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NGO information to the Human Rights Committee

For consideration when compiling the List of Issues on the Fifth Periodic Report of New Zealand under the International Covenant on Civil and Political Rights

8 June 2009

Overview

1. This preliminary report provides an outline of some issues of concern with regard to the state party's compliance with the provisions of the International Covenant on Civil and Political Rights (the Covenant). Its purpose is to assist the Human Rights Committee (the Committee) with its consideration of New Zealand's Fifth Periodic Report (the Report) in this initial stage of the Country Report Task Force compiling the list of issues. The contents are based in part on comments submitted by Peace Movement Aotearoa and Aotearoa Indigenous Rights Trust to the Ministry of Justice on the state party's draft Report, on NGO reports compiled for the Universal Periodic Review of New Zealand, and on information provided by other NGOs for this document. There are five main sections:

A) Information on Peace Movement Aotearoa;

B) Indigenous Peoples' Rights:
- **i)** Article 1,
- **ii)** Article 26,
- **iii)** Article 27,
- **iv)** Articles 1 and 27,
- **v)** Impact of foreign policy, New Zealand companies and government investments on indigenous communities in other parts of the world;

C) Lack of effective remedy for breaches of civil and political rights (Article 2);

D) Operation Eight (Articles 7, 9, 17, 24, 26 and 27);

E) Some state policy and pending legislation of concern (various Articles).

2. More detailed information will be provided on these and other issues in parallel reports from Peace Movement Aotearoa and other NGOs in advance of the Committee's consideration of the state party's Report.

3. We thank you for this opportunity to provide information to the Country Report Task Force compiling the list of issues on New Zealand.

A) Information on Peace Movement Aotearoa

4. Peace Movement Aotearoa is the national networking peace organisation, registered as an incorporated society in 1982. Our purpose is networking and providing information and resources on peace, social justice and human rights issues. Our membership and networks mainly comprise Pakeha (non-indigenous) organisations and individuals; and we currently have just under two thousand people (including representatives of eighty three peace, social justice, church, community, and human rights organisations) on our mailing list.

5. Promoting the realisation of human rights is an essential aspect of our work because of the crucial role this has in creating and maintaining peaceful societies. In the context of Aotearoa New Zealand, our main focus in this regard is on support for indigenous peoples' rights - in part as a matter of basic justice, as the rights of indigenous peoples are particularly vulnerable where they are outnumbered by a majority and often ill-informed non-indigenous population as in Aotearoa New Zealand, and because this is a crucial area where the performance of successive governments has been, and continues to be, particularly flawed. Thus the Treaty of Waitangi, domestic human rights legislation, and the international human rights treaties to which New Zealand is a state party, and the linkages among these, are important to our work; and any breach or violation of them is of particular concern to us.

6. We have previously provided NGO parallel reports to treaty monitoring bodies and Special Procedures as follows: to the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People in 2005[1]; the Committee on the Elimination of Racial Discrimination (CERD) in 2007[2]; and, jointly with the Aotearoa Indigenous Rights Trust and others, to the Human Rights Council for the Universal Periodic Review of New Zealand in 2008[3].

B) Indigenous Peoples' Rights

i) Article 1

7. There has been a persistent pattern of government actions, policies and practices which discriminate against Maori (collectively and individually), both historically and in the present day. Underlying these has been the denial of the inherent and inalienable right of self-determination - the self-determination that was exercised by hapu and iwi Maori prior to the arrival of non-Maori; which was proclaimed internationally in the 1835 Declaration of Independence; the continuance of which was guaranteed in the 1840 Treaty of Waitangi (the Treaty); and, in more recent years, was confirmed as a right for all peoples, particularly in the shared Article 1 of the two international human rights Covenants.

8. Our comments on the state party's draft Report in relation to the right of self-determination included the following:

8.1 "If, as can be assumed from the government's approach to the United Nations Declaration on the Rights of Indigenous Peoples[4], as well as their behaviour and public comments in relation to Maori in other arenas, the government does not recognise this right as applying to Maori, then comment to that effect should be included in the Periodic Report. It would be useful for that to be accompanied by an explanation for this position which is incompatible with both human rights Covenants.

