

## **Human Rights Impacts of the Canterbury Earthquakes Comments on the draft government Universal Periodic Review report**

United Nations, Human Rights and Commonwealth Division,  
Ministry of Foreign Affairs and Trade

18 September 2013

Dear MFAT,

Thank you for the opportunity to comment on the draft report. Our comments follow.

### **General comments:**

- **Consultation:** While we appreciate the opportunity to comment on the draft report, it is regrettable that no face-to-face consultation has been arranged on the draft report as was the case for the draft NZ report during the first UPR cycle in 2009. In particular, at the April consultation organised by MFAT in Christchurch, ours was the only group present. Since that consultation, considerable awareness-raising on the UPR has been undertaken by the University of Canterbury Universal Periodic Review Submission Group, and it is highly likely the turnout would have been better if a second round of consultation had been organised for the draft report.
- **Human rights impacts of the Canterbury earthquakes:** A Joint Stakeholder Submission has been made for NZ's UPR focusing on the human rights impacts of the Canterbury earthquakes. A copy of this submission is attached. While it is appreciated that a large part of the draft national report needs to respond to the 56 recommendations accepted by New Zealand in 2009, it is regrettable that more of the report does not expressly comment on the human rights issues resulting from the earthquakes. The Canterbury earthquake is mentioned in paras 6, 26, 56, 71 and B(6). However, there is no detailed discussion of the key human rights issues arising from the earthquakes including in particular the loss of democracy in Canterbury and the associated impact on the right to participate in public and political life; the impact on the right to housing for homeowners, tenants and the homeless in greater Christchurch (see most recently para 65 in the *Quake Outcasts v Minister for CERA* [2013] NZHC 2173 decision of Panckhurst J); and the impact on the right to education following the Christchurch schools' shake-up. It is suggested that the draft report be amended to specifically address these three issues.

### **Specific comments:**

- **Para 6 (consultation themes):** The numerous "earthquakes" have had more than one "impact" on the wider "Canterbury" region. It is therefore suggested that this para be amended to refer to "the human rights impacts of the Canterbury earthquakes".

- **Para 11 (domestic implementation):** The right to privacy is also arguably partly implemented via s 21 NZBORA.
- **Para 13 (ICESCR):** Integrating the provisions of ICESCR into domestic legislation (rec #17 2009) is not just a "NZBORA issue" as suggested. It is therefore suggested that a single paragraph be dedicated to the one issue of integrating ICESCR into domestic legislation and explaining the Government's position on this.
- **Para 19 (Art 14 CERD):** It would be useful to explain what the consultation with civil society on whether NZ should accept the individual complaint procedure under Art 14 revealed, ie, were civil society broadly in favour of NZ adopting this mechanism? If so, why did NZ decide that "domestic remedies are sufficient"?
- **Para 22 (govt agencies):** It is not clear who "the four implementing agencies" are.
- **Para 26 (Canterbury quakes):** It would be useful to explain in this paragraph exactly how the Government is considering human rights in its "on-going response and decisions on the rebuild." What processes are in place to ensure that human rights are factored into the decision-making process? Has the Government mandated that a human rights approach be taken during the Rebuild? If not, why not?
- **Para 68 (female judges):** This para should indicate what the current percentage of female judges is.
- **Paras 82-83 (migrant workers):** It is strongly suggested that this section refer to the large number of migrant workers entering in Canterbury for the Rebuild, including noting the Government initiatives (if any) to cope with this influx.
- **Para B(6):** It is suggested this refer to the Canterbury "earthquakes" in the plural rather than the singular.

I am happy to provide clarification on any of the above comments if needed.

Kind regards,  
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