



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

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Committee on the Elimination of Racial Discrimination

**Reports submitted by States parties under article
9 of the Convention**

**Eighteenth to twentieth periodic reports of States parties due
in 2011**

New Zealand* ** ***

[9 March 2012]

* This document contains the eighteenth, nineteenth and twentieth periodic reports of New Zealand, due on 22 December 2007, 2009 and 2011 respectively, submitted in one document. For the fifteenth, sixteenth and seventeenth periodic reports and the summary records of the meetings at which the Committee considered this report, see documents CERD/C/NZL/CO/17 and CERD/C/SR.1821, 1822 and 1840.

** In accordance with the information transmitted to the States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

*** Annexes can be consulted in the files of the Secretariat.

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I. Introduction

1. This report is New Zealand's eighteenth, nineteenth and twentieth consolidated periodic report to the Committee on the Elimination of Racial Discrimination (the Committee). The report reflects the compilation of guidelines on the form and content of reports to be submitted by States parties under the International Human Rights Treaties.¹ It covers the period from 1 January 2006 to 22 December 2011.

2. The report covers the legislative, judicial, administrative and other measures adopted in the review period that give effect to the provisions of the Convention on the Elimination of All Forms of Racial Discrimination (the Convention). It should be read alongside New Zealand's recent reports under the Convention,² fifth periodic report under the International Covenant on Civil and Political Rights,³ third periodic report under the International Covenant on Economic, Social and Cultural Rights,⁴ core document⁵ and the universal periodic review.⁶ The report will respond to the concluding recommendations⁷ on the last report under the relevant sections. The Committee's attention is drawn to New Zealand's reply to the request for further information on the recommendations contained in paragraphs 14, 19, 20 and 23 of the concluding observations.⁸

II. General information relating to the Convention

A. Government policy and general legal framework

3. It is the continuing policy of the Government to work to eliminate discrimination, intolerance and violence based on colour, religion, race or ethnic or national origin. The Government holds that everyone in New Zealand should have equality in opportunity, colloquially referred to as "a fair go". New Zealand law protects freedom from discrimination on the grounds of colour, race, ethnic or national origins (which includes nationality or citizenship) or being the relative of a particular person.⁹

4. The Treaty of Waitangi (the Treaty)¹⁰ is a founding document of New Zealand and is at the heart of the relationship between Māori and the Crown.¹¹

5. The Government consulted widely on this report including posting the draft report online, holding ad hoc meetings with interested parties, emailing the draft report to relevant

¹ HRI/GEN/2/Rev.6.

² Eleventh periodic reports of States parties due in 1993 (CERD/C/239/Add.3); fourteenth periodic reports of States parties due in 1999 (CERD/C/362/Add.10); seventeenth periodic reports of States parties due in 2005 (CERD/C/NZL/17).

³ CCPR/C/NZL/5.

⁴ E/C.12/NZL/3.

⁵ HRI/CORE/NZL/2010.

⁶ National report (A/HRC/WG.6/5/NZL/1); Compilation prepared by the Office of the High Commissioner for Human Rights (A/HRC/WG.6/5/NZL/2); Summary of stakeholders' information (A/HRC/WG.6/5/NZL/3); and Report of the Working Group (A/HRC/12/8).

⁷ Concluding observations of the Committee on the Elimination of Racial Discrimination (CERD/C/NZL/CO/17)

⁸ Information on the implementation of the concluding observations (CERD/C/NZL/CO/17/Add.1).

⁹ New Zealand Bill of Rights 1990, section 19(1); and Human Rights Act 1993, section 21(1).

¹⁰ More information on the Treaty may be found in the core document.

¹¹ The Crown: the legal person in whose name the Government acts.

individuals and non-government organizations (NGOs), and presenting a draft report to the Diversity Forum.¹²

B. Ethnic characteristics of the New Zealand population

6. The ethnic characteristics of the New Zealand population appear in greater detail in the Core Document.¹³ Māori in New Zealand census surveys are self-identified. In the 2006 Census, 77.6 per cent of people resident in New Zealand identified as European ethnic group; 14.6 per cent as Māori; 9.2 per cent as Asian; 6.9 per cent as Pacific people (Pasifika¹⁴) and 0.9 per cent as other.¹⁵

C. Declaration on the Rights of Indigenous Peoples

7. In May 2009, the Government indicated it was considering moving to support the Declaration on the Rights of Indigenous Peoples. Support would be conditional on New Zealand being able to protect the unique domestic framework that has been developed for the resolution of issues related to indigenous rights. The Government considered how the Declaration could fit alongside our existing laws and constitutional arrangements concluding that it could support the Declaration, provided the terms of that support were clear.

8. On 19 April 2010, the Minister of Māori Affairs read a statement of support for the Declaration at the United Nations Permanent Forum on Indigenous Issues in New York. The following day, the Minister of Justice read the statement in the New Zealand Parliament.¹⁶ The statement of support acknowledged the special status of Māori as New Zealand's indigenous people, affirmed New Zealand's commitment to the common objectives of the Declaration and the Treaty, and noted that New Zealand's legal and constitutional frameworks defined the bounds of our engagement with the Declaration.

D. Wai 262 (Flora and fauna)

9. On 2 July 2011, the Waitangi Tribunal released their findings¹⁷ on the Wai 262¹⁸ claim which was lodged by six iwi in 1991. The report is the Waitangi Tribunal's first whole-of-government inquiry and addresses the work of more than 20 departments and agencies. The Tribunal's report focuses on the protection of Māori culture and identity, with a particular focus on mātauranga Māori¹⁹ and associated taonga.²⁰ The principle of

¹² The Diversity Forum was organised by the Human Rights Commission, New Zealand's National Human Rights Institution. The Commission, and its work, is detailed further at paragraph 11.

¹³ Core document, paras 8–11.

¹⁴ Pasifika is a collective term used to refer to people of Pacific heritage or ancestry who have migrated to, or been born in, Aotearoa New Zealand.

¹⁵ Proportions add up to more than 100 per cent as some people may have reported more than one ethnicity.

¹⁶ Hon Simon Power Ministerial Statements — United Nations Declaration on the Rights of Indigenous Peoples—Government Support Parliamentary Debates (Hansard) for Tuesday, 20 April 2010 [Volume: 662; page: 10229].

¹⁷ Ko Aotearoa Tēnei: A Report into claims concerning New Zealand law and policy affecting Māori culture and identity

¹⁸ Wai 262 refers to a file reference number at the Treaty of Waitangi.

¹⁹ The knowledge base that underpins Māori culture and identity.

²⁰ The manifestations of mātauranga Māori.

partnership is a key theme in the report. The Government is currently considering the report. The timing of the Government's response to the report has not yet been determined.

E. Special Rapporteur on indigenous issues

10. The Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, Professor James Anaya, visited New Zealand in July 2010. In his report,²¹ the Special Rapporteur noted that New Zealand has made significant strides to advance the rights of Māori such as supporting the Declaration on the Rights of Indigenous Peoples, taking steps to repeal the Foreshore and Seabed Act 2004, and considering constitutional issues such as Māori representation and the role of the Treaty of Waitangi. The Special Rapporteur raised several concerns in respect of Māori development, most notably poorer health outcomes for Māori and over representation of Māori in the criminal justice system. These issues are addressed in the relevant section of this report.

III. Information relating to specific articles

Article 2

11. The Government is committed to its obligations under article 2 of the Convention to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation. This section of the report sets out information on the legislative, judicial, administrative and other measures which give effect to the provisions of article 2 of the Convention.

Human Rights Act 1993 and the Human Rights Commission

12. The Human Rights Commission (the Commission) is an independent Crown entity established to protect human rights in New Zealand. In 2009/10, its annual funding was \$10.311 million. The Office of Human Rights Proceedings, Te Tari Whakatau Take Tika Tangata, sits within the Commission and is led by the Director of Human Rights Proceedings. The Director decides whether to provide legal representation for people who have complained of breaches of the Human Rights Act 1993. The Human Rights Review Tribunal hears those proceedings.

13. The protections and sanctions in the Human Rights Act, and the functions of the Commission, remain largely unchanged since previous reports. During the reporting period, there were three amendments to the Act, none of which related to discrimination on the grounds of colour, race, ethnic or national origins.

14. The Commission releases an annual Review of Race Relations in New Zealand — Tūi Tūi Tuitiā. The Commission, with the assistance of the Ministry of Justice, also annually reviews the progress made to implement the recommendations of the CERD Committee and produces a monitoring table for the Government.

15. In September 2004 the Commission published Human Rights in New Zealand Today, Ngā Tika Tangata O Te Motu. This was followed by the New Zealand Action Plan for Human Rights (the Action Plan) in March 2005. The Action Plan contained 178

²¹ A/HRC/18/35/Add.4.

“priorities for action” with most having implications for central government, either directly or in conjunction with local government or other agencies.

16. The Government responded to the Plan by directing departments to consider implementing the Action Plan’s priorities as part of normal business. Departments were also encouraged to respond to requests from the Commission for relevant information in a timely manner and to identify work meeting the Action Plan’s priorities in their Statements of Intent and/or annual reports, or other organisational documents.

17. In 2008, the Commission conducted a “mid-term” review of progress of the Action Plan priorities.²² Of the 178 priorities for action, the Commission noted that 21 have been achieved and 132 have been progressed, ranging from limited to significant. There was no progress on 24 priorities as they were not part of the Government’s work programme.

18. In 2011, the Commission launched its major report on the state of human rights in New Zealand.²³ This report updated Human Rights in New Zealand Today and assessed progress against the 178 priorities set out in the Action Plan. The Commission identified 30 priority areas for action to advance human rights.

New Zealand Bill of Rights Act 1990

19. The Committee previously considered that the Bill of Rights Act’s legal status is insufficient to guarantee full respect for human rights, in particular the right not to suffer from discrimination based on race, colour, descent or national or ethnic origin.²⁴

20. As Parliament is supreme, the Bill of Rights Act, other human rights instruments and the Courts cannot directly limit Parliament’s legislative powers. There is no supreme written law in New Zealand. However, the Courts must interpret enacted legislation, so far as possible, consistently with affirmed rights. The Bill of Rights Act requires that all legislation is reviewed for compliance with human rights standards. The Attorney-General reports any apparent inconsistency with the Bill of Rights Act to Parliament. During the reporting period there was only one piece of legislation introduced that the Attorney-General found unjustifiably discriminated against Māori.²⁵ This Bill was defeated at first reading.

21. Under the Human Rights Act, the Human Rights Review Tribunal has the power to make a declaration of inconsistency in relation to discriminatory provisions in legislation. This power was first used in May 2008 in an instance of age discrimination in accident compensation legislation. The Government amended the offending legislation in advance of the declaration being issued and tabled a report in Parliament responding to the declaration.

Treaty of Waitangi – public awareness

22. The Committee encouraged New Zealand to continue the public discussion on the status of the Treaty of Waitangi, with a view to its possible entrenchment as a constitutional norm.²⁶

²² The Mid-term Review of Progress is available on the Human Rights Commission’s website at: http://www.hrc.co.nz/hrc_new/hrc/cms/files/documents/08-Dec-2008_11-08-45_Mid-Term-Review_Action_Plan_Human_Rights.html.

²³ Human Rights in New Zealand 2010 — Ngā Tika Tangata O Aotearoa 2010.

²⁴ CERD/C/NZL/CO/17, para 12.

²⁵ Report of the Attorney-General under the New Zealand Bill of Rights Act 1990 on the Human Rights (One Law for All) Amendment Bill 2006.

²⁶ CERD/C/NZL/CO/17, para 13.

23. Public discussion on the constitutional status of the Treaty of Waitangi is a continual aspect of New Zealand's political, legal and social environment. In 2010, the Government announced a consideration of constitutional issues, which will cover, among other matters, Māori representation in Parliament and in local government, the size and number of electorates (including Māori electorates), Māori electoral participation, the role of the Treaty of Waitangi and whether New Zealand needs a written constitution. Public engagement on these issues is scheduled to begin in 2012.

24. The Treaty of Waitangi Information Programme was aimed at increasing public awareness, discussion and understanding of the Treaty. From 2004 to 2006, it produced a dedicated website,²⁷ resources to support Treaty-specific curriculum activities in schools and a travelling exhibition on the Treaty, which is currently still on tour.

The Waitangi Tribunal

25. The Committee recommended²⁸ that the Government consider granting the Waitangi Tribunal legally binding powers to adjudicate Treaty matters and increased financial resources.

26. The Government noted the Committee's recommendation but does not intend to give the Tribunal binding powers to adjudicate Treaty matters, as it operates essentially as a truth and reconciliation process.

27. For the financial year 2005/06 the appropriation for the Waitangi Tribunal was \$7.5 million. The appropriation for 2010/11 was \$9.9 million.²⁹ Over the intervening years the appropriations in 2006/07 included \$500,000 to help ensure the timely registration of historic Treaty claims and to increase the research and report writing capacity of the Waitangi Tribunal and \$1.785 million in 2007/08 to ensure the Waitangi Tribunal can deliver the then Government's stated policy of settling historical claims by 2020.

Treaty of Waitangi negotiations³⁰

28. The Government continues to make progress towards the comprehensive settlement of historical Treaty of Waitangi claims. The guidelines for achieving fair and durable settlements set out in the last report to the Committee remain in place with the exception of the indicative settlement timetable. Key developments since the last report relate to the way in which settlements are negotiated, the pace of the Treaty claim settlements process and a maturing relationship between the Crown and Māori groups negotiating settlements of their historical claims. There has been increased progress in historical Treaty claim settlements. Annex B provides an indication of progress over time.