8.2 "In addition, an explanation to the Committee as to why the government does not honour the Treaty of Waitangi with regard in particular to the guarantee of the continuance of tino rangatiratanga, which can be seen as somewhat analogous to the right of self-determination, would assist with fully informing Committee members of the government's position on indigenous peoples' rights."

- ***We invite the Country Report Task Force to seek more information on why the state party does not recognise the right of self-determination with respect to hapu and iwi Maori.***

ii) Article 26

9. Our comments on the state party's draft Report with regard to the sections on Article 26 and the Foreshore and Seabed Act, included the following:

9.1 "We note that the sections in the draft Report about the foreshore and seabed legislation do not refer to the 2005 decision of the Committee on the Elimination of Racial Discrimination[5] (CERD) which, among other things, said that the Foreshore and Seabed Act contained discriminatory aspects, and recommended the government should resume dialogue with the Maori community with regard to the legislation, in order to seek ways of mitigating its discriminatory effects, including through legislative amendment, where necessary; nor to the government's unfavorable response to that decision. There is no reference to the 2007 CERD Concluding Observations[6] which repeated that recommendation.

9.2 "Similarly, there is no reference to 'Mission to New Zealand', the 2006 Report of the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People, which included the recommendation that: "The Foreshore and Seabed Act should be repealed or amended by Parliament and the Crown should engage in treaty settlement negotiation with Maori that would recognize the inherent rights of Maori in the foreshore and seabed and establish regulatory mechanisms allowing for the free and full access by the general public to the country’s beaches and coastal area without discrimination of any kind"[7]; nor is there any reference to the government's unfavorable response to that Report.

9.3 "Furthermore, with regard to the comment in the draft Report "the government carefully examined the issue of whether the legislation might be discriminatory based on race" - it would be useful in the interests of balance to indicate that both the Waitangi Tribunal and the New Zealand Human Rights Commission urged the

government not to proceed with the legislation precisely because it involved discrimination, and other human rights violations, as well as breaches of the Treaty of Waitangi."

10. We note that none of these points have been included in the final Report. However, since the Report was submitted, and following the change of government last year, on 4 March 2009 the state party announced a Ministerial Review of the Foreshore and Seabed Act 2004 (the Review)[8], establishing a Panel to provide advice to the Attorney-General by 30 June 2009.

11. While the Review is a positive step forward, some of the Review processes have an unfortunate similarity to the consultation processes prior to the enactment of the Foreshore and Seabed Act. In particular, there is only a six week public consultation period, the time constraints have not permitted the Review Panel to speak directly with all hapu and iwi Maori to ascertain their views on the ways forward, and hapu and iwi Maori have been included in the general public submissions process rather being accorded the respect they are entitled to as parties to the Treaty.

- ***We invite the Country Report Task Force to seek more information on the outcome of the Review, whether the state party intends to repeal the Foreshore and Seabed Act, and how it will ensure a more positive way forward, that fully respects the rights of Maori, is set in place.***

iii) Article 27

12. Our comments on the state party's draft Report with regard to Article 27, included the following:

12.1 "This section in the draft Report appears to indicate a very narrow understanding of 'culture' in that it does not refer to the ability of hapu and iwi Maori to, for example, freely determine their political status (see also comments under Article 1 above), nor the government's position on that. In addition, we find it curious that this section only refers to Maori, in part because of the question as to whether the rights of indigenous peoples in the twenty-first century are more appropriately located within the right of self-determination and related provisions in Article 1, and also because there is no reference to the diverse ethnic, religious and linguistic minorities in this country. "

- ***We note that none of these points are reflected in the final Report, and invite the Country Report Task Force to seek more information from the state party about these matters.***

iv) Articles 1 and 27

13. In their comments on the state party's draft Report, the Aotearoa Indigenous Rights Trust included the following section on the Treaty settlement process:

13.1 "The Treaty of Waitangi settlement process is unsatisfactory. Specific aspects of concern include:

- the requirement that all claims are extinguished fully and finally;
- the Crown's refusal to consider Maori self-determination;
- the Crown's refusal to consider Maori interests in oil and gas;
- unfairness between settlements e.g., the Tainui and Ngai Tahu settlements include relativity clauses whereas others do not, which could well lead to financial disparities between settlements;
- the failure to provide fair redress;
- there is no independent and impartial oversight of the Treaty of Waitangi settlement process and the courts have been unwilling to intervene; and
- the condition that the Crown will only negotiate with 'large natural groupings' into which Maori groups do not always naturally fall has created tensions within the groupings.

