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NEW ZEALAND

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I. LAND AND PEOPLE

Land

1. New Zealand, situated in the south-west Pacific Ocean, midway between the equator and the South Pole, is made up of two main islands - the North and South Islands - and a number of smaller islands. Its total land area is 268,021 sq km (i.e. similar in size to Japan or the British Isles). New Zealand's largest neighbours to the north are New Caledonia, Fiji and Tonga, and Australia to the west. It is an area of the world characterized by active volcanoes and frequent earthquakes. The boundary between the Indo-Australian plate and the Pacific plate runs through New Zealand and the processes from the collisions have had a profound effect on New Zealand's size, shape and geology. The Southern Alps of the South Island, which rise amid permanent snow fields and many glaciers, include 19 peaks exceeding 3,000 metres. The two main islands cover 1,600 km from the northern tip to the southern extremity, with no part more than 120 km from the surrounding ocean. The long coastline and the distance from the nearest neighbouring countries contribute to giving New Zealand the fourth largest maritime Exclusive Economic Zone in the world. The Ross Dependency in Antarctica is also part of New Zealand.

2. New Zealand has jurisdiction over the non-self-governing territory of Tokelau. It takes seriously its obligation under the Charter of the United Nations to develop self-government in Tokelau, with a view to the exercise of self-determination. New Zealand provides for the preparation of reports in respect of Tokelau. Tokelauans, Niueans and Cook Islanders are all New Zealand citizens. Niue and the Cook Islands are self-governing States in free association with New Zealand. Under the free association relationships, the Governments of Niue and the Cook Islands have full legislative and executive powers. While New Zealand retains responsibility for the external affairs and defence of both countries, these responsibilities confer on New Zealand no rights of control and are only exercised at the express request of the Niue or Cook Islands Governments. Niue and the Cook Islands have full competence for the implementation of their obligations under the international human rights instruments and therefore are responsible for the preparation of the relevant reports. New Zealand has, in the past, provided assistance with these.

History

3. The first Polynesian settlers are believed to have arrived in Aotearoa/New Zealand more than 1,000 years ago. Maori settlements were scattered over most of the country by the twelfth century. In 1642, Aotearoa was sighted by Dutch navigator Abel Tasman, but it was a further 127 years, in 1769, before British naval captain James Cook became the first European to set foot in New Zealand. Organized European settlement began in the mid-nineteenth century.

4. In 1840 the Treaty of Waitangi was signed between iwi Maori (the indigenous tribes of New Zealand) and the British Crown. This treaty is the founding document of modern New Zealand.

Main ethnic and demographic characteristics

5. New Zealand has passed through a demographic transition similar to those experienced by other developed countries. The population has become highly urbanized, the average family size is slowly declining, and the number of elderly is increasing. Slow population growth is projected and steady ageing of the population will continue. A particular characteristic of the New Zealand experience is the growing diversity of ethnic groups, and those of non-European descent making up a growing proportion of the resident New Zealand population.

Population

6. New Zealand's resident population was 3.74 million at the time of the last five-yearly census in 2001. The population density is estimated to be 13.8 per sq km.

Ethnic composition

7. New Zealanders of European ethnicity made up 80.0 per cent of the resident population in the 2001 census; 14.7 per cent of the population were Maori. The majority of the remainder were in the Pacific Peoples Ethnic Group (6.5 per cent) or Asian Ethnic Group (6.6 per cent).

8. A breakdown of the population by main ethnic group follows. The table compares 1991 and 2001 Census results. People were asked to which ethnic group(s) they belonged. They could tick as many of the standard groups as they wanted and if those were not sufficient could print their own group(s). In 2001, around 9 per cent of New Zealand residents indicated that they belonged to more than one ethnic group. A much higher percentage (21 per cent) of children under 5 belonged to more than one ethnic group in 2001. The wording of the 2001 Census ethnicity question was different to that used in the 1996 Census, although it was the same as that used in the 1991 Census (apart from the use of the term "Maori" instead of "New Zealand Maori"). As a result of this change in the ethnicity question, it is difficult to make comparisons between the data from the three census periods (1991, 1996 and 2001). For this reason ethnic group comparisons will only be made between 1991 and 2001.

9. The following table is based on total responses. Where a person reported more than one ethnic group they have been counted in each applicable group. Up to six ethnic groups were recorded for each person in 2001, but in 1991 only three responses were recorded. In the table the 2001 data is presented on the same basis as 1991, and a prioritizing system was used to decide which three ethnic groups would be used. The hierarchy for prioritization at level 1 of the ethnicity classification runs New Zealand Maori - Pacific Island - Asian - Other - European. The table excludes people that did not specify an ethnic group or whose response could not be identified.

