



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

Distr.
GENERAL

CERD/C/SR.1821
21 September 2007

ENGLISH
Original: FRENCH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Seventy-first session

SUMMARY RECORD OF THE 1821st MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 31 July 2007, at 3 p.m.

Chairperson: Mr. de GOUTTES

CONTENTS

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY
STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Fifteenth, sixteenth and seventeenth periodic reports of New Zealand

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Editing Unit, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Fifteenth, sixteenth and seventeenth periodic reports of New Zealand (CERD/C/NZL/17; HRI/CORE/NZL/2006); written replies by the State party and update entitled “Overview and update on developments since December 2005”, documents without reference distributed in the meeting in English only.

1. At the invitation of the Chairperson, the members of the delegation of New Zealand took places at the Committee table.
2. Mr. McKAY (New Zealand) said that New Zealand took its obligations under the Convention very seriously and that it was especially keen to conduct a constructive, substantive dialogue with the Committee. As evidence of its determination and in conformity with the concluding observations issued by the Committee in 2002, the delegation included several experts from ethnic minorities representing a broad range of expertise and responsibilities. It welcomed the presence of representatives of New Zealand’s civil society and the distribution of their independent reports.
3. New Zealand was a South Pacific island whose society was changing rapidly. It functioned as a unitary parliamentary democracy with a single national Government and legal system. It was a multicultural nation where many inhabitants valued their combined Maori and non-Maori ancestry. The results of the 2006 census had shown that ethnic diversity was increasing in the country. The recent appointment of Anand Satyanand, a New Zealand citizen of Indian and Fijian origin, as Head of State and official Representative of Queen Elizabeth II symbolized the multicultural character of contemporary New Zealand.
4. Throughout the period under consideration, the New Zealand Government had continued its efforts to eliminate discrimination based on colour, religion, race or ethnic or national origin. New Zealand legislation expressly prohibited racial discrimination, and the Government remained very attached to the promotion of racial harmony.
5. The report under consideration covered the period from 1 January 2000 to 22 December 2005 and addressed the issues raised by the Committee during its consideration of the previous report in 2002. Like the previous reports, it described the context in which all issues relating to the prevention and elimination of all forms of racial discrimination and available remedies were addressed. In particular it outlined the efforts made to improve the social, economic and cultural situation of the Maori - especially regarding developments concerning the Treaty of Waitangi - and that of the Pacific peoples and other ethnic groups within New Zealand society. The report also gave quantitative data largely based on statistics obtained in the course of the 2001 census, but also as far as possible on more recent statistics contained in the document distributed in the meeting room. In response to the request expressed by the Committee at its sixty-sixth session (February 2005), the report also contained an update on the implementation of the Foreshore and Seabed Act 2004.

6. Positive developments included the document entitled “Opportunity for All New Zealanders” published in December 2004, which summed up the Government’s vision for New Zealand and its people; the new programmes, services and policies aimed specifically at improving the situation of the Maori and Pacific peoples in terms of health, education and well-being; the significant economic development of the Maori and the many positive developments concerning the employment and average income of the Maori, Pacific peoples and, more generally, women belonging to ethnic minorities; the Pacific Prosperity Strategy, which concentrated on achieving the economic potential of the Pacific peoples; programmes to strengthen inter-community relations; the increasing ethnic diversity of the members of the New Zealand Parliament (including Maori, Pacific peoples and Asians); better policies to eliminate disparities between men and women; the new strategy to facilitate the settlement of migrants and refugees in New Zealand; the reform of social assistance as part of the Future Directions project; the greater use of the Maori language, and related projects, in the Ministry of Pacific Island Affairs; the action taken by the Office of Ethnic Affairs to take account of the needs of ethnic groups in policies and services, and the appointment of a full-time Race Relations Commissioner within the Human Rights Commission.

7. Ms. Benesia SMITH (New Zealand) said that in New Zealand the legal framework for the elimination of racial discrimination was derived from the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993, which continued to provide the protective measures and the sanctions outlined in previous reports.