13.2 "The courts will not address claims of unfairness in Treaty of Waitangi settlements because they consider them political issues.

13.3 "The Waitangi Tribunal has recently criticised governmental Treaty settlements policy. For example, it stated in relation to one settlement that as a result of governmental actions in its Treaty settlement "Te Arawa is now in a state of turmoil as a result. Hapu are in contest with other hapu and the preservation of tribal relations has been adversely affected."[9]

13.4 "The Treaty of Waitangi is not enforceable unless incorporated into legislation.

13.5 "New Zealand's state report should reflect that Parliament's recent tendency to prescribe the meaning of Treaty of Waitangi principles in legislation means that the courts have significantly less scope to hold the Crown to robust Treaty of Waitangi obligations. It also aggravates the problem that one party to the Treaty of Waitangi is determining the content of its own obligations and how it must set about complying with them.

13.6 "New Zealand's state report should mention that the Waitangi Tribunal's decisions are not binding on the Government and that the Government has rejected a number of decisions recently (including reports in relation to the foreshore and seabed, and oil and gas)."

14. Furthermore, legislation was enacted in 2006 which imposed a final deadline of September 2008 for the submission of all historical claims (as defined by an arbitrary date) to the Waitangi Tribunal. The state party intends to have settled all such claims by 2014.

- ***We invite the Country Report Task Force to ask the state party how it will ensure that the Treaty settlements process complies, and can be legally compelled to comply, with the Treaty of Waitangi and with Covenant rights.***

v) Impact of foreign policy, New Zealand companies and government investments on indigenous communities in other parts of the world

15. In a general sense, the state party's foreign policy has an impact on the enjoyment of Covenant rights by indigenous peoples in other parts of the world, including through its opposition to the United Nations Declaration on the Rights of Indigenous Peoples[10]; its deployment of combat troops overseas (in particular, the Special Air Service); and its habit of negotiating free trade agreements without the involvement of indigenous peoples who are included by default in such deals.

16. There are two additional areas of concern in this regard - the impact of New Zealand companies and of government investments. With regard to the first, so far as we are aware, the government makes no attempt to assess the impact of New Zealand companies on indigenous communities overseas, nor are their activities regulated. In our report to CERD in 2007, we provided information on two companies of particular concern at that time, Fonterra and Rubicon.[11]

17. With regard to the impact of government investments on indigenous communities in other parts of the world, one example is the operation of the New Zealand Superannuation Fund (the Fund). It is an investment fund that was established under the Superannuation and Retirement Income Act 2001 to accumulate and invest government contributions to partially provide for the future cost of superannuation[12].

18. The Fund began investing in 2003, and its latest published equity portfolio (June 2008[13]) includes many overseas corporations that have well-documented records in human rights and other abuses of indigenous peoples. To provide just three examples:

a) Exxon Mobil Corp: investment of $70,742,188 as at June 2008. Issues with its operations include complicity in human rights violations at its liquid natural gas plant in Aceh[14], and destruction of land and livelihoods in Chad[15].

b) Freeport McMoRan and Rio Tinto: investment of $926,386 in Freeport McMoRan, plus an investment of $16,485,479 in the Rio Tinto Group ($12,804,145 in Rio Tinto Plc, Britain, and $3,681,334 in Rio Tinto Ltd, Australia). Rio Tinto has a 40 per cent joint venture interest[16] in the Freeport McMoRan Grasberg mine in West Papua. Freeport "has an unparalleled record of human rights and environmental abuse"[17] in relation to that mine - it has created a 230 square kilometre barren wasteland of dumped mine tailings[18], and the destruction of the local environment is visible from space[19]. The impact of the mine is particularly devastating for the indigenous Amungme and Kamoro people who have lost the traditional lands and aquatic resources that they rely on for survival, as well as being forcibly displaced from their homes and villages[20]. The Norwegian Pension Fund excluded Freeport (in February 2006)[21], Rio Tinto Plc and Rio Tinto Ltd (in September 2008)[22] from its investment portfolio because of concerns about the severe environmental impact of the Grasberg mine.

