Rights Act should be improved. Nothing prevented that change but

political conviction. In the end, however, he did not believe that the New Zealand Government held a different view of article 2 of the Covenant than that of the Committee, but it did perhaps hold a different view as to what was the best means for strengthening human rights within their system.

63. Mrs. MEDINA QUIROGA said that improving the situation of human rights was a never-ending task. Among remaining areas of concern, she noted the rank of the Covenant in domestic law and the decision not to specify further grounds for unlawful discrimination before the year 2000.

64. Freedom of expression was an important concept both in community life and for the observance of other human rights. Although she understood the tension between the protection of vulnerable groups, such as women and children, and individual rights, in her view it was the duty of a State not simply to react but to take positive action to protect rights. Out of concern for protecting one right, it was important not to infringe another, however. In her view, the definition of "objectionable" publications was too vague, making it possible for an individual easily to claim that he was unaware certain material was objectionable. Such a vague definition was poor protection for freedom of expression, nor did it give citizens a fair chance to know whether their conduct was criminal.

65. Mr. FRANCIS said that no report from a State party was likely to escape criticism; nevertheless, the reports and the replies to questions from the Committee unquestionably indicated New Zealand's fine record of compliance with international human rights instruments. The progress in New Zealand in the relationship with the Maori community was of special significance, especially in respect of the gender issue. He was certain that, in the preparation of the fourth periodic report, due account would be taken of the Committee's comments and concerns.

66. Mr. POCAR said that he had gained a positive impression of the New Zealand Government's approach to a continuing and constant review of the human rights situation in that country and its compliance with international agreements.

67. Mr. KEATING (New Zealand) thanked Committee members for their positive comments on the report. The New Zealand Government understood the Committee's expectations with respect to the protection of human rights and was constantly striving to improve.

68. He shared the concerns expressed by members. The proposal to give the covenant higher status in New Zealand law would only come about, however, when the public perceived some benefit from it. To the extent that loopholes in the Bill of Rights or the Covenant were perceived as shielding perversion and criminal activity, public scepticism about those instruments would remain. A dynamic tension existed between individual and collective rights, and his Government was constantly seeking to keep them in the proper balance.

69. The CHAIRMAN said that the Committee had thus concluded its consideration of the third periodic report of New Zealand.

70. Mr. Keating, Mr. Rata and Ms. Rush (New Zealand) withdrew.

The public part of the meeting rose at 12.45 p.m.