8. During the period under consideration, the Parliament had adopted the Human Rights Amendment Act 2001, which offered a publicly funded complaints process as well as remedies for people who had been discriminated against, which should encourage the public authorities to improve New Zealand’s respect for its international human rights obligations.

9. Meanwhile, the Human Rights Commission, with the extension of its mandate, had been given the task of promoting and protecting human rights in New Zealand, and encouraging the maintenance and development of harmonious relations between individuals and among the diverse groups in society. It was also responsible for handling complaints of discrimination through its dispute resolution services. In 2006 it had been able to settle most complaints of racial harassment (24 per cent) through mediation. A considerable effort had also been made to introduce measures to eradicate incitement to racial discrimination.

10. She admitted that New Zealand’s domestic law did not include a specific offence of incitement to racial hatred. Nevertheless, article 131 of the Human Rights Act 1993 outlawed incitement to racial disharmony, a provision which, in the context of New Zealand, appeared to meet its conventional obligations satisfactorily. The law provided no specific penalties for racial hatred offences, such motivation being treated merely as an aggravating circumstance. In that connection the members of the Committee were referred to the written replies to questions 7 and 8 put earlier to New Zealand by the Rapporteur.

11. Meanwhile, in some cases, such as Police v. Whitwell (July 1995) and Regina v. Taueki (June 2005) (CERD/C/NZL/17), racial motivation had in fact been found to be an aggravating circumstance, in accordance with the Sentencing Act 2002, and in three other cases as well (see

written reply to question 9). The police kept no record of that specific type of offence, which went under general legal definitions, such as unlawful assembly or rioting, the racial motivation of an act being difficult to establish (see written replies to question 10 of the Rapporteur).

12. With regard to question 11, the exemption relating to immigration had been adopted for the sake of harmonization taking account of section 149D of the Immigration Act, whereby the complaints process could not be publicly funded. The Human Rights Commission had proposed repealing that section because its enforcement procedure did not allow it to deal with or intervene in matters relating to the Immigration Act. Considering that the powers attributed to the Commission enabled it to act, the New Zealand Government continued to think that it was preferable for practical reasons to keep to the complaints and appeal procedures set out in the Immigration Act. As a safeguard, victims enjoyed the protection of the Bill of Rights 1990 or could lodge complaints against any discriminatory conduct on the part of immigration officials. The Human Rights Commission also retained its ability to inquire into any law, practice or case relating to human rights, even in the area of immigration.

13. In conclusion, the New Zealand Government attached great importance to race relations issues, and national identity was one of the three major themes chosen as a general policy priority.

14. Mr. TAMAHORI (New Zealand) said that by 1900 the Maori language had declined so far that it was in danger of disappearing. By 1970, by which time the situation had become almost desperate, the Maori had decided to sue the Government before the Waitangi Tribunal on the ground that their language counted as a treasure under the Treaty of Waitangi. As a result of those legal proceedings, the Government had been obliged to arrest the gradual decline of the Maori language, to promote it and introduce services for its support. One example was the establishment of a television channel, whose programmes would all in fact be broadcast in the Maori language by the end of 2007. Nowadays it was also possible to complete the education cycle, from preschool to university, all in the Maori language. In addition, support was provided to any person wishing to learn the language, wherever in the country that person might be.

15. Current statistics were encouraging in that respect. The Maori language was no longer endangered, but was in fact being increasingly used by the communities. According to the most recent survey concerning the Maori Language Strategy, supported by the Maori and the Government, use of the Maori language had increased among adults, young people and even among persons not of Maori origin (one third of Maori speakers).

16. With regard to land tenure, an area in which aggression had been particularly harsh, the situation had been improving, even though in the course of the 12 years after the signing of the Treaty of Waitangi, the Maori had lost 50 per cent of their lands. They currently owned only some 5 per cent of the lands that had belonged to them originally. That loss of land had been accompanied by disastrous cultural loss insofar as the Maori, like most indigenous peoples, experienced the loss of land as a loss of identity. However, over the preceding 10 years, the Maori had been able to recover some of their land, sea and forest assets and their participation in the New Zealand economy was now significant.