In 2005, the New York Times revealed that from 1998 through to 2004, Freeport gave Indonesian "military and police generals, colonels, majors and captains, and military units, nearly $20 million (US). Individual commanders received tens of thousands of dollars, in one case up to $150,000, according to the documents."[23] That included

payments to the Mobile Brigade which has been associated with "numerous serious human rights violations, including extrajudicial killings, torture, rape, and arbitrary detention".[24]

c) Barrick Gold: investment of $3,263,802 as at June 2008. Issues with its activities include serious human rights abuses and environmental degradation in, for example, Papua New Guinea[25]. The Norwegian Fund excluded Barrick Gold from its investment portfolio in January 2009[26] because of concerns about the severe environmental impact of its activities in Papua New Guinea. Placer Dome (now owned by Barrick Gold) was one of the companies named in the information provided by the Western Shoshone under CERD's Early Warning and Urgent Action Procedure[27], and legal action is currently underway to prevent Barrick Gold mining activities in Western Shoshone territory[28].

- ***We invite the Country Report Task Force to seek more information from the state party about the impact of its foreign policy, of the activities of New Zealand companies, and of government investments, on the enjoyment of Covenant rights by indigenous communities in other parts of the world.***

C) Lack of effective remedy for breaches of civil and political rights (Article 2)

19. We note that the Committee's Concluding Observations on New Zealand in 2002[29], recommended at point 8: "The State party should take appropriate measures to implement all the Covenant rights in domestic law and to ensure that every victim of a violation of Covenant Rights has a remedy in accordance with Article 2 of the Covenant."

20. The state party has made no attempt to amend the New Zealand Bill of Rights Act 1990 so that it includes all of the Covenant rights. Furthermore, the constitutional arrangements remain unchanged so that there is still no effective remedy for an Act of parliament or action of the Executive that breaches any Covenant right, as indicated in our comments on the draft report:

20.1 "With regard to effective remedies where a violation of any rights or freedoms has occurred, the draft Report does not refer to the lack of provision of any effective remedy where such violations have occurred because of an Act of parliament, the foreshore and seabed legislation being one example of that during the period covered by the Periodic Report.

20.2 "Related to this, we note that while there is some comment in the draft Report on the establishment of the Supreme Court (Part 1: General, paragraphs 8 - 11), there is no reference to the uncertainty as to whether or not it will in fact operate as a 'Supreme' Court due to the constitutional arrangements that have arisen here from the notion of parliamentary supremacy.

20.3 "Furthermore, while these arrangements - and thus the possibility for rights violating legislation to be enacted - continue, the government is not only in breach of the requirement that state parties must provide effective remedies for any violation,

but also with regard to the obligation to take measures to prevent a recurrence of such, an obligation integral to Article 2.

20.4 "It would be useful for an explanation of the government's position on this to be provided in the Periodic Report."

21. Additionally, the Treaty is not legally enforceable against the legislature either, and requires legislative incorporation to be enforced generally (as referred to in section B.iv above). In 2006 the government supported a Bill in Parliament to delete the principles of the Treaty from all legislation, as part of an agreement with a minor political party. This caused unnecessary and unwarranted distress for Maori over the seventeen month period before it was voted out. Furthermore, in recent years the government has refused to include references to the Treaty in new legislation, for example, the Policing Act 2008 and Climate Change Response (Emissions Trading) Amendment Act 2008; and has given directions that there will no longer be any direct references to the Treaty or its principles in new policy, actions plans or contracts in (for example) the health and disability sector.[30]

- ***We invite the Country Report Task Force to ask the state party how it intends to remedy these deficiencies in its constitutional arrangements to ensure the full protection of Covenant (and other) rights, and to ensure that effective remedies are available for any violations of rights occurring through an Act of parliament or action of the Executive.***

