



# NEW ZEALAND

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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION  
AND PROTECTION OF MINORITIES

WORKING GROUP ON INDIGENOUS POPULATIONS

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NEW ZEALAND STATEMENT

Delivered by H.E. Mr Graham Fortune,  
New Zealand Permanent Representative  
to the United Nations

NEW ZEALAND PERMANENT MISSION

Esteemed Chairperson, Ladies and Gentlemen of the Working Group, Tena Koutou, Tena Koutou, Tena Koutou Katoa.

It is a special honour for my delegation to report again this year to the Working Group on developments in New Zealand, known in the Maori language as Aotearoa. I should say at the outset that we were very happy early in the year to welcome you, Professor Daes, to our country at the invitation of the Ngati Te Ata people. We were pleased that you had the opportunity for discussions with private individuals and groups and also with Government representatives. The visit was attended by very wide publicity and established a good public understanding of the mandate of the Working Group. It has laid the foundations for closer contacts between us in the future.

Subsequent to your visit, my Government decided to make an initial contribution to the Voluntary Fund for Indigenous Populations. We are honoured that a New Zealander, a former New Zealand Human Rights Commissioner and Race Relations Conciliator, Mr Hiwi Tauroa, has been invited to serve as one of the five members of the Voluntary Fund's Board of Trustees. We hope our contribution will encourage other countries to support the Voluntary Fund.

New Zealand has followed with interest the activities of the Working Group since its establishment in 1982, and particularly wishes to congratulate it on the valuable progress it has made to date in developing a set of international standards to protect the rights and fundamental freedoms of indigenous populations.

New Zealand generally supports the 14 draft principles already drawn up by the Working Group, although it believes they still need some refining and clarification. We shall submit detailed comments shortly.

Our statement last year covered the historical basis of relations between the indigenous Maori people and the non-indigenous pakeha community in New Zealand. Strong emphasis is being laid by the Government on the 1840 Treaty of Waitangi as a basis for partnership between Maori and Pakeha. Various practical measures have been designed to take greater account of Maori aspirations. These include proposals to improve the government machinery concerned with Maori Affairs. Special programmes have been introduced and developed in other areas such as health, housing, labour, education and the provision of assistance to help Maori people develop entrepreneurial skills and establish business and commercial undertakings. My Government is committed to a policy approach which recognises the desirability of the Maori people to assert more direct control over their own economic and social affairs and to do things for themselves and in their own way, with funds and control being devolved from central administration.

This policy is reflected in the two main strands of the Government's policy.

First, the Government has continued its efforts to ensure that existing structures are developed to give proper recognition to the rights and the special needs of the Maori community.

Second, the Government has continued to encourage steps to examine Maori claims relating to historical injustices or misunderstandings and, where such claims are established, to arrive at equitable solutions.

At the present time the Government's emphasis in all aspects of its administration is on social policy and public sector reform. Prominent among its guiding principles is a concern to see that policies meet the needs of the people they are designed for; that local communities have strong influence in policy-making and management; and that government departments and agencies are truly responsive to the communities they serve.

During the past year the Government, in the light of this commitment, has reviewed the effectiveness of official policies for Maori economic and social development.

As a result it issued in April a "Green Paper" entitled "Partnership Perspectives". This document sets out as a basis for discussion clearly-defined objectives which Government programmes for Maori people should seek to achieve, and proposes changes to existing administrative structures in order to attain these objectives.

This document is, as I have said, a discussion paper. It has been the subject of lively public debate in New Zealand, and the Government has conducted consultations about its proposals.

The paper defines the Government's principal objectives in relation to Maori affairs as being:

- (a) to honour the principles of the Treaty of Waitangi so as to actively protect Maori interests specified in the Treaty;
- (b) to eliminate the gaps which exist between the well-being of Maori people and that of the general population, that disadvantage Maori people, and that do not result from individual or cultural preferences;
- (c) to provide opportunities for Maori people to develop economic activities as a sound base for realising their aspirations, and in order to promote their self-sufficiency;
- (d) to deal justly and expeditiously with breaches of the Treaty of Waitangi and the grievances between the Crown and Maori people which arise out of them;

- (e) to provide for the Maori language and culture to receive an equitable allocation of resources and a fair opportunity to develop. Incidentally, the Maori Language Act, which entered into force in August 1987, has formally established Maori as an official language. It makes provision for the use of Maori in courts of law and administrative tribunals.
- (f) to promote decision-making within the machinery of government, in areas of importance to Maori communities, which provides opportunities for Maori people to participate actively in policy-making and the provision of services;
- (g) to encourage further Maori participation in the political process.