17. Although issues between the Maori and the British Crown still remained, over the last 160 years the Maori and the New Zealand authorities had gradually learned to listen to each other so that what had happened could never happen again.
18. Mr. LEALEA (New Zealand) said that the Pacific peoples, including an increasing number of young people, accounted for 7 per cent of the population and were gradually becoming aware of their place in New Zealand society.
19. The Pacific peoples were currently beneficiaries of many programmes, initiatives and strategies to help them improve their situation in terms of employment, education and social rights. They were nevertheless still faced with difficulties in the areas of health, housing and criminal justice, where they were over-represented among offenders. In response, the Government had taken measures, including financial measures, aimed at recruiting more prison wardens and police officers among the Pacific peoples. An advisory group had been set up in the Department of Corrections and more and more facilities were available to help detainees when they left prison.
20. An Economic Strategic Action Plan for Pacific peoples and the Economic Development Plan for Pacific women, which were to be launched in the near future, should help achieve the economic potential of the Pacific peoples and raise their standard of living.
21. In the cultural area, measures were being taken to safeguard the languages of the communities in the Niue, Cook and Tokelau Islands. Language courses were being organized; special early childhood services had been launched; a national radio station (Niu FM) was operating and a television channel was being considered.
22. Mr. TAMAHORI expressed the view that the economic development measures undertaken jointly with the Maori and the growing awareness of the place of the Maori and the Treaty of Waitangi ought to encourage a better appreciation of New Zealand's ethnic diversity.
23. Mr. SINGHAM (New Zealand) said that the ethnic diversity of New Zealand had been increasing since the 1980s, with new migrants arriving from India, China and the Middle East. According to the 2006 census, the population of Asian origin had increased by over 50 per cent in five years. New Zealand was currently one of the OECD countries that took in the highest proportion of immigrants.
24. The Office of Ethnic Affairs, whose role and functions were briefly described in paragraphs 44 to 50 of the report, had been set up in 2001 to advise the Government and encourage the development and participation of ethnic minorities, which were a source of wealth for the country. In the course of the preceding three years, thanks to funds provided by the Government, the Office had doubled in size. Among other activities, it currently ran a large telephone interpreting service, Language Line, designed to help newcomers obtain information about settlement procedures in New Zealand in their mother tongue.
25. Since it had been set up, the Office had tried to cooperate closely with all ethnic communities - particularly Muslim communities following the events of 11 September - in order to respond to their needs and concerns, which were primarily linked to job discrimination, the preservation of their ethnic identity and their cultural heritage and their feelings of security and of belonging to New Zealand society.

26. Starting from the premise that diversity was an asset, the Government for its part was making considerable efforts, essentially in schools and through information and awareness campaigns, to strengthen mutual respect and understanding. Those objectives were reflected in two major strategies: the New Zealand Settlement Strategy and the Connecting diverse communities work programme, and in a framework document entitled “Ethnic perspectives in policy” (2002). In addition, a programme had been started to train civil servants in intercultural awareness and communication.

27. Ms. HARDY (New Zealand) said that the Foreshore and Seabed Act 2004 (para. 64) had established legal proceedings to recognize and seek redress for Maori customary claims over the foreshore and seabed. The Committee had in the past recommended flexibility in enforcement of the law and advocated expansion of the remedies available to the Maori, and a number of applicants had opted to enter into direct negotiations with the Crown to defend their customary rights. Six groups had applied to the Maori Land Court for Customary Rights Orders and two of those applications had advanced to the stage of public notification. Those two applications and the current negotiations for recognition of customary territorial rights were currently in their initial phase and the Government was considering what lessons could be learned. The Government also provided financial assistance to the groups engaged in the negotiations and was continuing with its assessment of the effects of the Foreshore and Seabed Act.