D) Operation Eight (Articles 7, 9, 17, 24, 26 and 27)

22. On 15 October 2007, police, Armed Offender Squad and Special Tactics Group officers began 'Operation Eight', a series of "anti-terrorism" dawn raids that took place in Tuhoe and other communities in different parts of the country. While non-Maori as well as Maori were affected by the raids, Maori individuals, families and communities were treated very differently.[31] In our comments on the draft Report, we included the following with regard to Operation Eight:

22.1 "If, as stated in the Ministry's letter inviting comments on the draft, the Periodic Report is to cover the period from 1 January 1997 to December 2007, then an explanation of the "anti-terrorism" raids which began on 15 October 2007 and associated events should be included.

22.2 "Provisions of the above Articles appear to have been breached by the actions of police, Armed Offender Squad and Special Tactics Group officers in the Ruatoki Valley and elsewhere - including the blockading of a Maori community by armed and masked officers, the targeting with laser gun sights, separation of children from their parents, detention, and photographing of children and adults who were not under arrest nor subsequently charged with any offence; the search of homes and seizure of property belonging to persons who were not under arrest nor subsequently charged with any offence; and the different treatment of Maori and non-Maori individuals and families; as well as the reported denial of due process to those individuals who were arrested; and comments by government politicians [at the time], including the Prime

Minister, who have referred to the existence of terrorist camps and made other assertions as though they were facts rather than matters yet to be proved or disproved in a court."

- ***We invite the Country Report Task Force to ask the state party what it has done about ascertaining whether or not Covenant rights were violated during Operation Eight, and what it intends to do by way of providing remedies for those affected***.

E) Some state policy and pending legislation of concern (various Articles)

23. Below are some examples of state policy and pending legislation which is of concern with regard to Covenant rights; more information on these, and other examples, will be provided in parallel reports from NGOs in advance of the Committee's consideration of the state party's Report.

i) Taser deployment

24. A twelve month trial of tasers was undertaken by the New Zealand Police from 1 September 2006 to 1 September 2007. Even from the extremely limited amount of information initially released by the police to the Campaign Against the Taser (a consortium of NGOs which monitored the trial), it was clear that a number of incidents involving inappropriate and sometimes dangerous use of the taser had occurred during the trial, and that tasers had been used disproportionately against Maori individuals, individuals from Pacific Island communities, and individuals in a state of mental health crisis[32]. The subsequent release of more comprehensive information about the trial confirmed these observations.

25. Without any public consultation, and disregarding the widespread concern about the trial here, increased concern about taser use in overseas jurisdictions, and the concerns expressed about taser use by the Committee Against Torture[33], in August 2008 the Police Commissioner announced that the taser would be introduced to the police arsenal. On 10 December 2008, the New Zealand Police Taser Project Manager announced that the introduction of tasers to the police districts involved in the taser trial in 2006/07 had begun; and the 2009 Budget provided funding for tasers to be issued to frontline officers in all police districts.

26. Concerns about the taser include: that they remain unacknowledged as potentially lethal weapons; that they will be used as a tool of routine force as opposed to one of last resort; that individuals in vulnerable groups (such as those in mental health crisis or children) will be tasered; and that there will be disproportionate use of tasers against individuals from Maori and Pacific Island communities. As the standard operating procedures for taser use were breached repeatedly during the taser trial period, a time when a high degree of compliance would have been expected, we are of the view that the introduction of the taser should be suspended until there has been a thorough and independent investigation into its use and effects. Any subsequent decision must be made at Ministerial level, not by the Police Commissioner alone, with every effort made to ensure a meaningful democratic process of consultation.

ii) Compensation for persons wrongfully convicted and imprisoned

27. The state party's policy with regard to the payment of compensation for persons wrongfully convicted and imprisoned, is that a Queen's Counsel has to be satisfied that the claimant is innocent, on the balance of probabilities, of the crime for which they were convicted and imprisoned[34] - even if the conviction has subsequently been overturned in court, or a re-trial has resulted in a not guilty verdict. This appears to breach the Covenant right to be presumed innocent until proved guilty.