29. At the time of the last report, the Crown was making progress with groups that were ready to negotiate. In some instances, neighbouring groups who were not in negotiations themselves felt they were disadvantaged by this approach, especially where the historical claims of multiple groups overlapped. Two Waitangi Tribunal reports issued in 2007 prompted the Crown to consider what could be done to facilitate the resolution of overlapping claims.³¹ The Government responded by placing greater emphasis on the

²⁷ See <http://www.nzhistory.net.nz/category/tid/133>.

²⁸ CERD/C/NZL/CO/17, para 18.

²⁹ Ibid.

³⁰ New Zealand recognises that further to the Committee's concluding observations (CERD/C/NZL/CO/17, para 15) on the previous report, that indigenous rights are separate from special measures:

³¹ Tāmaki Makaurau and Te Arawa Settlement Process Reports.

regional coordination of settlement negotiations, attempting where possible to ensure that settlements of neighbouring groups progress simultaneously. At the request of Māori groups, this period also saw greater use of Chief Crown Negotiators and independent facilitators. Due to this, and the exercise of greater flexibility by Ministers in applying settlement policies, there was a marked increase in the rate of progress in negotiations during 2008.

30. In November 2008, the Government adopted as an aspirational goal the comprehensive settlement of all historical Treaty claims by 2014. The 2009 and 2010 Budgets provided an additional \$28.7 million operational funding, over four years, to allow the Office of Treaty Settlements³² to employ more negotiations staff. Additional funding has also been made available to support Māori groups throughout the settlement process. The Crown is determined that acceleration need not come at the expense of quality; the first priority remains the achievement of just and durable settlements.

31. Since 2009, the Government has held three national hui, with representatives of settled and non-settled claimant groups.³³ These annual hui provide a forum for the Crown and Māori to discuss process and policy innovations in relation to Treaty claim settlements, and help ensure the Crown is responsive to Māori views about how the settlement process should be conducted.

Cut-off date for the lodging of historical Treaty claims

32. The Committee recommended that New Zealand ensure that the cut-off date for the lodging of historical Treaty claims will not unfairly bar legitimate claims and it should pursue its efforts to assist claimants groups in direct negotiations with the Crown.³⁴ The closing date for the submission of historical Treaty claims was widely publicised by Te Puni Kōkiri and the Waitangi Tribunal from 12 December 2006 until 1 September 2008. The effectiveness of this publicity was demonstrated by the dramatic increase in the number of claims submitted from 1 July to 1 September 2008. Around 2145 claims were lodged during this period, compared to approximately five to six claims received by the Waitangi Tribunal each month before the deadline was announced. Claims submitted by the closing date can be amended and added to after the closing date.

Te Puni Kōkiri (Ministry of Māori Development)

33. Te Puni Kōkiri is the principal advisor to the government on Crown-Māori relationships and was created by the Ministry of Māori Development Act 1991 (the Act), with a sharpened focus on education, training and employment, health and economic resource development. The primary duties under the Act are to promote increases in Māori achievement across these key social and economic areas. Linked to this, Te Puni Kōkiri monitors and liaises with each department or agency that provides, or has a responsibility to provide, services to or for Māori for the purpose of ensuring the adequacy of those services.

³² The Office of Treaty Settlements is responsible to the Minister for Treaty of Waitangi Negotiations and provides policy advice on specific negotiations and generic settlement policies.

³³ Te Kōkiri Ngātahi (“Moving Forward Together”).

³⁴ CERD/C/NZL/CO/17, para 17.

Māori commercial fisheries and commercial aquaculture

34. More than 80 per cent of Fisheries Settlement assets, equalling more than \$510 million, have been allocated to iwi under the Māori Fisheries Act 2004.³⁵ Shares in fishing companies are held by a central company, Aotearoa Fisheries Limited. The profits of this company are to be shared: 80 per cent going to mandated iwi organisations in proportion to their populations and 20 per cent to Te Ohu Kaimoana to fund its work on behalf of iwi. In December 2010, Te Ohu Kaimoana made its first distribution to iwi out of an after tax profit of \$18.9 million.

35. Since the last report, the Ministry of Fisheries has refined the way it supports Māori participation in fisheries management. The new approach provides support to iwi to develop their own fisheries plans, as a basis for participating in Ministry led national fisheries plans. The new approach was developed after extensive consultation with Māori.

36. The Ministry of Fisheries provides support to Māori to use customary food gathering regulations to manage their own customary (non-commercial) fishing activity. The Ministry is working with some iwi, who have negotiated specific agreements with the Crown, to produce customary food gathering regulations and develop co-management agreements.

37. The Māori Commercial Aquaculture Claims Settlement Act 2004 provides iwi with rights associated with 20 per cent of all new aquaculture space created from 1 January 2005. The settlement also provides iwi with an equivalent percentage of existing aquaculture space (pre-commencement space) created between 21 September 1992 and 31 December 2004. The Ministry of Fisheries has discharged the majority of its pre-commencement space obligation through a series of settlements that have involved the transfer of over \$100 million. The Crown continues to work with iwi in order to discharge its remaining pre-commencement space obligations.

38. The Government has recently introduced the Aquaculture Legislation Amendment Bill (No 3) to improve the way aquaculture is managed in New Zealand. The existing mechanisms that give effect to the new space obligations are difficult to implement under the proposed aquaculture legislation. The Crown, in collaboration with iwi, is developing mechanisms to provide for the new space obligation under the new aquaculture laws.

Foreshore and Seabed Act 2004³⁶

39. The Committee noted the information provided on the follow up to its Decision 1(66)³⁷ in relation to the Foreshore and Seabed Act 2004 (2004 Act). The Committee was concerned by the discrepancy between the assessment made by the Government and that made by NGOs on the issue (arts. 5 and 6).

40. The Government commenced a review of the 2004 Act at the start of 2009 with the aim of remedying the substantive and procedural issues of the 2004 Act, in particular concerns about its discriminatory effect on Māori. The Government undertook transparent and inclusive consultation, which provided for public and stakeholder input at critical points. Formal and informal consultation continued until the end of 2010.

³⁵ When a recognised iwi organisation has met governance criteria set out in the Māori Fisheries Act, it is entitled to receive fisheries assets as the mandated organisation for that iwi. At the end of 2010, 53 recognised iwi organisations had been mandated, leaving four iwi yet to be mandated. Te Ohu Kaimoana is working with the remaining four iwi to assist them to achieve the necessary mandate.

³⁶ CERD/C/NZL/CO/17, para 19; CERD/C/NZL/CO/17/Add.1, paras 5–22.

³⁷ CERD/C/DEC/NZL/1.

41. The Government consulted with an Iwi Leaders' group³⁸ and appointed an Independent Ministerial Review Panel to consult with the public and provide recommendations to the Government on the 2004 Act. The Government also conducted its own public consultation process on proposals to repeal the 2004 Act, acting in good faith with Māori throughout the review.

42. Following this extensive dialogue with Māori and the New Zealand public, the Government introduced the Marine and Coastal Area (Takutai Moana) Bill. Approximately 6000 submissions were received at the Select Committee stage of the parliamentary process. The Bill was considered for racial discrimination issues and found to be consistent with the Bill of Rights Act. When the Bill was enacted as the Marine and Coastal Area (Takutai Moana) Act 2011 (the Act), it repealed the 2004 Act.

43. The Act aims to achieve an equitable balance of the interests of all New Zealanders in the common marine and coastal area.³⁹ The Act:

- Repeals the 2004 Act (which was nationally and internationally criticised as discriminatory against Māori);
- Recognises the mana tuku iho (inherited right or authority derived in accordance with tikanga Māori) exercised in the marine and coastal area by iwi, hapū and whānau as tangata whenua;
- Restores any customary interests in the common marine and coastal area that were extinguished by the 2004 Act and gives legal expression to these interests in accordance with the Act;
- Removes Crown ownership (the effect of which extinguished Māori customary interests) and replaces this with a non-ownership model whereby no one (including the Crown) owns the common marine and coastal area, but where customary marine title may be found to exist and which will amount to an interest in land;
- Provides a new right for Māori to access the High Court to have customary (marine) title applications heard and determined, and to have applications for protected customary rights (non-territorial based rights) heard and determined;
- Provides the ability for Māori to seek recognition of their customary interests through agreement with the Crown.

44. The Act takes account of the intrinsic, inherited rights of iwi, hapū and whānau, derived in accordance with tikanga Māori and the principle of manaakitanga. The Act also makes key changes to the test for customary marine title, compared to the test in the Foreshore and Seabed Act 2004, to more accurately reflect developments in the common law. These changes include:

- Use of tikanga Māori as an additional component of the test;
- Continuous ownership of contiguous land is no longer a requirement but a matter that may be taken into account (which means raupatu is not necessarily a decisive factor in ruling out customary marine title claims);

³⁸ An association of tribal leaders from around New Zealand.

³⁹ The common marine and coastal area is physically similar to the foreshore and seabed. It is defined in the Marine and Coastal Area (Takutai Moana) Act 2011 (the Act) as an area bounded by the line of mean high-water springs and the outer limits of the territorial sea.

- Clarification that fishing or navigation by third parties does not necessarily preclude a finding of customary marine title;
- Provision for shared exclusivity (that is multiple iwi, hapū or whānau can seek customary marine title over an area);
- Recognition of the legitimacy of customary transfers after 1840.

45. The Act also adjusts the standard burden of proof so that it is presumed, in the absence of proof to the contrary, that a customary interest once shown has not been extinguished.

46. Some Māori voiced concerns in their submissions to Select Committee about the test's requirement for exclusive use and occupation without substantial interruption since 1840. One of the reasons for this concern stems from the perception amongst Māori that discriminatory acts, that were inconsistent with the Treaty of Waitangi, could be used to establish either a break in continuity of exclusive use or an extinguishment of rights. The Government's view is that the historical Treaty of Waitangi Settlements process is the appropriate avenue to address historical Treaty of Waitangi breaches whereas the Act is about recognising extant rights. The Act provides for broad recognition of extant Māori customary interests through three mechanisms: customary marine title, protected customary rights and participation in conservation procedures. The Act clearly sets out the legal requirements and rights that give expression to customary interests, therefore giving certainty to both the applicant groups and other interest groups in the common marine and coastal area.

47. The Act provides a package of rights associated with customary marine title. These rights reflect elements of private title and in certain respects go further than the rights of private title. Customary marine title gives rights to permit activities requiring resource consent and some conservation activities. It also provides for protection of wāhi tapu, and gives the holder prima facie ownership of newly found taonga tūturu and non-nationalised minerals. Customary title holders also have the right to create a planning document that provides a high level influence over how the relevant area is regulated by local government. Customary marine title is inalienable, but will be subject to the right of free public access, with the exception of specified wāhi tapu that require protection.

48. Iwi, hapū or whānau will also be able to gain recognition and protection for longstanding customary activities, uses or practices that continue to be exercised. The Act recognises the universality of Māori interests generally through providing for a right to participate in conservation procedures, which formalises existing best practice in coastal management.

49. The Act came into force on 1 April 2011. Implementation planning is underway, including the development of procedures for reaching agreements with the Crown to recognise customary interests and the preparation of information resources about the Act. Clear policy guidelines to local authorities and those with delegated responsibilities will likely be required to ensure effective administration of the Act. The Government will be monitoring the implementation of the Act closely as groups enter agreements with the Crown.

Māori, Pasifika and other ethnic group initiatives to address family violence

50. A Taskforce for Action on Violence within Families was established in June 2005 to advise the Family Violence Ministerial Team on how to improve the way family violence is addressed and to eliminate family violence in New Zealand. Key achievements include developing and implementing specific programmes of action that consolidate appropriate

responses to family violence for Māori whānau and Pasifika families through the Māori Reference Group and Pacific Advisory Group.

51. The Māori Reference Group programme of action has five priority goals:
- Leadership: effective and visionary leadership across all levels of Māoridom founded on a shared commitment to whānau ora for all whānau;
 - Changing attitudes and behaviour: all Māori have opportunities to receive relevant and appropriate support, information and education about violence in safe and meaningful contexts;
 - Ensuring safety and accountability: Māori have access to a wide range of effective processes and services to ensure that victims are safe, to stop perpetrators from reoffending and to promote whānau maintenance and restoration;
 - Effective support services: all Māori have access to effective, sustainable support services, wherever they live, which are evaluated against a range of agreed success factors, including whānau ora indicators;
 - Understanding and developing good practice: service delivery to Māori will be measured against an agreed understanding of what constitutes “good practice” based on available evidence and agreed indicators for whānau ora, with ongoing opportunities for the development, trialling and uptake of innovative and promising ideas.

52. The Pacific Advisory Group’s programme of action also has five similar priority goals. The outcomes of these goals will be, for Pasifika and communities, zero tolerance for aiga⁴⁰ increased education and awareness about aiga; increased availability and accessibility of quality Pasifika prevention; and early intervention aiga services within Pasifika communities.

53. Family Violence funding was reprioritised from 1 April 2011 to provide for five family violence initiatives. Of the five, two will build on the successes of the Campaign for Action on Family Violence (the “It’s not OK” campaign launched in July 2007) in respect of Māori and Pasifika. E Tu Whānau! addresses family violence by developing and delivering clear, consistent antiviolence messages that are designed, delivered and led by Māori. The new Pasifika campaign will also be designed, delivered and led by Pasifika, providing clear and consistent messages about building strong families and preventing and addressing violence.

54. As a member of the Taskforce for Action on Violence within Families, the Office of Ethnic Affairs (OEA) provides a perspective on different ethnicities to the Taskforce’s work. OEA’s priority in the coming months is to ensure that ethnic communities are able to talk about family violence and to seek solutions that work for their communities. OEA is working with existing campaigns such as the “It’s Not OK” campaign, and White Ribbon Day⁴¹ to ensure ethnic communities are included.

55. Since 2009, the Ministry of Women’s Affairs (MWA) has worked with other government agencies on addressing the issue of intimate partner violence in ethnic communities. MWA and OEA developed the brochure “Speak up, seek help, safe home” containing information on New Zealand law, the definition of domestic violence and where to go for help. MWA has also worked with the Ministry of Social Development on

⁴⁰ Family violence.