28. With regard to the legal status of the Treaty of Waitangi, she approved the recommendation made by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people following his mission to New Zealand in November 2005 (E/CN.4/2006/78/Add.3), to the effect that the Treaty of Waitangi should be given constitutional status. The committee set up to study the matter had recently submitted to Parliament a report that took account of the views expressed by Maori groups in the course of extensive consultations held with them. The committee had concluded that a national debate should be held on the status of the Treaty.

29. Mr. SICILIANOS (Special Rapporteur for New Zealand) said the periodic report under consideration was very complete and thanked the New Zealand delegation for their constructive statements.

30. He noted that the figures on population given in paragraph 11 of the report were taken from the 2001 census and added up to more than 100 per cent. According to the report of the New Zealand Human Rights Commission, which contained basic data on the 2006 census, 67.6 per cent of the population were identified as New Zealanders of European descent, 14 per cent Maori, 9.2 per cent Asian and 6.6 per cent Pacific peoples, while 11 per cent were classified as New Zealanders. He asked the delegation to explain what group of persons fitted into that last category.

31. Several significant events had occurred in the State party, chiefly relating to the implementation of article 2 of the Convention; they included the establishment of the Office of Ethnic Affairs (para. 8); the adoption of the New Zealand Settlement Strategy (para. 95); the development of the Diversity Action Programme (para. 14); the progress achieved in settling historic claims under the Treaty of Waitangi, particularly at hearings before the Waitangi Tribunal (para. 27); the Government’s support for language diversity; the progress obtained in reducing socio-economic disparities between different ethnic groups and the implementation of

reforms in the field of human rights, especially the amalgamation of the Human Rights Commission and the Office of the Race Relations Conciliator into one organization, the new Human Rights Commission (para. 18).

32. Despite that progress, he pointed out that New Zealand was probably one of the rare commonwealth countries not to have passed constitutional legislation guaranteeing the protection of human rights. Moreover, the Human Rights Amendment Act 2001, which enabled the Human Rights Review Tribunal to declare any law incompatible with the New Zealand Bill of Rights Act 1990 (para. 23) was not apparently enforceable against the Government and could not be used to invalidate flawed legislation. If so, the legislative framework for the protection of human rights in New Zealand had to be considered fairly weak. He would like the delegation to furnish some clarifications on that very important point.

33. Aware that the New Zealand Human Rights Commission had contributed significantly to the promotion of human rights and the preparation of related complaints procedures and to the development of the New Zealand Action Plan for Human Rights, he wondered why the Government was hesitating to adopt the Plan officially.

34. Regarding the Treaty of Waitangi, a particularly important instrument which settled relations between the Crown and the Maori, its status in the State party's internal legal system was highly controversial. Several non-governmental organizations had reported that the Treaty's legal status was precarious and that Maori rights under that instrument remained legally and politically fragile. In addition, the law amending the Treaty, passed in 2006, set 1 September 2008 as the deadline for the filing of any outstanding historical grievances with the Waitangi Tribunal. He would like to hear the New Zealand delegation's comments on that point.

35. Another subject of concern was the 2006 Bill concerning the Principles of the Treaty of Waitangi, which would abolish all legal references to the Treaty. Since the Treaty was not directly enforceable before the courts, that measure would in fact deprive the courts of whatever limited competence they had with respect to the Treaty. He would like to know what the Government's intentions were regarding that Bill.

36. Referring to the vital role played by the Waitangi Tribunal (para. 27), he noted that the Tribunal's recommendations were not binding. Like the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, he thought the Tribunal should be granted legally binding and enforceable powers in order to adjudicate Treaty matters with the force of law and that the Tribunal should be allocated more resources.

37. He had the impression that the action of the Ministry of Maori Development appeared to suit the Maori, but he believed that the members of the New Zealand Parliament had proposed abolishing it or reforming it on the ground that its services were "based on race". He would like to know the Government's position on that matter.