iii) Double bunking in prisons

28. The May 2009 Budget provided additional funding for the Department of Corrections to double bunk 1,000 more prisoners in five prisons next year, a move described by the Corrections Association New Zealand (which represents 3,000 prison officers) as adding to prison overcrowding and making their jobs dangerous by increasing prisoner unrest[35]. It is difficult to imagine how the Covenant rights of prisoners will be protected once this scale of double bunking begins.

iv) Immigration Bill

29. The Immigration Bill, introduced in July 2006, is indicative of the direction the state party has taken with regard to immigration. The Bill, described as "draconian", has caused widespread concern. Overall, it was drafted from the perspective of security services and border control, undermining the fulfillment of New Zealand's domestic and international human rights obligations, as well as findings of the New Zealand Courts. Cumulatively, the approaches presented in the Bill would further undermine the institution of asylum. [36]

30. Concerns include: an excessively broad and vague definition of security; the extended definition and use of classified information; the ability to refuse consideration of a claim for asylum on the basis of having passed through a 'safe third country'; the entrenchment in legislation of advance passenger processing; the ability to use classified information in refugee determination; the extension of the use of biometrics, raising privacy issues; and the extension of detention periods. [37]

31. **Note**: information on related matters such as the Immigration Profiling Group, Security Risk certificate process, interdiction of asylum seekers, and more, is available in the 'NGO Coalition Submission to the Universal Periodic Review: On economic, social, cultural, civil and political rights, including immigration issues, and the human rights of refugees and asylum seekers'.[38]

v) Other pending legislation of concern

32. There is currently a range of pending legislation on 'law and order' matters, all of which is of concern with regard to the protection of Covenant rights. Four examples are:

◦ Corrections (Contract Management of Prisons) Amendment Bill - "to allow competitive tendering for contracts by private sector organisations to manage prisons"[39];

◦ Sentencing and Parole Reform Bill - "the purpose of this Bill is to create a three stage regime of increasing consequences for the worst repeat violent offenders", including mandatory life sentences without parole for those convicted of a third listed offence (essentially 'three strikes' legislation similar to that in some overseas jurisdictions)[40];

◦ Sentencing (Offender Levy) Amendment Bill, "which will impose a levy of $50 on [all] offenders at the point of sentencing"[41]; and

◦ Criminal Investigations (Bodily Samples) Amendment Bill - "to allow Police wide powers to collect DNA from persons before being charged or convicted, such as matching DNA profiles against samples from unsolved scenes of crime"[42].

- ***We invite the Country Report Task Force to seek more information from the state party on the examples of policy and pending legislation outlined in this section, in particular on how it intends to ensure the full protection of Covenant rights in each case.***

Thank you for your attention to our comments.

References

[1] 'Submission to the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People', 23 November 2005 at http://www.converge.org.nz/pma/CERD71-PMA1.pdf
[2] 'NGO Report to the Committee on the Elimination of Racial Discrimination', Peace Movement Aotearoa, 21 May 2007: Report at http://www.converge.org.nz/pma/CERD71-PMA.pdf - Annex 1 at http://www.converge.org.nz/pma/CERD71-PMA1.pdf - Annex 2 at http://www.converge.org.nz/pma/CERD71-PMA2.pdf and - Annex 3 at http://www.converge.org.nz/pma/CERD71-PMA3.pdf
[3] 'Joint submission to the Universal Periodic Review of New Zealand: Indigenous Peoples' Rights and the Treaty of Waitangi', coordinated by Aotearoa Indigenous Rights Trust and Peace Movement Aotearoa, November 2008, at http://www.converge.org.nz/pma/towupr09.pdf Annex A at http://www.converge.org.nz/pma/towupr09a.pdf
[4] It should be noted that since this was written, the government has indicated it may announce support for the UN Declaration. A petition coordinated by Peace Movement Aotearoa, supported by submissions from other NGOs, calling for such an announcement to be made is currently being considered by the Foreign Affairs, Defence and Trade Select Committee; and discussions between the governing National Party and the Maori Party are progressing this too.
[5] Decision 1 (66): New Zealand CERD/C/DEC/NZL/1
[6] CERD/C/NZL/CO/17
[7] E/CN.4/2006/78/Add.3: 92
[8] Information about the Review is at http://www.justice.govt.nz/ministerial-review Some of the NGO submissions to the Review are available at http://www.converge.org.nz/pma/fsarev.htm