⁴¹ The White Ribbon campaign condemns violence against women and is led by the Families Commission.

developing case studies of initiatives addressing family violence in refugee and migrant communities. The purpose of the case studies is to learn from communities about “what works” in addressing intimate partner violence in ethnic communities and disseminate the information as widely as possible. As agreed by the Taskforce for Action on Violence within Families in April 2011, OEA is developing a 12-month plan of action that seeks to address issues of family violence in ethnic communities.

56. In 2009, MWA commissioned a report with a specific focus on sexual coercion, resilience and young Māori. In August 2010, the report “Sexual Coercion, Resilience and Young Māori: a scoping review” was released. Since then, MWA hosted several hui informing officials and NGOs about the research findings and generating discussion about the issues, which have not been previously canvassed in any other New Zealand research. MWA is currently investigating the implications of this research for further work.

57. In July 2011, the Government released the Green Paper for Vulnerable Children. This is a public discussion document asking New Zealanders how we can better protect vulnerable children and help them thrive, achieve and belong. It outlines a range of ideas for providing more effective and coordinated services and responses for vulnerable children. Once the public consultation process is completed, a White Paper outlining the Government's plan for vulnerable children will be published. The timeframe for the White Paper is mid-2012.

Immigration

58. In 2009/10, 45,719 people were approved for residence. 62 per cent of approvals were through the Skilled/Business Stream, 32 per cent through the two family sponsored streams and 6 per cent through the International/Humanitarian Stream. The United Kingdom was the largest source country of permanent residence approvals (17 per cent) followed by China (13 per cent) and South Africa (12 per cent). New Zealand accepts up to 750 refugees annually as per its refugee quota. In 2009/10, Bhutan and Myanmar were the leading source countries of quota refugees.

59. The Immigration Act 2009 (2009 Act) came into force on 29 November 2010. It modernises New Zealand's immigration laws and introduces a universal visa system. This means that everyone requires a visa to enter New Zealand. Key changes include the introduction of the Immigration and Protection Tribunal, which will streamline the appeals process, and recognition of New Zealand's obligations under the Convention against Torture and the International Covenant on Civil and Political Rights.

Detention of asylum seekers

60. The Committee recommended that New Zealand put an end to the practice of detaining asylum seekers in correctional facilities, and ensure that health and character grounds upon which asylum may be refused remain in compliance with international standards, especially the 1951 Convention relating to the Status of Refugees.⁴²

61. All applicants for visas to New Zealand must have an acceptable standard of health and be of good character. Applicants who have been recognised as refugees may be granted medical waivers and character waivers. Waivers are granted on a case-by-case basis. Health and character grounds are not a basis upon which to exclude or expel asylum seekers under New Zealand immigration law. Immigration New Zealand has never declined a claim to refugee status on health grounds and this is not permitted in law. The only lawful grounds

⁴² CERD/C/NZL/CO/17., para 24.

for declining a refugee status claim are provided for by article 1F of the 1951 Convention relating to the Status of Refugees.

62. The detention provisions in the 2009 Act are not specific to classes of people. People can be detained under the 2009 Act if there is doubt about the identity of the person, where there is a threat or risk to security, to facilitate legitimate removal action or it is otherwise in the public interest. The detention system is flexible because the court can refuse to issue a warrant for a person or issue the detention of a person for up to 28 days in a prison or in an approved premises or release them into the community on conditions. Section 324(3) of the 2009 Act enables people detained under a warrant of commitment to apply to a District Court judge for a variation of the warrant or a release on conditions. The majority of asylum seekers in New Zealand are not detained at any stage. The Department of Labour has worked closely with the Department of Corrections regarding the care of the small number of asylum seekers detained in correctional facilities. Asylum seekers are segregated in detention when possible and are not held with convicted criminals.

Settlement policies

63. The New Zealand Government's Settlement Strategy (the Strategy) provides the framework and overarching goals for the settlement of migrants, refugees and their families. Initially developed in 2003 the Strategy was revised with a new vision in 2007.⁴³ Under the Strategy, Government agencies provide and/or fund a number of services and activities that support the seven Strategy goals for migrants and refugees in their initial settlement period (up to five years). The Department of Labour provides leadership on the Strategy, with the most recent leadership focus being on the development of a Refugee Resettlement Strategy. The Department also jointly leads the implementation of two regional settlement strategies (Auckland and Wellington) in partnership with local government. The Department's contribution over recent years to support the Strategy has been on welcoming migrants and refugees into the community, providing resources and funding activities. A multi-agency action plan has been developed to identify the changes needed to achieve the Strategy's outcomes and the timing of their implementation. Implementation will be staged as part of a multi-year programme and will be accompanied by new governance arrangements.

64. The Department of Labour funds the Settlement Support New Zealand initiative throughout New Zealand, which provides a clear point of contact for new migrants and for employers seeking settlement information and referral services for their new migrant staff. The Department collaborates with local government and NGOs in 18 areas to provide locally responsive services that meet the needs of newcomers in the regions. In 2009/10, the 18 settlement support initiatives provided services to 11,745 migrants resulting in 18,278 referrals to local mainstream and settlement service providers.

65. The Department of Labour's Settlement Unit provides settlement services that enable employers to retain the people with the skills that New Zealand needs as well as support migrants to live and work in New Zealand. The Department has developed two resources based on research and approved by employers and employer organisations. A quick-reference pack, Guide for Employers, contains ten cards that illustrate common problems employers of migrants face. Tips and information on the reverse of each card point to solutions that offer guidance for employers. New migrants also need to know about the New Zealand workplace and the process they will go through in settling into work and

⁴³ New vision: "New Zealand's prosperity is underpinned by an inclusive society, in which the local and national integration of newcomers is supported by responsive services, a welcoming environment and a shared respect for diversity."

into New Zealand. The fold-out Guide for Newcomers is a handy tool for employers to use with new migrant staff to address any potential misunderstandings.

Office of Ethnic Affairs

66. The Office of Ethnic Affairs (OEA) is based in the Department of Internal Affairs and advises the Government on contemporary ethnic diversity issues in New Zealand. OEA connects ethnic communities to Government, other communities, economic sectors and with each other. Ethnic communities are those whose ethnic heritage distinguishes them from the majority.⁴⁴ OEA has ethnic advisors who provide connections for ethnic communities in Auckland, Hamilton, Wellington and Christchurch, where there is the greatest ethnic diversity; and intercultural advisors who provide diversity management training and resources to Government and business.

67. OEA also manages the Language Line telephone interpreting service, which is available for no charge to those with limited English language ability. Language Line provides confidential interpreting services in 42 languages and is used by a range of government agencies. Evaluations of Language Line have highlighted the need for increased promotion of the service (to government agencies, and to users). OEA is working to address this by holding forums with ethnic communities, including speaking with every United Nations quota refugee intake about Language Line's availability. OEA also works with other government agencies to train them to use the service, and to expand the coverage of Language Line.

68. OEA's strategic priorities are to maximise ethnic peoples' transactional networks and cultural skills for domestic economic growth; empower ethnic communities through increased Government responsiveness; and maintain New Zealand's reputation as a successful model of social harmony. Some of the major activities that have contributed to these priorities include a number of business forums in 2010,⁴⁵ continuing the Building Bridges programme that aims to build understanding between Muslim and non-Muslim communities in New Zealand, and building the capability of employers to manage diverse workforces through OEA's Intercultural Communication Training.

Special measures to advance groups in relation to employment

69. New Zealand is committed to article 2, paragraph 2 of the Convention that requires New Zealand, when the circumstances so warrant, to consider in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. New Zealand recognises that these measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.

70. The Committee recommended that New Zealand should ensure, when assessing and reviewing special measures adopted for the advancement of groups, that concerned communities participate in such a process, and that the public at large is informed about the

⁴⁴ Primarily those who identify as African, Asian, Continental European, Latin American or Middle Eastern.

⁴⁵ Examples include the ASEAN Business Leaders' Forum, the New Zealand Trade and the Muslim World Forum, the Shanghai Expo Forum and the Business Leaders' India Forum.

nature and relevance of special measures, including the State party's obligations under article 2, paragraph 2 of the Convention.⁴⁶

71. The State Services Commission (SSC) published a new Equality and Diversity Policy for the Public Service in 2008, emphasising chief executives' "good employer" responsibilities and monitoring progress in the chief executive performance review process. The State Sector Act 1988 "good employer" provisions include recognising the aims, aspirations and employment requirements of Māori, along with the need for greater involvement of Māori in the Public Service. The provisions also include recognising the aims, aspirations, employment requirements and cultural differences of ethnic or minority groups. Crown Entities have similar "good employer" provisions under the Crown Entities Act 2004.

72. In addition, the Ministry of Women's Affairs nominations service is working with other Government departments to improve monitoring data on the participation of Māori, Pasifika, ethnic women on state sector boards and committees.

Article 3

73. The Government is committed to its obligations under article 3 of the Convention and condemns racial segregation and apartheid and undertakes to prevent, prohibit and eradicate all practices of this nature in territories under its jurisdiction. The Government is firmly opposed to racial segregation and apartheid. These practices are prohibited by the Human Rights Act 1993 and the Bill of Rights Act. Part 1A of the Human Rights Act makes the Government, government agencies and anyone who performs a public function accountable for unlawful discrimination under the Act. Section 19(1) of the Bill of Rights Act affirms the right to freedom from discrimination. Policies or practices of racial segregation and apartheid would fall into the category of unlawful discrimination under both Acts.

Article 4

74. The Government is committed to its obligations under article 4 of the Convention that requires States parties to condemn all propaganda and all organisations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertakes to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of the Convention.

75. The comments in the 2006 report under the Convention on the Elimination of All Forms of Racial Discrimination on the legislative mechanisms in place to eradicate all incitements to or acts of racism remain applicable.⁴⁷ As is discussed below, New Zealand continues to make it unlawful to excite hostility against or bring into contempt any group of persons on the grounds of colour, race, or ethnic or national origins. It also continues to be a criminal offence to incite racial disharmony through published or distributed written matter or spoken words in public. No amendments in this regard have been made to the Human Rights Act since the 2006 report was compiled.

⁴⁶ CERD/C/NZL/CO/17, para 16.

⁴⁷ CERD/C/NZL/17, paras 174-187.

Unlawfulness of racial disharmony and offence of inciting racial disharmony

76. The number of complaints received under section 61 of the Human Rights Act (unlawfulness of racial disharmony) has fluctuated over the reporting period. This was caused by a relatively large number of complaints about a single issue that occurred in that year. When these figures are adjusted to account for the number of complaints on single issues, the number of complaints has been relatively similar from year to year: 31 in 2007, 23 in 2008, 30 in 2009 and 21 in 2010. Most complaints are dealt with through mediation and do not progress as formal complaints. Section 61 has a high threshold, particularly when the impact of the Bill of Rights Act freedom of expression provision is considered in relation to the words used. Offensiveness of a race related comment is not sufficient on its own. The comment must also be a probable cause of ethnic hostility or contempt. The vast majority of comments complained of are considered unlikely to contribute to serious ethnic unrest.

77. While New Zealand does not have a specific offence of “hate speech”, section 131 of the Human Rights Act makes inciting racial disharmony an offence. There has only been one prosecution under this section (which occurred in 2008), although that case did not result in a conviction.

Responding to racially motivated crimes

78. Where applicable, section 9(1)(h) of the Sentencing Act 2002 provides that in sentencing or otherwise dealing with an offender, the court must take into account and record in the offender’s sentencing notes that the offender committed the offence partly or wholly because of hostility towards a group of persons who have an enduring common characteristic such as race, colour, nationality, religion, gender identity, sexual orientation, age or disability; and the hostility is because of that characteristic; and the offender believed that the victim has that characteristic.

79. The Committee recommended that New Zealand study ways and means of assessing on a regular basis the extent to which complaints for racially motivated crimes are addressed in an appropriate manner within its criminal justice system and in particular, collect statistical data on complaints, prosecutions and sentences for such crimes.

80. The *Review of Crime and Criminal Justice Statistics Report 2009*, completed in 2010, included information regarding “crimes of prejudice” (which include racially motivated crime). The report concluded that, given the problems experienced in overseas jurisdictions where this information is collected, the worth of their collection in New Zealand would need to be assessed and validated before this could be considered. However, New Zealand Police will continue to make full use of the Crime and Safety Survey to monitor trends.

81. Since New Zealand’s last report, the media have continued to report sporadic incidents of racially motivated violence, which range from verbal abuse to physical abuse. Although New Zealand does not officially record racially motivated crime at a national level, New Zealand Police has actively supported the establishment of local initiatives, which are designed to facilitate reporting of race based discrimination, harassment and other racist incidents.⁴⁸ For instance, in Christchurch, the Report It website⁴⁹ was launched

⁴⁸ A racist incident is defined as “any incident that is perceived by the victim or any other person to be racist”. Speak Out website, www.speakout.otg.nz (accessed 1 June 2011).

⁴⁹ www.report-it.org.nz.

in 2008 by a group of agencies involved with the Safer Students campaign⁵⁰ following requests by international students for an anonymous online reporting website. The Report It website allows students to report when people in Christchurch do or say hurtful things to them because they are different. Similarly, in the Tasman District a “Speak Out” system for reporting racist incidents has been created. Launched in November 2010, the system facilitates reporting of racist incidents via an online reporting form, a call free telephone number, as well as direct reporting to a number of community agencies.⁵¹

New Zealand Police – work with ethnic communities

82. New Zealand Police has responded to the increasingly diverse population by working closely with a number of other key agencies to provide support to new migrants, refugees, foreign workers, tourists and international students. New Zealand Police’s Ethnic Strategy Towards 2010 — Working Together With Ethnic Communities, was one of the first ethnic strategies developed by a government agency. The strategy had two primary outcomes: to develop Police’s capability and capacity to engage with ethnic communities, and implement culturally appropriate initiatives with ethnic communities to increase community safety, prevent and reduce crime, road trauma and victimisation. It was implemented over a five year term, with the projects culminating in 2010.