38. The Committee had already pointed out that the special measures referred to in article 1, paragraph 4, and in article 2, paragraph 2, of the Convention had been interpreted restrictively by the State party. He doubted whether the "special measures" mentioned in the report all fitted into that category. Thus the Maori fisheries settlement (paragraphs 58 and 59), which had derived from a treaty that included compensation, did not appear to constitute a special measure in the

meaning of the Convention, nor did the Maori Commercial Aquaculture Claims Settlement Act 2004 (para. 62) or more generally the measures designed to recognize the former rights of the Maori under the Treaty of Waitangi. Moreover, according to the general view held in the United Nations, special measures should not be considered as a privilege and even less as “positive discrimination”, since they were not discriminatory. They involved differential treatment which had to be justified objectively and reasonably, on the ground that they were designed to promote and restore de facto equality between vulnerable groups and the remainder of the population. He therefore invited the State party to review its interpretation and its application of the notion of special measures.

39. With regard to the challenges to be met in the future, he recognized, like the New Zealand Human Rights Commission in its 2006 report on race relations, that some positive measures had been taken to reduce ethnic disparities. And yet, greater emphasis should be placed on action in areas where programmes had not achieved significant progress, such as health, crime (especially juvenile delinquency), rates of imprisonment and domestic violence. The periodic report under consideration in fact recognized that significant disparities subsisted in those areas between New Zealanders of European descent on the one hand and the Maori, Pacific peoples (para. 9) and Asians on the other. With regard to the functioning of the criminal justice system and potentially discriminatory practices in that area, he drew the New Zealand delegation’s attention to the Committee’s general recommendation XXXI on the prevention of racial discrimination in the administration and functioning of the criminal justice system. He added that other challenges which New Zealand would need to address, as had also been pointed out by the New Zealand Human Rights Commission, were improved relations between the Crown and the Maori, the use of the Maori language, and public awareness of the Treaty of Waitangi.

40. New Zealand should review its immigration policies and practices in order to ensure that immigration procedures took account of the economic and social needs of New Zealanders and the rights of migrant workers and their families and that migrant selection criteria and procedures were not racially discriminatory in their effects. In that respect, he drew the New Zealand delegation’s attention to the Committee’s general recommendation XXX on discrimination against non-citizens.

41. He asked finally what the Government’s position was regarding those challenges and the practical recommendations put forward by the National Human Rights Commission for meeting them.

42. Ms. JANUARY BARDILL asked for details regarding the composition of the New Zealand Human Rights Commission, its programme and its complaints investigation powers.

43. She noted from the report that the Treaty of Waitangi provided a key avenue for resolving grievances arising from past injustices to the indigenous people (para. 28), but that for settlements to be durable, they had to be fair and achievable (para. 29) and relate to the nature and extent of the breaches suffered (para. 30). Since the Waitangi Tribunal’s recommendations were not binding upon the Crown (para. 35), she wondered whether in the circumstances it would not be preferable to entrust the settlement of historic claims under the Treaty to an independent body.

44. With regard to the Pacific Workforce Development Strategy (para. 96), she would like New Zealand's following periodic report to mention the progress achieved with respect to the Pacific peoples' access to the labour market. She also wished to know whether the Office of Ethnic Affairs (para. 44) had had any impact on improving relations among ethnic communities in the country.

45. Mr. AVTONOMOV asked why, despite the New Zealand Government's efforts to guarantee real equality of rights among citizens, the Maori continued to be disadvantaged, particularly in terms of life expectancy and access to education. He did not fully comprehend the place really occupied by the Treaty of Waitangi in domestic law, whether it was a binding legal document or a simple declaration and whether it was compatible with the Convention.

46. Mr. CALI TZAY said the statement that "the settlement of historical grievances by Maori is relatively widely accepted" (paragraph 7 of the report) implied that the Treaty of Waitangi did not meet with the support of the whole population. He would like to know who in particular was opposed to the Treaty's principles and for what reasons, whether it was out of ignorance that it was rejected in some quarters, and if so, what had been achieved by the information programmes on the Treaty of Waitangi conducted by the New Zealand Government.

