



General Assembly

Distr.
GENERAL

A/HRC/12/NGO/43
8 September 2009

ENGLISH ONLY

HUMAN RIGHTS COUNCIL
Twelfth session
Agenda item 6

UNIVERSAL PERIODIC REVIEW

**Written statement* submitted by Amnesty International,
a non-government organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 August 2009]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

The United Nations Declaration on the Rights of Indigenous Peoples

Amnesty International welcomes New Zealand's response to recommendations to support the UN Declaration on the Rights of Indigenous Peoples saying that the government "would like to move to support" the Declaration.¹ This is encouraging and long overdue and Amnesty International hopes this commitment will soon come to fruition. The organization has consistently called for support of the Declaration and for its provisions to be reflected in domestic legislation. We consider that the Declaration would provide a good platform to build trust and a sound working relationship between Maori, iwi and hapu and the government. New Zealand's endorsement of the Declaration would also send an important signal to the international community that the government is seriously committed to promoting and protecting Indigenous rights.

- Amnesty International calls on the government to announce its clear and unambiguous support of the Declaration on the Rights of Indigenous Peoples at the earliest possible opportunity.

Protection of the human rights of Indigenous peoples,

A large number of states raised the issue of discrimination against indigenous peoples, in particular Maori, including in the areas of employment, healthcare, education, and the criminal justice system. Of particular importance are recommendations calling on the government to continue the dialogue with Maori regarding the Foreshore and Seabed Act of 2004, to explore ways of mitigating its discriminatory effects and to provide compensation to Maori for their loss of land.² Amnesty International welcomes New Zealand's acceptance and agreement in principle with these recommendations.

Amnesty International also welcomes the recent review of the Foreshore and Seabed Act 2004 and the report by the Independent Ministerial Board in which it is recommended that the Act be repealed and new legislation drafted. These proposals are based on the framework of the Treaty of Waitangi and international human rights standards.

- Amnesty International recommends that the new legislation fully protect the human rights of Maori as well as promote the general public interests, and enshrine the principles of recognition of customary rights, due process, good faith, and compensation.

Prison conditions

Amnesty International welcomes New Zealand's acceptance of the need to ensure that prisoners are treated humanely, including in privatized prisons.³ As the government has pointed out, the Corrections Act 2004 requires that all prisoners' sentences are administered in a safe, secure, humane and effective manner. Amnesty further welcomes the government's assurance that proposed amendments to the Act allowing for the privatization of prisons will uphold these requirements.

¹ A/HRC/12/8/Add.1, paragraph 6.

² A/HRC/12/8, paragraph 81, recommendations 58, 59 and 60.

³ A/HRC/12/8/Add.1, paragraph 31

New Zealand has obligations under international law to ensure prisoners are treated humanely and in accordance with their human rights. The privatization of prisons will need to ensure that there is not a reduction of accountability in this core public function.

- Amnesty International calls on the government to ensure that conditions in privatized prisons comply with the UN Standard Minimum Rules for the Treatment of Prisoners and the Basic Principles for the Treatment of Prisoners.

Ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights

Amnesty International is disappointed to note that New Zealand is not currently considering ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.⁴ Ratifying the Optional Protocol would allow the Committee on Economic Social and Cultural Rights to receive communications and complaints from individuals and groups about violations of their economic, social and cultural rights and would mark a significant step towards realizing these rights.

The focus on civil and political rights and discrimination in New Zealand's Bill of Rights Act 1990 and Human Rights Act 1993, respectively, shows a general lack of support at government level for the justiciability of economic, social and cultural rights and lack of recognition of the need for practical measures to ensure those rights are protected.

- Amnesty International encourages the government to explore options for the early ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and to ensure greater recognition of economic, social and cultural rights in domestic legislation.

Follow up to the UPR

Amnesty welcomes the government's commitment, via the acceptance of recommendation 64, to ensuring regular consultation with civil society in the follow-up to UPR recommendations.

⁴ A/HRC/12/8/Add.1, paragraph 4