83. Successful outcomes from the Ethnic Strategy include the doubling of ethnic staff employed by Police, increased satisfaction in Police services, active community engagement through ethnic liaison officers, advisory boards and signing of significant Memoranda of Understanding with key community partners. Finally, the development of practical resources and tools for operational staff has facilitated enhanced service delivery and engagement with ethnic communities.

84. New Zealand Police is developing a Diversity Induction Programme which focuses on discrimination and provides police employees knowledge and information to enable them to work with diverse communities and fellow staff members effectively. A Human Rights induction tool will be provided for all new staff. The programme will consist of eight modules, covering broader diversity issues as well as specific guidance for working with Māori, Pasifika and other ethnic communities.

85. New Zealand Police are now in a position to progress applications from candidates who are former refugees. Guidelines and a process have been developed to ensure that Police balance the exceptional circumstances and rights of asylum seekers or refugees with Police’s need to ensure the integrity of the organisation and safeguarded selection process. A key theme of this process is that any applicant with New Zealand Citizenship and a refugee background will be treated no differently to anyone else and will be eligible to apply through the established process. Applicants without Citizenship must have New Zealand Permanent Residency, with a minimum of five years residence in New Zealand, and must pass a further security check.

86. The new ethnic strategy from 2011 towards 2015 will build on progress made by New Zealand Police in engaging with and responding to crime and safety issues affecting

⁵⁰ Namely Police, Christchurch City Council, Te Rūnanga o Ngāi Tahu (the governing body of South Island iwi), Christchurch Polytechnic Institute of Technology, University of Canterbury, Lincoln University and the Human Rights Commission. Police provides ‘in-kind’ support to the Report It website, e.g. staff time, including follow up of incidents reported through the website; and contributes towards the printing of posters and other information materials.

⁵¹ New Zealand Police gives in-kind support to the Speak Out initiative in Nelson. This includes Police participation in the Steering Committee and undertaking follow up action if an incident reported via the Speak Out website or phone line has a criminal nature or could escalate to criminal offending. Police also provide ongoing advice and support for other agencies and NGOs.

ethnic communities, including race related harassment and other racially motivated crimes. Much of this work will be led by New Zealand Police's ethnic liaison officers who can identify with the diverse range of ethnic communities in New Zealand and work alongside them to address the broad spectrum of crime and safety issues faced by individual members of specific ethnic communities.⁵²

Immigration distinctions based on nationality

87. Section 153 of the Human Rights Act allows the Government to distinguish between New Zealand citizens and other persons, or between Commonwealth and non-Commonwealth citizens. This exemption permits distinctions only to be made between these groups; it does not permit discrimination per se. The Department of Labour seeks to ensure that human rights legislation is complied with wherever possible in immigration decisions and, where apparent departures do occur, ensures that there is sufficient justification for maintaining a distinction.

88. Section 392 of the Immigration Act 2009 provides a procedural exemption to the Human Rights Act where the publicly funded complaints process is not available in actions that allege discrimination in relation to the Immigration Act and regulations and any policy made validly under the Immigration Act. The Human Rights Commission is also prevented from receiving complaints, bringing proceedings or intervening in civil proceedings, in relation to immigration decisions. Although the Immigration Act provides for a partial exemption from human rights scrutiny, immigration legislation, policies and practices are still subject to the non-discrimination standard provided for under the Bill of Rights Act. This means that policy and legislative proposals must be assessed for consistency with the right to be free from discrimination under section 19(1) of that Act.

Article 5

89. The New Zealand Government is committed to its obligations under article 5 of the Convention to undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of civil, political, economic, social and cultural rights.

90. The Government recognises the persistence of the inequalities that face Māori and Pasifika in employment, education, health, social services and housing and that it is essential for the future of New Zealand that these inequalities are addressed. In addition, the overrepresentation of Māori in the justice and prison system is of particular concern and reducing Māori offending and recidivism is a priority for the Government. The steps New Zealand has taken to realise the obligations under article 5 are set out below.

Criminal justice system

91. Everyone charged with an offence has a right under section 24 (g) of the Bill of Rights Act to language interpretation if needed.⁵³

92. The court system has regard to the different cultures and traditions of ethnic groups who use the system. A number of initiatives currently operating in courts are aimed to address offending through the provision of "wrap around" services and/or use of therapeutic jurisprudence. Over the reporting period, the judiciary have initiated:

⁵² CERD/C/NZL/CO/17, para 25.

⁵³ This is also recognised in the Māori Language Act 1987.

- Family Violence Courts for managing domestic violence cases that operates at eight District Courts;
- Rangatahi Courts and Pasifika Courts that locate part of the Youth Court Process on a Marae or at a Polynesian Centre. Both initiatives aim to reconnect young offenders with their culture and reduce reoffending;
- A Special Circumstances List Court for offending by persistent low level offenders who are homeless;
- The Christchurch Youth Drug Court and Intensive Monitoring Group (Auckland) that focus on alcohol and drug misuse and dependency for young people.

93. There is a process in place at 34 District Courts to remand cases to allow for a Restorative Justice conference to take place before sentencing. In-court alcohol and other drug clinicians are funded by the Ministry of Health⁵⁴ and assist judges to identify offenders with mental health and alcohol and other drug needs. The judiciary, Ministries of Education and Justice, and Child Youth and Family are piloting a programme where Education Officers attend Youth Court hearings (three locations at this time) to provide advice on a young person's education.

94. The Ministry of Justice is also working with the judiciary on the design and implementation of a court process in the Kaikohe District Court that will:

- Increase the involvement of whānau, hapū and iwi in the court process
- Encourage the inclusion of tikanga Māori by actively promoting the use of legislation that supports this in the District Court⁵⁵
- Facilitate defendant access to wrap around services and opportunities to address the underlying causes of their offending via section 25 of the Sentencing Act 2002.⁵⁶

95. Two areas of possible discrimination against ethnic groups within New Zealand merit attention. Juries are selected without bias. However, because of the ethnic or national origins of potential jurors, many do not have the "good understanding" of English specified on the jury summons form. In October 2010, jury districts (the area from which a person can be summoned for jury service) were increased from a boundary of 30 kilometres to 45 kilometres from a jury trial court. This allows for a much wider selection pool of jurors, including the improvement of Māori representation in rural areas (based on the number of Māori living in rural areas).

96. Although all court proceedings are in English, the Māori Language Act 1987 allows anyone to speak Māori in any proceedings, whether or not they are able to understand or communicate in English or any other language. When Māori is spoken in court, an interpreter will translate what has been said into English. The parties (the claimant or defendant), witnesses, members of the court and tribunal, lawyers or other representatives, and anyone else the Judge agrees to, may all speak Māori in a court or tribunal.

⁵⁴ Clinicians are available in Northland and Wellington District Courts.

⁵⁵ Such as section 27 of the Sentencing Act 2002⁵⁵ and section 4 of the Māori Language Act 1987 (right to speak te reo Māori in legal proceedings).

⁵⁶ Section 25(1)(d) allows the court to adjourn proceedings in respect of any offence after the offender has been found guilty or has pleaded guilty and before the offender has been sentenced to enable a rehabilitation programme or course of action to be undertaken.

Over representation of Māori and Pasifika in the criminal justice system.

97. The Committee reiterated its concern regarding the over representation of Māori and Pasifika in the prison population and more generally at every stage of the criminal justice system and recommended that the State party enhance its efforts to address this problem.⁵⁷

98. The Government recognises that the rate of imprisonment of Māori and Pasifika pose a significant challenge for it and for Māori and Pasifika communities.⁵⁸

99. The Department of Corrections provides a number of programmes and services aimed at reducing reoffending among Māori through the use of tikanga, including:

- *Tikanga Māori programmes*: tailored to all offenders who identify as Māori and have been sentenced to imprisonment, supervision, intensive supervision, home detention, and release on conditions, parole, and community work. They use customary concepts and values to equip participants with a willingness and motivation to address their rehabilitation, specifically focusing on their offending behaviour.
- *Māori therapeutic programmes*: tailored specifically to Māori male high risk offenders. They are based on cognitive behavioural therapy integrated with tikanga Māori and are delivered in the Department's five Māori Focus Units and the Northland Region Corrections Facility.
- *Māori Focus Units*: five 60-bed Māori Focus Units for male prisoners use tikanga Māori to motivate and rehabilitate prisoners within a therapeutic community in a custodial environment. Staff work closely with hapū and iwi programme providers to support prisoners towards a responsible and pro-social life in the community.
- *Whānau Liaison Workers*: attached to each Māori Focus Unit. Whānau Liaison Workers play a critical role in establishing links between prisoners, their whānau, hapū, iwi and the local Māori community prior to release. They work directly with an offender's whānau by putting in place strategies to resolve or manage identified reintegrative issues.
- *Kaitiaki*: Kaitiaki in this context are Māori groups from the areas in which four new regional corrections facilities have been established. Kaitiaki are actively involved in supporting the reception, rehabilitation and reintegration of Māori prisoners, including the involvement of prisoners' families.
- *Kōwhiritanga*: this is designed to help women offenders examine the causes of their offending and develop skills to prevent them reoffending. The programme is based on Western therapies and is designed to be responsive to Māori women.
- *Kaiwhakahaere*: twelve Kaiwhakahaere positions have been established within the Community Probation & Psychological Services. These positions assist with convening and facilitating whānau hui, assist probation staff to become familiar with relevant tikanga Māori-based concepts when dealing with Māori offenders and their whānau, and ensure links are maintained with key staff, relevant iwi, Māori based providers/groups and community organisations. *Kaiwhakahaere* is currently operating as a pilot programme.

100. Whare Oranga Ake is a new initiative which aims to significantly reduce reoffending, particularly by Māori. It aims to support prisoners in the last stages of

⁵⁷ CERD/C/NZL/CO/17, para 21.

⁵⁸ For disaggregated statistics on prisons, please see annex C, table 13.

imprisonment to gain employment, find accommodation and build healthy family and wider social relationships. Whare Oranga Ake units focus on reintegration in a kaupapa Māori⁵⁹ setting outside the main prison grounds on a 16 bed whare⁶⁰ and communal facility. Māori practices, language and values will be woven through the day-to-day activities and interactions of the units. Prisoners in Whare Oranga Ake units will be provided opportunities to develop life skills for living on the outside, enhancing their prospects of successful reintegration back into communities and reducing the risk of further offending. Two units opened in July 2011. While targeted at Māori offenders they are open to all prisoners who meet the eligibility criteria. There will be a review in 2012, after which each unit may expand in 2013 to 32 beds. As a typical stay will be nine months, a 32 bed unit will provide for an average of 42 residents a year.

101. The Department of Corrections also has a Pacific Focus Unit where the Saili Matagi programme is delivered. This 18 week programme is delivered by programme facilitators with knowledge and experience of Pasifika peoples. It is designed for Pasifika male prisoners currently serving a sentence for violent offences. The programme is based on the Pacific nation's cultural principles and delivered through a "proverbial language" approach. Cultural principles/sacred knowledge systems are used as a "therapeutic approach" in itself. Embedded within Pasifika cultural paradigms are tools of "understanding" used appropriately to target treatment. The Saili Matagi therapeutic approach incorporates Pasifika Matua within the delivery of group work sessions to transfer the cultural values, beliefs and concepts that are familiar to men of Pasifika cultures. The Programme aims to assist prisoners to identify and change their beliefs, attitudes and behaviours that have resulted in their violent offending and ultimately reduce intergenerational violence and the likelihood of reoffending. It includes constructing an offence map, challenging attitudes and thinking that support offending, managing emotions, managing relationships and managing conflicts, as well as developing safety plans.

Responses to Māori offending

102. Māori over representation in the criminal justice system remains a concern for the Government. In November 2009, the Government made addressing the underlying causes of offending a whole-of-government concern, with a priority on Māori offending. The Government is now progressing a new approach to reducing offending, known as "Addressing the Drivers of Crime", to intervene effectively along the pathways of offending. This includes early prevention, treatment for specific needs related to offending, and co-joint and collaborative justice and social sector initiatives to reduce offending and reoffending. Cross-government action is underway in four priority areas:

- Improving the quantity, quality and effectiveness of maternity and early parenting support services in the community, particularly for those most at risk.
- Developing and implementing programmes that treat and manage behavioural problems in at risk children and young people.
- Reducing the harm from alcohol and improving the availability and accessibility of alcohol and drug treatment services.
- Identifying approaches to manage low level offenders and offer pathways out of offending.

103. In each area consideration is being given to ensure services are effective for and accessible to Māori. This includes the identification of opportunities for Māori to design,

⁵⁹ Set of values, principles and plans agreed upon as a foundation for actions.

⁶⁰ Dwelling place.

develop and deliver innovative initiatives and solutions that are responsive to the needs of Māori. Work on “Addressing the Drivers of Crime” is being overseen by the Chief Executives of the Ministries of Justice, Education, Health, Social Development and the Department of the Prime Minister and Cabinet. Representatives from Te Puni Kōkiri, New Zealand Police and the Department of Corrections are also directly involved in leading and contributing to the work programme.

104. The Ministry of Justice also funds activities to improve criminal justice outcomes for Māori such as the delivery of restorative justice services through Māori providers and supporting Māori community focused prevention and safety programmes in response to youth offending, substance abuse and violence reduction.