47. He asked whether the Maori were entitled to compensation for the nationalized minerals referred to in paragraph 30 of the report.

48. Turning to paragraph 36 of the report, he asked whether, within the framework of new procedures introducing joint hearings for the settlement of claims under the Treaty of Waitangi, rejection of a settlement by a tribe or community belonging to a group of claimants meant that the rejection was valid for all the claimants or only for the tribe concerned, and if so, whether the tribe or community continued with the procedure on its own.

49. The fact that the Ministry of Maori Development (Te Puni Kokiri) had adopted as its strategic outcome "Maori succeeding as Maori" implied that the Maori would not be capable of succeeding by their own means without assistance. He wondered whether the New Zealand Government really gave priority to developing Maori culture and, if so, whether the emphasis was placed on the personal development of members of that community or on the Maori people as a whole. Recalling that that people was the first people of Aotearoa New Zealand, he wished to know whether the recognition it enjoyed measured up to its history.

50. Mr. KJAERUM, referring to the New Zealand Prime Minister's statement to the effect that the Committee's approach following its decision in 2004 concerning the foreshore and seabed had not been rigorous enough, asked whether the State party intended to call for the strengthening of the Committee's powers - and particularly its financial resources - and those of the other treaty bodies in order to enable them to perform their task more effectively.

51. Referring to paragraphs 75 and 76 of the report, he asked whether the State party had taken any measures to alleviate the particularly high unemployment rate among Maori and Pacific women and women of other ethnic groups, or to increase their average hourly wage, which was below that of the population as a whole, and if so, what had been achieved. He also asked about the outcome of the measures listed in paragraph 78 of the report, aimed at reducing the effects of the family violence to which Maori women were exposed.

52. Referring to paragraph 136 of the report, he asked whether migrants holding work permits of less than two years and aliens in an irregular situation had access to health care and whether their children had access to education in the same way as people on work permits allowing a stay of two years or more, refugees and asylum-seekers.

53. He asked what conclusions had emerged from the project initiated by the Department of Corrections to review work on the causes of the disproportionate representation of the Maori in the criminal justice system (paragraphs 157 to 159). He would also like to know whether the question of ethnic profiling was addressed in training courses for the police and members of the judiciary, considering that a 2000 survey had shown that the Maori were more often arrested by the police for questioning, and received generally heavier sentences than the rest of the population. In that connection, it would be interesting to know what percentage of police officers, magistrates and prison wardens was recruited from the Maori community, the Pacific peoples and other ethnic groups.

54. Lastly, he would like to know why the Immigration Act 1987 had been changed so that the publicly funded complaints process was not available in actions that alleged discrimination in relation to the Act (paragraphs 180 to 182).

55. Mr. PILLAI greatly regretted that the Maori continued to be worse off in many areas than the rest of the population despite the efforts made by the New Zealand Government. In that connection, he was particularly concerned that the Ministerial Review Unit mentioned in paragraphs 54 and 55 of the report had been given the task of gathering information in respect of each policy or programme to show whether there was a clearly demonstrated need that the policy or programme was meant to meet and whether that need was still relevant; the Government appeared to be questioning the need to continue with those programmes and policies instead of considering ways of improving them in order to combat inequalities.

56. With regard to paragraph 249 of the report, he asked whether there was a migration flow to the Tokelau Islands, which might upset the demographic and social balance that existed in that part of New Zealand and give rise to acts of discrimination, of which the islands appeared to have been free so far. He would also like to know whether before the last century there had been non-Christian population groups in Tokelau, whose human rights had also been at issue.

57. Mr. THORNBERRY observed that special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as might be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms as provided for in articles 1 and 2 of the Convention - which must not be continued after their objectives had been achieved - should not be confused with the rights of minorities and indigenous peoples, which were unalterable.

58. Referring to the list, given in paragraph 16 of the report, of the requirements that the draft Declaration on the Rights of Indigenous Peoples must meet, he pointed out that by definition any new international instrument must be consistent with and supplement the principles laid down in previously adopted instruments.