The Government aims to establish an administrative structure adequate to meet these objectives and, most important, to provide real scope for participation by Maori communities and iwi (tribal) groups in the formulation and execution of programmes relevant to their needs. To this end, the Green Paper has proposed placing the responsibility for meeting Maori needs firmly on the shoulders of the mainstream departments of State (ie, Education, Health, Social Welfare, Justice and Labour) rather than, as at present, on the shoulders of the Department of Maori Affairs. The mainstream departments would thereby be required to make themselves more fully aware of and responsive to Maori issues and values. New practical means of consultation and partnership with local iwi authorities would have to be developed. At the same time a new Ministry of Maori Affairs with policy-making rather than functional responsibility would be established. This would have the power to review all policy proposals relevant to Maori interests. Every issue or policy with implications for the Maori community would be referred by other departments of State to this Ministry, which would report directly to the Government.

The Treaty of Waitangi is the guiding principle in the Government's efforts to protect Maori interests and where necessary to redress grievances, and the past year has seen significant progress in this area.

My Government is determined to maintain an appropriate and adequately-resourced institutional framework for resolving such issues.

The most important element in this framework is the Waitangi Tribunal, which was established in 1975 to make recommendations to the Government in cases where proposed actions by the Government or other bodies were claimed to infringe Maori rights as guaranteed in the Treaty of Waitangi.

In 1985 the Tribunal was enlarged and its mandate was significantly extended. It was given the power to hear claims of infringements of Maori rights or of the Treaty's provisions alleged to have taken place at any time since the Treaty was signed in 1840.

The past year has seen further significant developments in regard to the Tribunal's powers, and the promulgation of two significant recommendations to the Government.

In general, as I have noted, the Tribunal's decisions take the form of recommendations rather than rulings, and are not binding on the Government.

In late 1987, however, legislation was passed empowering the Tribunal to order the return to successful Maori claimants of lands held by, or even subsequently sold by, State-owned enterprises.

Legislation is now being prepared to provide for a further increase in membership of the Tribunal in order to enable it to deal more expeditiously with its very large volume of work. An increase in numbers from seven to sixteen will enable the Tribunal to set up panels in order to hear a number of claims simultaneously.

The Tribunal's recommendations to the Government are not based simply on its assessment of the validity of the claims it considers. Where it considers that there has been a breach of Maori rights, it seeks to find a basis of conciliation or compromise which will enable the situation to be rectified with the maximum of goodwill and the minimum of economic or other dislocation.

This principle is well illustrated in two significant decisions made by the Tribunal during the past year.

In November 1987 the Tribunal recommended that ownership of a disputed block of land near the centre of Auckland, New Zealand's major urban centre, should be returned to the original owners, the Ngati Whatua people, and that financial compensation should be paid. It also recommended, however, that almost all the land in question should be retained for public use under joint administration by Ngati Whatua and the Auckland City Council.

A potentially more significant and far-reaching decision of the Tribunal, announced in June 1988, related to the ownership of fish resources in an area of northern New Zealand. In essence, the Tribunal recommended that the Crown negotiate with the Maori tribes on the questions of conservation and utilisation of commercial fisheries.

These decisions illustrate the fact that machinery exists to examine Maori claims for the return of land or other

resources wrongfully taken in the past. That machinery has status and commands wide respect.

In conclusion, I would like to mention Government moves in Aotearoa to provide protection for sacred precincts and traditional sites (wahi tapu) and also ancestral remains. The Department of Conservation and the Historic Places Trust are currently reviewing with some urgency the New Zealand Historic Places Trust Act with a view to providing legal protection for wahi tapu.

Madame Chairperson, we recognise that the Working Group has a long and complex task before it in preparing a draft declaration on indigenous rights. My delegation assures you that New Zealand will participate constructively in the Group towards a successful conclusion of the exercise.