Sentencing submissions on community and cultural background

105. The Committee recommended that the State party undertake an assessment of the implementation of section 27 of the Sentencing Act.⁶¹

106. Section 27 of the Sentencing Act allows the courts to hear submissions relating to the offender’s community and cultural background. Until recently data on the use of section 27 could not be recorded in the courts’ Case Management System. From mid July 2011 however, the function is available and courts will be asked to record these hearings in the system so the numbers of these events can be monitored. Section 8 sets out the principles of sentencing and provides that the court must take into account the offender’s personal, family, whānau, community, and cultural background in imposing a sentence or other means of dealing with the offender with a rehabilitative purpose. Section 27 allows the offender to request the court to hear any person or persons called by the offender to speak on these matters. Section 26 provides that information regarding the personal, family, whānau, community and cultural background of the offender may be included in a pre-sentence report.

107. The judiciary are currently considering an initiative based in the Kaikohe District Court which would involve the proactive use by the court of section 27 of the Sentencing Act. The aims of the Kaikohe District Court initiative are to address the causes of offending prior to sentencing, hearing from whānau, hapū and iwi about the support available for the defendant and increasing the availability and effectiveness of appropriate alternative sentences. The Ministry of Justice is leading the design of the court process.

Youth justice

108. In 2008, the rate of young Māori prosecuted was more than five times that of New Zealand European young people and 2.4 times that of Pasifika young people.⁶² The Government is committed to reducing the over representation of Māori in the youth justice system. The Government has introduced new legislation⁶³ empowering the Youth Court to require young offenders to, among other things, attend mentoring programmes, drug or alcohol rehabilitation programmes and parenting programmes.

109. A number of other programmes are focused on reducing the rate of youth offending such as the Social Workers in Schools Programme, funded by the Ministry of Social Development. In October 2011, the Government announced it will be extending this programme to all primary schools in deciles 1 to 3 (in low socio-economic communities)

⁶¹ CERD/C/NZL/CO/17, para 22.

⁶² Youth Justice Statistics in New Zealand: 1992 to 2008.

⁶³ The Children, Young Persons, and Their Families (Youth Courts Jurisdiction and Orders) Amendment Act 2010.

from mid-2012. Schools have been increasingly challenged by children and families who have high needs for social support that are largely unmet. The programme is effective in contributing to improved child behaviour, health and learning outcomes, reducing truancy and increasing educational achievement.

110. The Multi-Agency Support Services in Secondary Schools programme (MASSiSS) is a component of the Ministry of Social Development Youth Gangs initiative. MASSiSS provides school based social work support services in 17 low-decile schools in Auckland, Hawke's Bay and Porirua. The clients are vulnerable young people attending specific decile 1 to 3 secondary schools and their families/whānau. Clients include young people for whom statutory intervention may be required if concerns and risk factors are not addressed, young people who are having difficulties attending and engaging in school, and young people at risk of gang involvement.

111. To ensure the response to youth gangs is appropriate, New Zealand followed up on the planned research detailed in the third and fourth periodic report. The completed research includes the 2010 Review of the Counties Manukau Plan of Action. This is a successful multi-agency response to the complex social problem of youth gangs. The research gathered feedback from a range of stakeholders to determine which features of the plan contributed to its success. The review also used analysis of youth work monitoring data and Police and Ministry of Education data to show positive changes for youth in Counties Manukau since the implementation of the plan. There is a widespread perception that the Plan of Action has reduced youth crime and gang involvement. This is supported by Police crime statistics.⁶⁴ Youth gang action plans have now been implemented in Northland⁶⁵ and Counties Manukau. Action plans are also under development for the wider Auckland area.⁶⁶

112. The Ministries of Health and Education are implementing evidence based parent management programmes (Incredible Years and Triple P-Positive Parenting Programme), evaluating their effectiveness for Māori, and adapting the programmes to increase participation and effectiveness for Māori participants. These types of initiatives, along with opportunities for Māori to design, develop and deliver innovative and cost effective solutions for their own communities, are expected to reduce youth and adult offending and Māori over representation in the criminal justice system in the medium to long term.

Ruatoki

113. Police acknowledge that a long pathway lies ahead to rebuild trust and confidence with the people of Tuhoe after the events of Operation Eight. Steps have already been taken to initiate this process. The General Manager of Māori, Pacific and Ethnic Services (MPES) has made four separate visits to the rohe of Tuhoe since the events. Police has continued to rebuild community relationships; including meeting with a number of iwi around New Zealand to discuss the events and the hurt and stress that was felt by the community. These changes are small and gradual but Police will continue to build upon them. Police await the

⁶⁴ Between 2007 and 2008, overall youth apprehensions fell in Counties Manukau by 9 per cent compared with a 3 per cent increase nationwide. During this time youth apprehensions in Counties Manukau for violent offending fell by 6 per cent compared with a 5 per cent increase nationwide. Apprehensions also fell for robbery, drugs and anti-social offending, dishonesty offences (particularly burglary and car conversion), property damage and administrative offences (for example, failure to answer bail). Homicides in Counties Manukau reduced from an unprecedented peak of 34 in 2005 to seven in 2008.

⁶⁵ Primarily in Whāngārei.

⁶⁶ Bay of Plenty (Kawerau, Rotorua, and then to other parts of the region), Waikato (Hamilton City only) and the East Coast.

release of the Independent Police Complaints Authority (IPCA) report that will provide more detail and recommendations as to Police actions during Operation Eight. The General Manager MPES will be working closely with key internal and external partners to ensure Police operational procedures are fully reviewed in light of the IPCA findings.

Police use of Tasers

114. When Taser use statistics are considered in the context of those people apprehended by the Police, for 2010-11,⁶⁷ Tasers were discharged in 0.04 per cent of Māori apprehensions, 0.04 per cent of European apprehensions, and 0.08 per cent of Pasifika apprehensions.

115. Police have stringent guidelines in relation to Taser use, which are aligned with international best practice standards. Tasers are only available for use in situations where officers and/or members of the public face particular levels of threat. The use of Taser is then the subject of reporting (including through TASER-CAM footage) and supervisory and commissioned officer review processes.

116. Through these mechanisms Police have confidence Tasers are used appropriately in accordance with legal requirements and policy directives. Furthermore, in order to understand, monitor, and improve Taser use, Police have recently invested considerably in the development and introduction of a national-level electronic use of force database. Police has also invested in the Tactical Options Research Team who monitor, analyse, and work with this and other use of force data, for the purposes of improvement and accountability. The team has a number of Taser-related items on its work programme to provide on-going insights into Taser deployment by Police.

Political rights

117. The Electoral Act 1993 introduced the mixed member proportional (MMP) voting system and continued the existing provision for separate Māori representation in the legislature.

118. Māori may enrol to vote on the Māori electoral roll or the General Electoral roll. This choice is exercised both at the time of the elector's initial enrolment and then at the time of the next Māori Electoral Option period, which is conducted following each five yearly national census. The option asks all enrolled Māori voters to identify their choice of roll type. Under the Electoral Act, the number of Māori seats is not fixed, but is determined at the end of the option period by a formula based on the number of Māori on the electoral roll. The formula ensures that Māori electorates have the same population size as general electorates.

119. The Māori Electoral Option was last held in 2006. The number of Māori seats remained at seven. 56 per cent of declared Māori voters are currently on the Māori roll. The next Māori Electoral Option was scheduled to be held in 2012, after the 2011 Census and general election. The 2011 Census was cancelled, however, following a major earthquake in Christchurch. The next census, and accompanying Māori Electoral Option, will be held in 2013.

120. Māori may also be elected to Parliament by standing for a general seat or a list seat. Following the 2002 general election, 19 Members of Parliament identified as being of Māori descent, 21 following the 2005 election, and 20 following the 2008 election. In addition, three Pasifika MPs and two Asian MPs were elected in 2002, the same number of

⁶⁷ This is a more useful population of interest than total population, given that this is the group of people who come into contact with police, and where use of force may be required.

each group in 2005, and five and six respectively in 2008. Following the 2011 general election, 21 Members of Parliament identified as being of Māori descent, 6 as Pasifika and 5 as Asian.

121. The Māori Party, formed in 2004, won four Māori electorate seats in 2005 bringing three new Māori Party members into Parliament. In 2008, the Māori Party won five Māori electorate seats and entered into an agreement with the National Party in which it pledged its support for the Government's supply and confidence measures. The Prime Minister appointed the party's two co-leaders as "Support Party Ministers" outside Cabinet with full portfolios, including Māori Affairs. In the 2011 general election the Māori Party won three Māori electorate seats. The Māori Party co-leaders continued their roles as Ministers outside Cabinet and retained the Māori Affairs portfolio.

122. New Zealand's turnout of enrolled voters was 80.9 per cent in 2005 and 79.5 per cent in 2008. Election surveys indicate that non-voters are more likely to be members of Māori or Pasifika ethnic groups. The Electoral Commission is trying to increase participation amongst Māori and Pasifika through education and research based projects.

Employment

123. In pursuing employment opportunities, all New Zealand residents enjoy access to all of the rights in article 5 of the Convention. Employment rights (such as the right to a written contract, grievance procedures and freedom from discrimination or harassment) are protected by the Employment Relations Act 2000 and the Human Rights Act. If a person encounters racial discrimination in employment, he or she may choose to take an action for racial discrimination under one of these Acts, but not both. From January 2005 to September 2011 the Human Rights Commission received 653 complaints alleging discrimination on a race-related ground in the area of employment. Since 2005, the Employment Relations Authority has determined seven personal grievance cases featuring claims of racial discrimination or harassment. None were upheld. One case was appealed to the Employment Court, which dismissed the claim.

124. The pace of economic recovery following the recession has been slow, and the unemployment rate for all persons has increased to 6.8 per cent of the labour force in the December 2010 quarter. The Household Labour Force Survey showed the unemployment rate was largely static for most ethnicities over the year ending December 2010:

- Māori employment and unemployment remained static compared with the previous year, with employment of 136,400 and an unemployment rate of 15.5 per cent in the December 2010 quarter.
- Pasifika employment increased by 8.4 per cent in the year to December 2010 to 81,500, while the Pasifika unemployment rate dropped slightly to 13.5 per cent.
- Asian employment and unemployment rate remained static compared with the previous year, with employment of 208,000 and an unemployment rate of 9.3 per cent in the December 2010 quarter.
- The Māori, Pasifika and ethnic unemployment rates are considerably higher than the 4.6 per cent unemployment rate for Europeans recorded in December 2010. The unemployment rate for all ethnic groups is much higher than it was in 2005, when these figures were last updated, largely due to the impact of the global recession. However, a different classification of ethnicity is now in use, so direct comparison is problematic.
- The manufacturing, wholesale and retail trades are the major employing industries for Māori and Pasifika. Many of the jobs in these industries are characterised as

low skilled. Māori and Pasifika are underrepresented in the finance, insurance and business service industries, that tend to employ higher skilled workers.

125. Māori employment growth outstripped that of New Zealand Europeans over the three years to December 2010, reflecting faster growth in the Māori working age population and the disproportionate share of Māori amongst the unemployed in the late 1990s. In addition, the distribution of Māori employment has changed over the last economic cycle, with a larger share of the Māori workforce now in high skilled occupations. Although the shift away from low skilled occupations remains relatively slow, the Māori workforce is now less vulnerable to a negative economic shock.

126. Employment growth for Pasifika has also followed a similar trend to that of Māori (that is, stronger growth because of higher rates of working age population growth and unemployment). The main difference is that the distributions of employment over recent years has moved slightly away from low skilled occupations into semi skilled occupations instead of high skilled and skilled occupations, as occurred for Māori and New Zealand European during this period.

Initiatives to improve employment opportunities

127. Cultural linkages are important in achieving improved labour market outcomes. Māori will form an increasingly large part of New Zealand's workforce in future years and are playing an increased role in New Zealand's business community. The Department of Labour website has a section specifically about Māori Labour Market Information. The website contains information to assist anyone with an interest in Māori social and economic issues to gain a better understanding about labour market trends among Māori and key information about their people, their skills and past and current employment trends and opportunities.⁶⁸

128. The Pacific Workforce Development Strategy, led by the Ministry of Pacific Island Affairs, ended in 2007. The Department of Labour Pacific Strategy 2010–2015, launched on 11 March 2010, provides a strategic framework to guide prioritisation and provides a means to better coordinate the work of the Department by placing its activities for Pasifika related matters into the context of the Department's overall strategic framework and within the wider Pasifika regional context. The strategy highlights the need to focus on Pasifika workforce development including health and safety, employment relations, career advice, skill development and training which will provide Pasifika workers with more opportunity to realise their full potential.

129. Youth Guarantee, run through the Ministry of Education, is a programme designed to engage 16 and 17 year olds in education and training. The aim is to increase educational achievement by 16 and 17 year olds who have previously not achieved well in the education system. It also assists students to get vocational qualifications on the National Qualifications Framework appropriate to their career of choice and educational opportunities that work for them and meet their needs. The programme includes trade and service academies.

State sector employment

130. The State Services Commission (SSC) has produced several publications that promote and monitor Equal Employment Opportunities (EEO), including biennial reports targeting specific EEO groups in the Public Service. The last report focussed on gender and

⁶⁸ www.dol.govt.nz/services/LMI/Māori/index.asp.

ethnic diversity in the senior management of the Public Service.⁶⁹ Under the State Sector Act 1988 and the Crown Entities Act 2004, government departments and Crown entities have the same EEO requirements as the private sector. Each government department and Crown entity is required to operate a personnel policy complying with the principle of being a good employer (including an EEO programme⁷⁰), make that policy available to its employees, and ensure compliance with that policy. Government departments and Crown entities should also have provisions in their personnel policies that require recognition of the aims, aspirations, employment requirements and cultural differences of ethnic and minority groups.