59. He welcomed the strategies implemented by the Government to ensure the preservation of the Maori language and advocated that the New Zealand Government should extend that approach to the different aspects of Maori culture and, in particular, ensure that Maori land rights were protected. With reference to the languages of other ethnic groups, particularly those who had immigrated recently, he asked what proportion of children were taught in their mother tongue.

60. Mr. KEMAL agreed that unlike special measures introduced temporarily in favour of a given population group, which could be withdrawn once their objectives had been achieved, the rights of minorities could never be considered temporary. The Maori accounted for 14 per cent of the population, which was far from negligible, and if that community did not feel it was being treated equitably, the country as a whole might suffer.

61. In conclusion, the Committee had no power of coercion and had to rely solely on persuasion, which was why it was always keen to conduct constructive dialogue with States parties.

62. Mr. LINDGREN ALVES, referring to paragraphs 2 and 3 of the core document (HRI/CORE/1/NZL/2006), asked the delegation whether the Maori were still considered to be an indigenous people. If so, they could claim a right to self-determination under international law. Could the delegation say what the State party's attitude would be to any such claims? It would also be interesting to know whether the Maori felt that they were represented by the New Zealand Government.

63. He had been surprised to read in the core document that the term "Crown" often appeared to refer to Whites, and asked for detailed explanations regarding the scope and meaning of the word and of the expression "European descent". Was it a political euphemism to avoid using the term "Whites"?

64. Could the delegation specify whether Maori and Whites lived in the same neighbourhoods or not and whether children of mixed couples were automatically considered to be Maori or whether they had the right to be considered of mixed origin.

65. Mr. TANG Chengyuan noted with concern that the Maori, though representing only 14 per cent of the New Zealand population, made up half the prison population. According to the report, that was due to a number of factors, including their "anti-social attitudes" (para. 158). He asked the delegation to explain what that expression meant and, if there were any, to mention cases where the police had made excessive use of force against young Maori. He would also like the delegation to let the Committee know what measures the State party had taken to reduce the school dropout rate among Maori children and to ensure that by 2028 the Maori language would be widely spoken by the members of that community, in accordance with the objectives of the Maori Language Strategy promulgated in 1999 (para. 125).

66. Mr. YUTZIS, referring to the theory expressed in paragraph 27 of the report that "history is contestable and as such there is no single correct interpretation", observed that historical facts could never be considered from all angles at the same time and that their interpretation depended to a large extent on the observer's position in society. Also, it could be dangerous to advocate a review of historical interpretations, which could lead to revisionism.

67. Noting that immigrants of Asian ethnicity currently outnumbered Pacific peoples in the State party (paragraph 8 of the report), he wished to know whether the distribution of social aid had been affected and whether the changes had occurred at the expense of the indigenous peoples.

68. Referring to the section of the report that concerned historical claims under the Treaty of Waitangi (paragraphs 29 to 34), he asked the delegation to explain what were the best interests of New Zealanders which the Crown had a duty to serve (para. 29) and to explain in more detail why nationalized minerals were not available for use in Treaty settlements. They should make it clear in particular who considered that transferring rights to such resources would entail significant risk.

69. The CHAIRPERSON, speaking as a member of the Committee, asked whether the State party could take steps to ensure that the recommendations of the Waitangi Tribunal became binding and to give the Tribunal the power to enforce its rulings.

70. As a means of alleviating overcrowding in prisons, he wondered whether the courts might avail themselves more often of the provisions of section 16 of the Criminal Justice Act 1985 (paragraph 151 of the report) and resort to mediation or alternative penalties such as community service rather than prosecute.

71. Mr. AMIR, noting that New Zealand troops were currently involved in the Iraq conflict and that more than 4 million Iraqis were seeking asylum in another country, asked the delegation whether New Zealand could provisionally take in Iraqi refugees until such time as peace returned to that country desolated by civil war.

The meeting rose at 6 p.m.