[9] See, for example - 'Back to drawing board on Treaty settlements', 16 January 2007 at http://www.nzherald.co.nz/maori/news/article.cfm?c_id=252&objectid=10445985 and 'Crown caned again over Treaty settlement process', 19 June 2007 at http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10446541

[10] See reference at note 4

[11] Unfortunately, time has not permitted us to provide current information on these two companies for this report; for our comments in 2007, see NGO Report to the Committee on the Elimination of Racial Discrimination, Section J, pp 17 -19, at http://www.converge.org.nz/pma/CERD71-PMA.pdf

[12] NZ Superannuation Fund website at http://www.nzsuperfund.co.nz

[13] Equity Portfolio as at 30 June 2008, NZ Superannuation Fund, at http://www.nzsuperfund.co.nz/files/Equity%20Holdings%20by%20Country%20300608.pdf

[14] See, for example - 'Acehnese win right to sue Exxon Mobil', 29 August 2008 at http://www.abc.net.au/ra/programguide/stories/200808/s2350596.htm - 'Exxon Human Rights abuse in Aceh', 3 September 2008 at http://www.business-humanrights.org/Links/Repository/179048/link_page_view and - 'A Matter of Complicity? Exxon Mobil on Trial for its Human Rights Violations in Aceh', 27 October 2008 at http://www.ictj.org/en/news/features/2080.html

[15] See, for example, US: World Bank raps Exxon over Chad, 22 March 2007 at http://www.corpwatch.org/article.php?id=14430

[16] Rio Tinto non-managed operations, at http://www.riotinto.com/ourapproach/7167_our_non_managed_operations_2007.asp

[17] Letter to the NZ Super Fund re Freeport, Indonesia Human Rights Committee, 1 December 2006 at http://www.converge.org.nz/pma/wp011206a.htm

[18] Reference at note above

[19] See for example, 'Freeport mine destruction ‘terrible’ sight from space', 19 August 2006 at http://www.tewahanui.info/news/190806_wpFreeport.shtml

[20] Reference at note above

[21] The Recommendation on the exclusion of Freeport McMoRan is at http://www.regjeringen.no/en/sub/styrer-rad-utvalg/ethics_council/Recommendations/Recommendations/Recommendation-of-February-15-2006-on-ex.html?id=458186 with the date of exclusion at http://www.regjeringen.no/en/sub/styrer-rad-utvalg/ethics_council/Recommendations/Recommendations.html?id=458700

[22] The Recommendation on the exclusion of Rio Tinto Plc and Rio Tinto Ltd is at http://www.regjeringen.no/en/sub/styrer-rad-utvalg/ethics_council/Recommendations/Recommendations/recommendation-of-february-15-2008-on-ex.html?id=526052 with the date of exclusion at http://www.regjeringen.no/en/sub/styrer-rad-utvalg/ethics_council/Recommendations/Recommendations.html?id=458700

[23] 'The Cost of Gold: The Hidden Payroll', Jane Perlez and Raymond Bonner, 27 December 2005 at http://www.corpwatch.org/article.php?id=12985

[24] Reference at note above

[25] See, for example - 'Placer Dome Admits to Killings at Porgera Mine in Papua New Guinea, 8 April 2006 at http://www.miningwatch.ca/index.php?/Placer_Dome/Porgera_killings - 'Indigenous Leaders from Papua New Guinea, Chile Raise Serious Human Rights and Environmental Concerns Around Barrick Gold Operations' , 6 May 2009 at http://www.miningwatch.ca/index.php?/porgera/tulin_campusano_parl - Mining Watch Appeals to UN over Human Rights Abuses Related to Barrick Mine in Papua New Guinea Friday May 8, 2009 at http://www.miningwatch.ca/index.php?/porgera/porgera_urgent_appeal_to_un and - 'Barrick's Dirty Secret: Testimony from Papua New Guinea', August 2006 at http://s3.amazonaws.com/corpwatch.org/downloads/PNGtestimonies.pdf