131. As at 20 December 2010 Māori women made up at least 8.0 per cent of Ministerial appointees, and ethnic women made up at least 0.8 per cent of Ministerial appointees, on state sector boards and committees. These estimates will be used as a baseline to measure and monitor Māori and ethnic women's participation on state sector boards in subsequent years.⁷¹

Education⁷²

132. The current general education outcomes for European, Māori and Pasifika children are:

- Participates in early childhood education: European 98.3 per cent, Māori 90.1 per cent and Pasifika 86.0 per cent, Asian 96.6 per cent, total 94.8 per cent;
- Leaves school with National Certificate in Educational Achievement (NCEA) at level 2 or above: European 74.0 per cent, Māori 47.8 per cent, Pasifika 59.2 per cent, Asian 84.4 per cent;
- Attains a University bachelor level degree by age 25: European 33 per cent, Māori 12 per cent, Pasifika 12 per cent, Asian 38 per cent;
- Studying Te Reo Māori across levels 9 to 13: Year 9 – 9963, Year 10 – 5403, Year 11 – 4487, Year 12 – 2300, Year 13 – 1377.

Māori education

133. Māori students make up about 22 per cent of the total student population. New Zealand acknowledges that despite the efforts that have been made in recent years, more work is needed to encourage Māori youth to continue with their education. National Standards for Māori medium education programmes, Ngā Whanaketanga Rumaki Māori, were developed by Māori medium Te Reo Matatini and Pāngarau leaders and implemented in 2010. They establish clear expectations of progress and achievement for Māori students in relation to reading, writing and mathematics.

134. Support from family and whānau can influence educational achievement. Whānau are more likely to feel alienated from the mainstream school system and less likely to

⁶⁹ The report, produced in 2010, is available on the SSC's website: www.ssc.govt.nz.

⁷⁰ An EEO programme is defined as "a programme that is aimed at the identification and elimination of all aspects of policies, procedures and other institutional barriers that perpetuate, or tend to cause or perpetuate, inequality in respect to the employment of any persons or group of persons". See section 58 of the State Sector Act 1988 and section 118 of the Crown Entities Act 2004, respectively.

⁷¹ 2010 Gender stocktake of state sector boards and committees, Nominations Service, Ministry of Women's Affairs.

⁷² Regarding the Committee's concluding observation contained in paragraph 20, see CERD/C/NZL/CO/17/Add.1, paras 23 – 25. For statistical information, please see annex C, tables 1 - 4.

engage with educators, partly due to their own negative experiences of schooling. Engaging whānau and parents in ways that support their children's learning is a priority for the Government.

135. The National Standards introduced in 2010 give teachers, children, parents and whānau a clear idea of children's progress in relation to reading, writing and mathematics. Schools are required to report clearly at least twice a year to parents about their children's progress and achievement in relation to the standards.

136. The Government has continued to support Māori language learning and the demand for an education that embraces the language, philosophies and culture of Māori. The numbers of students attending kōhanga reo,⁷³ kura kaupapa Māori and wharekura⁷⁴ has been steady over the past five years. The participation rate for Māori students in kaupapa Māori based tertiary organisations has been steady.

137. Building a high quality infrastructure to support kaupapa Māori education is a growing priority. Significant investments are continuing to be made in the early childhood and schooling sectors to provide quality teaching and learning resources as well as materials and assessment tools in the Māori language that support the curriculum.

Results to date for Māori education

138. Māori participation in early childhood education has increased. In 2010, 8196 Māori children were enrolled in kōhanga reo, 17579 in education and care services, 7388 in kindergartens, 2001 in play centres, and 2584 in home based care services. This compares to 2005 enrolment figures of 10062 Māori children enrolled in kōhanga reo, 11924 in education and care services, 7933 in kindergartens, 1922 in play centres and 1352 in home based care services.

139. The proportion of Māori school leavers who had not obtained some level of formal qualification at school almost halved between 2002 and 2009 (from 56.1 per cent to 28.4 per cent). However, numbers still remain high in comparison with the New Zealand European population, 10.3 per cent.

140. Māori participate in tertiary education at a higher rate than non-Māori: 16.9 per cent of Māori aged 15 and over participated in tertiary education in 2008, compared to 11.3 per cent of non-Māori. Māori participation at Bachelor degree level and above is below that of the European population, but the difference has been closing over the last decade.

141. There are still concerning trends that need addressing, including above average rates of truancy and absenteeism, and early departure from the school system, often without a qualification. Overall, progress to date indicates that raising Māori achievement and participation, and eliminating differences for Māori, are achievable goals. There are a number of initiatives aimed at addressing these differences, including:

- Initiatives to increase early childhood education participation for both Māori and Pasifika children (funded by an extra \$91.8 million in the 2010 Budget)
- The Literacy Professional Development Project for both Māori and Pasifika Children
- The Tertiary Education Strategy 2010–2015 has a sharper focus on Māori achievement above New Zealand Qualifications Framework Level 4

⁷³ Centres for preschool aged children and their families where the curriculum is delivered in the te reo Māori.

⁷⁴ State primary and secondary schools where te reo Māori is the principal medium of instruction.

- Kaiako Pono provides guidance on mentoring for Māori in tertiary education
- Te Tere Aurataki: a professional development strategy focused on improving outcomes for Māori students in English medium schools
- Pangarau Te Poutama Tau: a Māori medium mathematics resource
- Ngā Haeata Mātauranga: a comprehensive annual report on Māori education that informs and assists the development of future initiatives
- Youth Guarantee, Trades and Service Academies to retain 16 and 17 year olds in education and training
- The National Certificate of Educational Achievement providing a qualification system which enables students to leave school with a meaningful and relevant qualification.

142. Ka Hikitia — Managing for Success: The Māori Education Strategy 2008–2012, which was launched in 2008, is a significant initiative to improve the performance of the education system for Māori children. An early evaluation of this initiative indicates positive progress and the beginning of system changes beneficial to Māori children and youth. However, there are still significant challenges to:

- Accelerate early childhood education enrolment increases for Māori;
- Improve effective teaching and learning for Māori students, especially in relation to cultural responsiveness;
- Increase the resources and support available for teachers in Māori medium/settings;
- Increase the supply of teachers proficient in te reo Māori, so that Māori medium options are more available;
- Focus on resources, specifically on improving the teaching of literacy in the first years of school;
- Ensure secondary schools enable Māori students to gain worthwhile qualifications and make subject choices that open up future opportunities.

Pasifika participation in education

143. There have been considerable gains in educational participation for Pasifika over the past decade. The proportion of children who attended early childhood education before starting primary school increased at a faster rate for Pasifika children than for other school entrants. However, there has been a decrease in Pasifika children accessing early intervention services. Pasifika children continue to have the lowest participation rate at this level of education. In 2009, the overall participation rate of Pasifika students in education was similar to that of New Zealand Europeans. The proportion of Pasifika adults with tertiary qualifications increased more than threefold between the mid 1990s and 2009. Despite this, Pasifika adults were less likely than the general population to have tertiary qualifications.

144. The Pasifika Education Plan 2009–2012 (the Plan) sets out the Government's targets for Pasifika education. It focuses on raising the number of Pasifika children in early childhood education, improving literacy and numeracy, ensuring Pasifika students are achieving and leaving school with worthwhile qualifications, improving participation, retention and completion at tertiary level with a focus on level four and above. Pasifika students now constitute 9.3 per cent of the New Zealand school population, an increase from 7.6 per cent in 1997. Focusing on the long term, the Plan offers a coordinated

approach and recognises that Pasifika peoples must be supported to take charge of solving many of the problems themselves, in partnership with Government and education providers.

145. Reports on the Plan's implementation show mainly positive results. Prior participation rates have grown strongly for Pasifika children, rising from 74.9 per cent in 2000 to 85.3 per cent in 2010.⁷⁵ At primary and secondary school levels, the average performance of Pasifika students is still significantly lower than that of other students. However, there are upward shifts in achievement at these levels. National Certificate of Educational Achievement (NCEA) results show that 82.6 per cent of Pasifika school leavers gained NCEA level 1 or above in 2009, compared with 59.1 per cent in 2002; 65.5 per cent of Pasifika school leavers left with NCEA level 2 or above compared with 42.3 per cent in 2003; and 27.8 per cent of Pasifika students left school with a University Entrance Standard in 2009 compared with 14 per cent in 2004. In 2009, 12.1 per cent of Pasifika aged 15 years and over participated in formal tertiary education, compared to 12.4 per cent for the total New Zealand population. This is a significant improvement from 2001, when only 8.9 per cent of Pasifika aged 15 years and over participated in tertiary education, compared to 11.2 per cent for the total population.⁷⁶

146. The Ministry of Education has focused on strengthening links with Pasifika families and communities, as well as keeping communities informed about the Government's efforts in Pasifika education. The latter is pursued through a variety of means such as the Ministry's Pasifika Advisory Group, face-to-face meetings through fono, circulation of newsletters such as Talanoa Ako — Pacific Education Talk, and use of the Internet and radio programmes.

English as a second language and refugee services

147. Schools apply, on behalf of eligible students, for English as a Second Language (ESOL) funding to provide English language support programmes. In 2010, 33161 students from 1221 schools were provided with ESOL funded tuition. These students represent 159 ethnic groups from 166 different countries of birth, speaking 113 different languages. Total ESOL funding for the 2011/12 year is \$26.515 million. Refugee background students received a higher rate of funding and longer period of eligibility for ESOL support programmes.

148. The Refugee Flexible Funding Pool enables schools to implement a further range of support initiatives including the employment of refugee education coordinators in schools, and the employment of bilingual liaison workers to assist schools make contact with families and communities and support homework centres. This funding pool is \$592,000 annually.

149. The Refugee Pathway and Career Planning support initiative for refugees is implemented in targeted schools. This initiative assists schools to provide specialised individual support in planning appropriate learning pathways towards tertiary study or employment. It recognises the extra support that students from refugee backgrounds may require as their parents and communities may not have the knowledge and resources to support them to make appropriate decisions. This programme has an annual funding of \$267,000.

⁷⁵ Prior participation rates refer to those who start school having also participated in early childhood education.

⁷⁶ Information about Pasifika students in education can be found on www.educationcounts.govt.nz.

150. The Ministry of Education has contracted several providers nationally to provide the Computer in Homes Programme for refugees with approximately 80 to 100 families each year receiving training, a recycled computer and a one year internet connection.

151. The Ministry of Education employs Refugee Education Co-ordinators. The work of the Ministry Refugee Education Co-ordinators is guided by a 'Refugee Education Framework' that describes a comprehensive and cohesive process for supporting refugee background students from arrival to their transition from schooling.

Education for children unlawfully in New Zealand

152. The Immigration Act 2009 removed the blanket limitation on any foreign national children enrolling in compulsory education while unlawfully in New Zealand.⁷⁷ The change does not mean that foreign national children unlawfully in New Zealand are automatically eligible to enrol in New Zealand schools for free. Generally, in order to study in New Zealand, foreign nationals must have an entitlement to study under immigration law.⁷⁸ Foreign national students can be treated as domestic students, giving them entitlement to publicly funded education, or as international students, meaning they pay fees and contribute to New Zealand's export education market. The Minister of Education determines whether foreign nationals are classified as domestic students or as international students, following the process set down in the Education Act 1989.

153. Under the Immigration Act, education providers in the compulsory education sector cannot be prosecuted under immigration law if they enrol foreign national children who are unlawfully in New Zealand. It remains an offence, however, for education providers, other than those who provide compulsory education, to enrol foreign nationals who are unlawfully in New Zealand. Although enrolment of a child unlawfully in New Zealand in compulsory education does not place any immigration obligations on that child or that child's parents, the Immigration Act requires all foreign nationals unlawfully in New Zealand to leave. This is because they do not have any lawful entitlement to remain in New Zealand. Immigration New Zealand encourages all foreign nationals unlawfully in New Zealand to come forward and discuss their situation. Provisions in the Immigration Act 2009 prevent Immigration New Zealand from accessing school or Ministry of Education enrolment records in order to locate families unlawfully in New Zealand.

Te reo Māori and Pasifika Languages

154. Figures from the 2006 Census show that there are 131,600 Māori who are able to converse about everyday things in te reo Māori. This is an increase of 1100 people from the 2001 Census. However, the percentage of Māori language speakers in the Māori population has decreased from 25.2 per cent in 2001 to 23.7 per cent in 2006. These figures do not account for changes in language proficiency.

155. In 2010, the Minister of Māori Affairs, in collaboration with other Ministers, appointed an independent panel to undertake a review of the Māori Language Strategy and Sector. The review's purpose is to identify and support opportunities for enhanced Māori language outcomes, better coordination and structuring of whole of government focus, so that Government can provide the best services and programmes as effectively and efficiently as possible. The Review Report, *Te Reo Mauriora*, was released in April 2011. The Minister of Māori Affairs is currently considering the Review findings, with a view to developing a new Government Māori Language Strategy.

⁷⁷ CERD/C/NZL/CO/17, para 23. See also CERD/C/NZL/CO/17/Add.1, paragraph 26.

⁷⁸ For example, they may be a resident, or a temporary entrant who has entered New Zealand for the purpose of study.

156. At the time of the 2006 Census the proportion of Pasifika who could speak more than one language was 49 per cent. This was higher than for the overall New Zealand population (18 per cent). A person's ability to speak the language associated with their ethnicity was related to birthplace. People from Tuvalu were the most likely to speak their own language (71 per cent), followed by people from Sāmoa (63 per cent) and Tongan people (61 per cent). The 2006 Census showed an increasing decline in the use of Cook Islands Māori, vagahau Niue and gagana Tokelau in New Zealand communities. There has also been some decline in the use of gagana Sāmoa and Tongan. Without intervention, this pattern is likely to increase over time. The Government supports a strong emphasis on the need for schools to promote and respect all Pasifika languages, cultures and identities.

157. Pasifika languages are used as the medium of instruction in a small number of schools across the country. The Ministry of Education provides a range of materials to support the teaching of Pasifika languages including teaching guidelines for Cook Islands Māori, Vagahau Niue, Tongan, gagana Tokelau, and revised language guidelines for gagana Sāmoa, multimedia resources in the Learning Language Series to support the guidelines, and storybooks, songbooks and CDs.

International students

158. New Zealand is an attractive destination for foreign students, reflected in a sizeable international education sector. During 2010, a total of 98474 international students enrolled with New Zealand public and private education providers, a 3 per cent increase from the 2009 level.⁷⁹ The Government actively promotes our education system to international students, and has systems in place to address their pastoral care needs. The Code of Practice for the Pastoral Care of International Students has been administered by the Ministry of Education since 2002. All education providers that enrol international students must comply with this Code. The Ministry also funds the International Education Appeal Authority, an independent body that adjudicates complaints received from international students. In the year ended 30 June 2010, a total of 175 complaints were processed by the International Education Appeal Authority, and 137 were resolved. Most complaints related to fees not being refunded.

159. The Ministry of Education also undertakes regular large-scale surveys of international students to assess their satisfaction with living and studying in New Zealand, and the nature of any issues which they may face. These reports are published on the website of the Ministry.⁸⁰ The most recent study undertaken in 2007 asked whether international students experience discrimination (unfair treatment) in New Zealand. Of the students surveyed, 21 per cent mildly agreed with this statement, 22 per cent mildly agreed that New Zealanders would prefer fewer international students in the country, and 20 per cent mildly agreed that New Zealanders generally have a positive attitude towards international students.⁸¹

Health

160. The overarching objectives of the health and disability sector are to improve the health of all New Zealanders — that is, to improve not just their life expectancy but people's length of life free from pain or disability — and to reduce health inequalities. As

⁷⁹ The top five source countries of the 98,474 international students were China (22 per cent), South Korea (16 per cent), India (12 per cent), Japan (10 per cent), and the Kingdom of Saudi Arabia (6 per cent).

⁸⁰ www.minedu.govt.nz/international

⁸¹ Ministry of Education *Experiences of International Students in New Zealand* (May 2008), p. 83.

in other areas of Government social services, an underlying concern has been to maintain protection for the most vulnerable groups.

161. District Health Boards (DHB) continue to be governed by up to 11 members; seven elected by the public every three years and up to four appointed by the Minister of Health. Appointments are typically made to broaden the skills and representation delivered by the electorate. When making appointments the Minister must endeavour to ensure at least two Māori sit on each board. In December 2010, board membership comprised 76.3 per cent New Zealand European, 20.1 per cent Māori, 2.8 per cent Pasifika and 9.1 per cent other ethnic groups. These proportions have remained broadly similar over successive board cycles.⁸²

Health status of Māori and Pasifika

162. While the health of Māori continues to improve, it is still unsatisfactory compared to the majority of the population. Life expectancy at birth for the whole population from 2005 to 2007 was 78.0 years for males and 82.2 years for females. Although the gap between Māori and non-Māori life expectancy is narrowing life expectancy is still about seven years lower for Māori (70.4 years for Māori males and 75.1 years for Māori females) by prioritised ethnicity. Life expectancy is slightly better for Pasifika (73.2 for Pasifika males and 77.5 for Pasifika females). The main health issues affecting Māori and Pasifika are cancer, diabetes/cardiovascular disease, low immunisation coverage, comparatively high rates of preventable hospitalisation and high prevalence of smoking and obesity.

163. New Zealand's infant mortality (by prioritised ethnicity) has fallen markedly over the last 50 years, decreasing from 22.8 deaths per 1000 live births in 1961 to 5.0 per 1000 live births in 2010. Māori continue to have a higher infant mortality rate compared to the total population, although the gap is closing. In 1996, the infant mortality rate for Māori was 11.5 deaths per 1000 live births compared to 7.1 for the total population. In 2010, the infant mortality rate had declined to 7.4 for Māori and 5.0 for the total population. The infant mortality rate for Pasifika is also higher than for the total population. In 2006, Pasifika had an infant mortality rate of 6.4 per 1000 live births compared to 5.1 per 1000 live births for the total population.

164. Sudden Unexpected Death in Infancy (SUDI)⁸³ remains a major cause of infant mortality and a particular problem for Māori. In 2007, the rate of SUDI for the whole population was 0.94 per 1000 live births. The SUDI rate is higher for both Māori and Pasifika than for the total population. In 2007, the SUDI rate for Māori was 1.71 per 1000 live births and for Pasifika 1.14 per 1000 live births. The causes for the increased risk of SUDI in the Māori population are explained to some extent by the higher prevalence of risk factors such as poorer living conditions, lower breast feeding rates, higher bed sharing rates (bed sharing is a risk factor when combined with smoking) and higher smoking rates in pregnancy and post-natally. Reducing SUDI rates continues to be a priority for the Government.

⁸² New Zealand European: 75.9 per cent (2007), 75.6 per cent (2004), 73.1 per cent (2001); Māori: 20.4 per cent (2007), 22.0 per cent (2004), 22.4 per cent (2001); Pasifika: 2.8 per cent (2007), 2.9 per cent (2004), 2.2 per cent (2001); other ethnic groups: 8.8 per cent (2007), 8.7 per cent (2004), 9.8 per cent (2001). Proportions add up to more than 100 per cent as some people may have reported more than one ethnicity.

⁸³ SUDI is a term recently adopted in the New Zealand health sector. It encompasses both Sudden Infant Death Syndrome (SIDS), where the cause of death is unexplained, and instances of infant death in situations where a cause is ultimately determined, but the death was sudden and unexpected.

165. The greatest increase in ethnic inequalities in health is for post-streptococcal diseases, notably rheumatic fever. The Age-Standardised hospitalisation rate ratios (SRR) of 7.4 recorded for Māori versus European/Other in the 1989 to 1993 period increased to 22.8 in the 2004 to 2008 period. The SRR for Pasifika versus European/Other increased from 10.8 to 30.5 over the same period.

Health issues for other ethnic groups

166. Migrants who enter New Zealand as permanent residents, people on work permits allowing a stay of two years or more, refugees and asylum seekers are eligible for publicly funded health and disability services on the same basis as residents.⁸⁴

167. On arrival, the most common health issues for refugees are communicable diseases such as tuberculosis, hepatitis B and sexually transmitted infections. In addition to pre-migration experiences such as torture, loss and grief, the challenges of settlement may also be associated with depression and post traumatic stress disorder. Mental health services are available to most refugees on arrival and work is under way to improve primary health care, including mental health services. Most refugees are enrolled, wherever possible, with a primary health care service that specialises in refugee health care. The Government has acknowledged the high health needs of the refugee population by directing additional funding to primary health care centres providing “wrap around” care to refugees.

168. Asian people in New Zealand have a lower prevalence of most chronic diseases (other than diabetes) compared to persons of other ethnicities, and are less likely, for cultural reasons, to access health services.

Māori health initiatives

169. Since the last report, there have been a number of activities to improve Māori health. These initiatives have been aimed at both mainstream and Māori health providers because, as noted in the last report, the majority of Māori access mainstream services. *The New Zealand Health Strategy* (2000) sets out the Government’s current platform for action on health. The principles of the Strategy are:

- Acknowledging the special relationship between Māori and the Crown under the Treaty of Waitangi;
- Good health and wellbeing for all New Zealanders throughout their lives;
- An improvement in health status of those currently disadvantaged;
- Collaborative health promotion and disease and injury prevention by all sectors;
- Timely and equitable access for all New Zealanders to a comprehensive range of health and disability services, regardless of ability to pay;
- A high performing system in which people have confidence;
- Active involvement of consumers and communities at all levels.

170. *He Korowai Oranga* (2002) sets a ten year direction for Māori health development and provides guidance at a strategic level on ways to achieve Māori health improvements and tackle health inequalities. The overall aim is whānau ora, supporting Māori families to achieve their maximum health and well being. There are four pathways for action which specify how whānau ora will be achieved. This includes effective service delivery.

⁸⁴ Visitors to New Zealand who are not eligible for publicly funded health services can still access health care. However, they will be asked to pay for the cost of any services they receive.

Mainstream services are required to take greater responsibility for Māori health and to find ways to extend Māori models of health and healing into health and disability services. The Ministry of Health monitors the effectiveness of mainstream services through the use of Health Targets, which provide a specific focus for action to ensure mainstream services are of the highest quality and provided within the best possible time.

171. The Government's Better, Sooner, More Convenient primary health care initiative also informs the effectiveness of mainstream services by aiming to deliver more personalised primary health care for all New Zealanders, and proactively supporting high needs populations. Nine Better, Sooner, More Convenient collectives were selected for this initiative in 2009. One of these collectives, the National Hauora Coalition, is made up of a substantial number of Māori owned and Māori governed primary care services. The Coalition has already undertaken over 3,200 family health assessments and case management for over 1,200 high needs individuals.

172. New Zealand has managed to greatly reduce the equity gap in the uptake of immunisation programmes between ethnic population groups. Immunisation rates for Māori children aged two years of age have increased from 68 per cent in June 2008 to 88 per cent in June 2011. Immunisation rates for Pasifika children aged two years of age have increased from 75 per cent in June 2008 to 94 per cent in June 2011. The free human papillomavirus immunisation programme for year 11 school age girls has achieved higher coverage for Māori and Pasifika girls. These groups have traditionally suffered from higher rates of cervical cancer. The cohort of 2010 (born in 1997) achieved 65 per cent dose one coverage for Māori girls and 77 per cent dose one coverage for Pasifika girls. These results were higher than the 52 per cent dose one coverage for all eligible girls.

173. Rheumatic fever is a serious illness largely affecting school-aged children and young adults living in the North Island of New Zealand. Māori are 20 times more likely and Pasifika 40 times more likely to be hospitalised with acute rheumatic fever, compared to people of European or other ethnicity. The Government has allocated an additional \$12 million over the next four years to increase prevention initiatives, treatment services, community awareness and to improve health care worker training.

174. Māori health providers are a key feature of New Zealand's health and disability sector. They provide access to affordable and acceptable health services while also contributing to the economic well being of Māori communities and the Māori workforce. Over the past ten years these providers have continued to develop their capacity and capability to respond to the needs of their patients and communities.

175. Whānau Ora is a new, inclusive and culturally anchored approach to provide services and opportunities to whānau across New Zealand. The Taskforce on Whānau-Centred Initiatives identified six goals which will indicate when whānau outcomes have been met: self management, healthy lifestyles, full participation in society, participation in Te Ao Māori, economic security and wealth creation, and a cohesive, resilient and nurturing community. It empowers whānau and families as a whole and requires multiple Government agencies to cooperate with whānau and families rather than separately with individual family members. Whānau Ora will work in a range of ways, influenced by the priorities that whānau and families identify and choose. Whānau Ora is not a one size fits all approach. It is flexible to meet family needs and will evolve over time and be improved as required. The Government initially allocated \$134.3 million over four years for the implementation of Whānau Ora. In the Government's 2011/12 budget, a further \$30 million was invested over the next four years.

Pasifika health initiatives

176. New Zealand's rapidly growing Pasifika population also faces particular health issues. To address these, a number of Pasifika health initiatives have been established. In 2010, the Ministries of Health and Pasifika Island Affairs launched *'Ala Mo'ui: Pathways to Pacific Health and Wellbeing 2010–2014*. It sets out the Government's priority outcomes and actions that will contribute towards achieving better health outcomes for Pasifika:

- Pasifika workforce supply meets service demand
- systems and services meet the needs of Pasifika
- every dollar is spent in the best way to improve health outcomes
- more services are delivered locally in the community and in primary care
- Pasifika are better supported to be healthy
- Pasifika experience improved broader determinants of health.

177. *'Ala Mo'ui* replaced the previous *Pacific Health and Disability Action Plan* (2002) and *Pacific Health and Disability Workforce Development Plan* (2004). Pasifika clinical experts and community leaders were involved in the development of *'Ala Mo'ui*.

178. The Ministry of Health's Pacific Provider Development Fund (PPDF) was set up in 1998 to improve Pasifika access to health services by supporting the development of Pacific providers and workforce. In 2009, there were 39 Pacific health providers receiving the PPDF funding. The focus of PPDF changed in 2010 to strengthening the Pasifika workforce and accelerating the development of Pacific health providers. To reflect this change, the fund was renamed the Pacific Provider and Workforce Development Fund (PPWDF). Through the PPWDF funded Pacific Health Workforce Awards, the Ministry provided financial support to 207 Pasifika health students for the 2011 academic year. Many of these students studied in priority areas such as medicine, nursing, oral health and midwifery. Also through PPWDF, in 2010 approximately 10000 Pasifika secondary students were engaged in a campaign encouraging them to take science in the non-compulsory years.⁸⁵

179. Pasifika young women are leading the way nationally in getting immunised with the cervical cancer prevention vaccine.⁸⁶ From 2008 to July 2010, there has also been an increase in the proportion of Pasifika women who have a breast cancer screen every two years from 52 per cent to 60 per cent. From 2008 to 2009, there has been an increase in the proportion of "never smokers" among Pasifika Year 10 boys from 56 per cent to 58 per cent and Pasifika Year 10 girls from 48 per cent to 53 per cent.

People with disabilities

180. Disabled Māori are more likely than non-disabled Māori to be out of the labour force or, if available for work, to be unemployed and to have lower annual personal incomes. In 2006, the age-standardised disability rate for Māori was 19 per cent and the age-standardised rate for non-Māori was 13 per cent.

181. Government agencies are required to implement the New Zealand Disability Strategy which contains specific objectives promoting the participation of disabled Māori and disabled Pasifika. The Government also established a Ministerial Committee on Disability Issues in February 2009 to provide visible leadership and accountability for

⁸⁵ Non-compulsory years as Years 11-13. Science is a prerequisite to entering many health-related qualifications at tertiary education institutions.