[26] The Recommendation on the exclusion of Barrick Gold is at http://www.regjeringen.no/en/sub/styrer-rad-utvalg/ethics_council/Recommendations/Recommendations/recommendation-of-august-14-2008-on-excl.html?id=543200 with the date of exclusion at http://www.regjeringen.no/en/sub/styrer-rad-utvalg/ethics_council/Recommendations/Recommendations.html?id=458700

[27] Resulting in CERD/CUSA/DEC/1 Early Warning and Urgent Action Procedure Decision 1 (68): United States of America, 11 April 2006.

[28] See, for example, 'Legal Action Against Barrick Gold in Nevada' 2 January 2009 at http://www.miningwatch.ca/index.php?/Barrick/Shoshone_legal_action
[29] CCPR/CO/75/NZL
[30] Excerpt from 'Joint submission to the Universal Periodic Review of New Zealand: Indigenous Peoples' Rights and the Treaty of Waitangi', see reference at note 3
[31] The raids have been the subject of communications to UN Special Procedures, see, for example, 'Summary of cases transmitted to Governments and replies received: New Zealand', Addendum to the Report of the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People to the Human Rights Council. A/HRC/9/9/Add.1
[32] 'Stun guns in Aotearoa New Zealand? The shocking trial', Campaign Against the Taser, December 2007 at http://www.converge.org.nz/pma/tasertrial.pdf More information about the trial and subsequent events is available at http://www.converge.org.nz/pma/taser.htm
[33] 'Committee against Torture Concludes Thirty-ninth Session', UNOG, 23 November 2007 at http://www.unog.ch/unog/website/news_media.nsf/(httpNewsByYear_en)/D3DD9DE87B278A87C125739C0054A81C?OpenDocument and more recently, Concluding Observations of the Committee against Torture: New Zealand, 14 May 2009 CAT/C/NZL/CO/5
[34] See, for example - 'Rex Haig compensation application declined, Minister of Justice, 19 February 2009 at http://feeds.beehive.govt.nz/release/rex+haig+compensation+application+declined and 'Tough task for Bain to win compensation ', 6 June 2009 at http://tvnz.co.nz/david-bain-news/tough-task-bain-win-compensation-2770591
[35] See, for example, 'Prison officers' union slams budget's double-bunking', 28 May 2009 at http://www.odt.co.nz/news/politics/58548/prison-officers039-union-slams-budget039s-double-bunking
[36] Excerpt from 'NGO Coalition Submission to the Universal Periodic Review: On economic, social, cultural, civil and political rights, including immigration issues, and the human rights of refugees and asylum seekers', coordinated by the Human Rights Foundation, November 2008 at http://www.converge.org.nz/pma/hrfupr09.pdf
[37] Reference at note above
[38] Reference at note 36
[39] "Opening up prison management to contractors provides an opportunity for innovation and change in the way in which prisons in New Zealand are operated. Providing for prisons to be run effectively and efficiently by contract managers also enables the Government to look for cost savings in the overall delivery of prison services." - quotes are from the state party's description of the Bill, more information is available at http://www.parliament.nz/en-NZ/PB/Legislation/Bills/BillsDigests/5/f/c/49PLLawBD16681-Corrections-Contract-Management-Of-Prisons-Amendment.htm
[40] Quote from the state party's description of the Bill, more information is available at http://www.parliament.nz/en-NZ/PB/Legislation/Bills/2/4/d/00DBHOH_BILL9040_1-Sentencing-and-Parole-Reform-Bill.htm
[41] Quote from the state party's description of the Bill, more information is available at http://www.parliament.nz/en-NZ/PB/Legislation/Bills/2/b/1/00DBHOH_BILL9026_1-Sentencing-Offender-Levy-Amendment-Bill.htm
[42] Quote from the state party's description of the Bill, more information is available at http://www.parliament.nz/en-NZ/PB/Legislation/Bills/a/f/6/00DBHOH_BILL9027_1-Criminal-Investigations-Bodily-Samples-Amendment.htm