⁸⁶ See paragraph 162.

implementing the New Zealand Disability Strategy. In 2010, the Government provided \$750,000 over three years to a collective of disabled people's organisations to run a monitoring programme on how disabled people experience their rights. One of the organisations involved works exclusively with blind Māori. The Ministry of Health is currently developing disability action plans for Māori and Pasifika.

Social services⁸⁷

182. In working to reduce the child poverty rate, the Government believes that paid work is the best way for low-income families to move out of poverty. To provide additional support for families, the Government has recently introduced a number of personal tax cuts, increasing the disposable income of New Zealand families. The Government continues to provide support to low-income households with dependent children through the Working for Families package.

183. The Future Focus package was launched in October 2010 to encourage and support sole parents receiving social security income support into paid work. This package introduced additional support to help sole parents into work and introduced obligations for sole parents with a youngest child aged six years or over to look for part-time work. The evaluation of the Future Focus package is showing significant impacts for sole parents. With the introduction of the new work obligations for Domestic Purposes Benefit – Sole Parent, exit rates increased sharply for clients with children aged six years or older. Interim findings show that 15 per cent of these clients who were the first to go through active case management were off the benefit six months later.

184. In February 2011, the Welfare Working Group, an independent advisory group appointed by the Government, reported on new ways to address long-term welfare dependency. In November 2011, the Government announced that New Zealand's welfare system will be reformed over the next three years with new benefits that recognise that most beneficiaries can and do want to work. The new system takes a long-term investment approach to getting people off welfare and into work. This means more intensive support will be provided to people capable of working but who are likely to remain on benefit long-term without that support. Under the new system three benefits will replace all of the main benefit payments by 2013. Benefit rates will remain at current levels and continue to be increased annually for inflation.

185. Each region of New Zealand has the flexibility to tailor specific contracted services and employment programmes to meet the needs of their client base. Some of these may include programmes and services specifically for Māori, Pasifika, refugees and migrants where there is demand.

186. The Ministry of Social Development is working to reduce the number of Māori clients on a benefit by developing a number of formal and informal partnerships. Ongoing activities include industry partnerships, training and development arrangements and promoting Māori participation in programmes like the Skills for Growth, Job Opportunities with Training, Community Max and Limited Service Volunteer courses. Limited Service Volunteers is a six week residential motivational training scheme run by the New Zealand Defence Force for 18 to 25 year olds. Māori and Pasifika young people may also be referred to Youth Transition Services. These services assist school leavers aged 15 to 19 to move to further education, training or work, or other activities that contribute to their long term economic independence and wellbeing. As at 1 July 2011, Māori made up 28 per cent

⁸⁷ For disaggregated statistical information on social benefit payments, please see annex C, tables 5 – 10.

of those participating in the Job Opportunities with Training programme and 63 per cent of the young people in the Community Max scheme.

187. In August 2011, the Government announced a new way of working with disengaged young people who are not in education, employment or training (NEET). This new approach puts the focus on the 13000 high risk 16 and 17 year olds who historically have been put in the 'too hard basket' and incentivises providers to get young people into sustained training, education or work. It will also formally link the Ministry of Social Development with the education system to share information about the young person and links NEET young people back into education or training using Youth Guarantee places.

188. For all 16 and 17 year olds, and 18 year old teen parents, the way they get financial assistance will change. There will be a much more managed system of payments. Young people receiving this financial assistance will receive intensive case management and support from service providers in the community. They will also have clear obligations, including being in education, training or work-based learning. Childcare assistance will be available for teen parents so they can return to education or training.

Children, Young Persons and Their Families

189. Since October 2010, Child, Youth and Family has piloted a new assessment, approval and support process for whānau caregivers that recognise the uniqueness of providing care for whānau members. This includes using a whānau hui to engage directly with the family. The whānau hui discusses the caregiver assessment process and requirements to sustain a child or young person's placement with whānau caregivers. Other agencies, community groups and iwi providers also provide support to deal with child abuse and children in care.

Housing

190. Although Māori account for approximately 15 per cent of the New Zealand population, they make up approximately 33 per cent of tenants in state housing. Most Māori state house tenants benefit from the Income-Related Rent subsidy. Māori also account for approximately 28 per cent of all recipients of the Accommodation Supplement. Households which include a Māori adult are more likely than households which include a European adult to be in housing stress, defined as having a housing cost outgoings-to-income ratio of greater than 30 per cent. But they are less likely than households which include a Pasifika adult or households which include any other non-European ethnic group adult to be in this position. The proportion of households including a Māori adult in housing stress rose from 21 per cent in 2004 to 25 per cent in 2009. Māori are also more likely than the population as a whole to be living in overcrowded housing, although the proportion of overcrowded Māori households has declined steadily.

191. The Government has recently launched two initiatives that focus specifically on promoting the development of housing for Māori. The Kainga Whenua scheme, launched in 2010, provides loans to enable housing to be developed on multiple owned Māori land. The Māori Demonstration Partnerships scheme is a component of the Housing Innovation Fund, launched in 2009, to support partnerships between Housing New Zealand and Māori organisations on a variety of housing projects.

192. Pasifika represent approximately 26 per cent of all state house tenants, despite accounting for 7 per cent of the New Zealand population. Housing stress in households where there was at least one Pasifika adult increased from 23 per cent in 2004 to 33 per cent in 2009. Overcrowding amongst Pasifika households is significantly more common than in the population as a whole, although it has declined over time. In 1986, 50 per cent of Pasifika households were overcrowded, falling to 43 per cent by 2006. Pasifika families

are also over represented in the Healthy Housing programme, which aims to ease overcrowding and to improve heating and ventilation in houses. To counter overcrowding, Housing New Zealand is building a larger proportion of houses with four or more bedrooms, especially in localities where Pasifika families account for a large share of the population.

Article 6

193. The Government is committed to its obligations under article 6 of the Convention that States parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to the Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.

194. Information provided in the previous report, about measures taken to ensure everyone has the right to seek from such tribunals just and adequate reparation or satisfaction for damage suffered as a result of discrimination is still applicable.⁸⁸ Additional steps New Zealand has taken over the reporting period in relation to its obligations under article 6 are set out below.

195. The Committee recommended that the State party adopt proactive measures aimed at addressing the lack of public knowledge of the most appropriate avenues for particular complaints, inadequate accessibility by vulnerable groups and a lack of confidence by such groups in their effectiveness.⁸⁹

196. The Human Rights Commission is engaged in a multi-year project to improve accessibility of its enquiries and complaints service. Strategies include:

- Enhancing the visibility of the Commission and the Complaints and Enquiries Service through a clear and comprehensive communications strategy;
- Focused attention on languages, including translation, and accessible formats;
- Links to referral agencies so they know when to refer matters to the Commission;
- Working with other complaints bodies to share information on enhancing accessibility and to implement some collective initiatives;
- Ensuring the Commission's systems are accessible;
- Directly reaching out to community groups where research has shown there are barriers to access.

197. The Commission is increasing the collection of demographic data from complainants to create a profile of the people who use the Commission's services and identify gaps. In light of this, the Commission has re-designed its website to increase prominence to the complaint option and to introduce an online complaint option. The complaint form is now available in plain English and six community languages. In addition to the website development two publications of case studies provide information about the complaints process. In 2008, the Commission worked with a range of Christchurch educational and community organisations to set up the Report It website.⁹⁰ The Commission developed a similar reporting system in Nelson the following year. These

⁸⁸ CERD/C/NZL/17, paras 221 and 222.

⁸⁹ CERD/C/NZL/CO/17, para 26.

⁹⁰ For more information about the Report It website, see above, paragraph 81.

models are being promoted nationally to improve accessibility to the Commission and other complaints mechanisms. The Commission participated in the development and implementation of a central website that links to all participating complaint organisations.⁹¹

Article 7

198. The Government is committed to its obligations under article 7 of the Convention to undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnic groups.

Treaty of Waitangi

199. Archives New Zealand is the official guardian of New Zealand's heritage documents, including the Treaty of Waitangi. Public archives are evidence of Government's activities over time and are an important accountability tool. They inform our understanding of New Zealand's history, and document the relationship between Māori and the Crown. The public archives are often used to research Treaty of Waitangi claims and to trace whakapapa. To increase visitors' understanding of the significance of the Treaty, a Treaty of Waitangi exhibition is under development at Archives New Zealand's Wellington Repository. The Museum of New Zealand Te Papa Tongarewa recently put on the exhibition of "E Tū Ake: Standing Strong". The exhibition is now touring internationally. Tino rangatiratanga, the ability to choose one's own destiny, lies at the heart of the exhibition in which ancestral Māori treasures from New Zealand stand alongside contemporary works.

Māori television

200. Māori Television is New Zealand's national indigenous broadcaster and is an important initiative to promote and revitalise the Māori language. The Māori Television Service Act 2003 sets out that the channel should be a high quality, cost effective television provider which informs, educates and entertains, broadcasts mainly in te reo Māori and has regard to the needs of children participating in immersion education and all people learning Māori. A second channel, Te Reo, was launched in 2008. It broadcasts in 100 per cent te reo Māori during prime time. The aim is to better meet the needs of fluent te reo Māori speakers, te reo Māori learners and to enable New Zealanders to have full immersion te reo Māori households.

Māori radio

201. Te Māngai Pāho is a Crown entity that, in part, funds a national network of Māori radio stations and Māori language television programmes, radio programmes, music CDs and news services. Iwi radio frequency licences are issued to the 21 iwi stations. These licences stipulate that frequencies must be used for the purpose of promoting Māori language and culture and broadcasting to a primarily Māori audience. NZ On Air targets \$4.5 million annually of funding to niche audiences rarely served by national television and radio.⁹²

⁹¹ www.complaintline.org.nz.

⁹² These include the following communities: Philippines, India, France, Niue, Croatia, Nepal, Pacific nations, Ireland, Sri Lanka, Cambodia, Korea, South Africa, Bangladesh, Russia, Indonesia, Latin

Ministry for Culture and Heritage

202. The Ministry for Culture and Heritage funds a number of agencies which work to promote understanding and tolerance of the many cultures which make up the New Zealand identity. These agencies fund, develop and support Māori and other ethnic arts and heritage and hold events and exhibitions to celebrate and educate about cultural diversity and tolerance.⁹³

Education curriculum

203. In 2008, the Ministry of Education introduced a revised New Zealand curriculum that includes the following core principles:

- *The Treaty*: acknowledging the principles of the Treaty of Waitangi and the bicultural foundations of New Zealand. All students must have the opportunity to acquire knowledge of te reo Māori;
- *Cultural diversity*: reflecting New Zealand's cultural diversity and valuing the histories and traditions of all its people;
- *Inclusion*: being non-sexist, non-racist, and non-discriminatory; ensuring students' identities, languages, abilities and talents are recognised and affirmed.

204. The Ministry of Education has also developed Te Whariki, a bicultural curriculum for early childhood services.

Interfaith

205. The Religious Diversity Network, facilitated by the Human Rights Commission, supports and publicises groups that undertake interfaith activities, projects and programmes that contribute to religious tolerance, public understanding of religions, beliefs and interfaith cooperation for peace, security and harmonious relations. In addition, the Commission first published the Statement on Religious Diversity in 2007 and it has since been endorsed by a wide range of faith communities. It provides a basis for ongoing discussion of religious diversity in New Zealand. The Statement sets out a number of principles which are grounded in international human rights treaties and in the Bill of Rights Act, including freedom of religion, conscience, belief and expression; the right to safety and security; and the right to reasonable accommodation of diverse religious.

IV. Tokelau

206. Reference should be made to previous New Zealand reports for the situation in Tokelau. For further information, reference should be made to the report to Parliament by the Administrator of Tokelau and to the working papers issued each year by the United Nations Special Committee on Decolonisation.

207. The 1400 people of Tokelau live in villages on three small atolls separated from each other by 60-100kms of ocean. Its nearest neighbour is Samoa, located approximately 500 kilometres to the south. Each atoll is a circular set of low lying islets around a central

America, Somalia, Assyria, Zimbabwe and China. There are also shows for faith communities, recent migrants and recently arrived refugees from Afghanistan, Iraq and Ethiopia.

⁹³ Examples include the recent Te Papa exhibitions Anne Frank and The Mixing Room — Stories from young refugees in New Zealand, Creative New Zealand's support of Lemi Ponifasu's Mau Dance company, the Indian Ink Theatre group and Mau Muaiava visual arts, and Te Matatini's support of kapa haka.

lagoon. The total land area is 12 square kilometres of sand and coral, there is virtually no soil, and edible vegetation is mainly restricted to coconut and breadfruit trees.

208. In each village, the focus is on caring for individual members of the community in a communal manner. One of the main tenets of Tokelauan society is “inati” or sharing and cooperation between the whole community. Due to the homogeneity of its people and the inclusiveness of Tokelauan society, racial discrimination is neither present nor a matter of concern.

209. With the support of New Zealand and the United Nations Special Committee on Decolonisation, Tokelau held referenda on self governance in 2006 and 2007. Both referenda failed by a small margin to reach the threshold for constitutional change. Following these referenda, there was agreement between New Zealand and Tokelau that deliberations on constitutional change would be set aside while priority effort was given to improvement of economic and social services on the atolls. In reality, Tokelau is governed on a daily basis by Taupulega (village elders) on each of the atolls.

210. Tokelau has adopted the Tokelau National Strategic Plan 2010-2015 to guide decision making for a five-year period. The Plan includes ensuring good governance, quality education and health care for all on Tokelau. It also includes a commitment to protect the unique local language and culture.

211. Tokelau continues to consider what further steps it might take in light of the obligations accepted by New Zealand on its behalf under the Convention.

212. Tokelau is assured of the continuing interest and support of the New Zealand Government in its development of self government practices in various settings. The statement also emphasises that the State seeks to treat all faith communities and those who profess no religion equally before the law, and that New Zealand has no official or established religion. It encourages education about our diverse religious and spiritual traditions, respectful dialogue, and positive relationships between Government and faith communities.