Ethnic group - up to three responses^{a b}
(Total responses)^c and sex

For the Census Usually Resident Population Count 1991 and 2001

Ethnic group - up to three responses (total responses) and sex	Census year		Percentage of total people	
			Census Year	
	1991	2001	1991	2001
Total People, European				
Male	1 368 789	1 394 163	83.0	79.8
Female	1 414 236	1 473 846	83.3	80.1
Total	2 783 025	2 868 009	83.2	80.0
Total people, Maori				
Male	214 431	257 481	13.0	14.7
Female	220 416	268 797	13.0	14.6
Total	434 847	526 281	13.0	14.7
Total people, Pacific Peoples				
Male	82 404	114 153	5.0	6.5
Female	84 669	117 645	5.0	6.4
Total	167 070	231 801	5.0	6.5
Total people, Asian				
Male	49 395	112 644	3.0	6.4
Female	50 361	124 818	3.0	6.8
Total	99 756	237 459	3.0	6.6
Total people, other				
Male	3 615	13 122	0.2	0.8
Female	3 078	11 802	0.2	0.6
Total	6 693	24 924	0.2	0.7
Total people ^d				
Male	1 648 239	1 747 752	100.0	100.0
Female	1 697 574	1 838 982	100.0	100.0
Total	3 345 813	3 586 731	100.0	100.0

^a Changes to the form of the ethnicity question used in the 1996 Census have resulted in some data that is not consistent between 1991 and 1996 or between 1996 and 2001. This is why no 1996 data is included in this table. More information on changes can be found in the text.

^b The ethnic data in this table has been compiled using up to three responses per person. If a person gave more than three responses, the three ethnic groups output are those that take highest priority under the priority recording system. This is the same method used in 1991. Data for 2001 can also be output with up to six responses.

^c Includes all of the people who stated each ethnic group, whether as their only ethnic group or as one of several ethnic groups. Where a person reported more than one ethnic group, they have been counted in each applicable group.

^d Does not include those who did not specify an ethnic group.

All cells in this table have been randomly rounded to base 3.

10. There has been a significant increase in the number of new immigrants (people born overseas and not resident at the previous Census) living in New Zealand. This group increased to 202,700 at Census 2001, an increase of 23 per cent compared to 164,500 in 1996.

11. Asia continues to be the major source of new immigrants (people born outside New Zealand and who had been in New Zealand for less than 10 years), with fewer people from the Pacific region and other global regions remaining at levels similar to those in 1996. Between 1986 and 1996, Asia had replaced the United Kingdom and Ireland as the main source of new immigrants over the previous 10 years. For the 10 years to 1996 the top three source areas were Asia (39.1 per cent), Europe (23.0 per cent) and the Pacific (including Australia) (26.0 per cent). For the 10 years to 2001, the top three source areas were Asia (40.6 per cent), Europe (21.5 per cent) and the Pacific, including Australia, (20.3 per cent), while those born in Africa increased from 4.8 per cent of all people born overseas and in New Zealand for less than 10 years to 9.7 per cent in 2001.

12. Important compositional changes in the source countries of Asian-born immigrants over the previous 10 years have continued. In 1986 Cambodia, China, India, Japan and Malaysia accounted for more than half of all Asian-born immigrants. By 1996 almost two thirds of Asian-born migrants came from South Korea, China, Taiwan, Hong Kong and Malaysia. In 2001, nearly 80 per cent of the total number of immigrants from Asia were from the following countries: People's Republic of China, South Korea, India, Taiwan Province of China, Hong Kong Special Administrative Region of China, Philippines and Japan.

Sex of the population

13. Women made up 51.2 per cent of the resident population in 2001. Projections indicate that women will continue to outnumber men into the next century. Migrant-sourced ethnic groups show large variations in sex ratios.

Age of population

14. In 2001, 22.7 per cent of the resident population of New Zealand were children under 15 years of age, 65.3 per cent of the population were aged 15-64, and 12.0 per cent were aged 65 years and over. The median age was 34.8 years.

Age differences in ethnic groups

15. The median age for the total New Zealand population is 34.8 years. The median age of the European ethnic group is 36.8 years (including 41.1 years for British people and 43.8 years for Dutch/Netherlands people). This older age structure of these European groups in New Zealand is a reflection of the fact that many of their members migrated to New Zealand following World War II and that their children possibly no longer identify with the ethnic group of their parents. However, some less traditional European groups within New Zealand, such as French, Russians, Italians, Germans and Swedish people, have a younger median age than that of the total New Zealand population.

16. Tokelauans have the youngest median age for Pacific Peoples at 18.9 years while the median age for Maori is 21.9 years. Fijians have the oldest median age among Pacific Peoples at 23.7 years. More than one-third of Pacific Peoples in New Zealand are children while only 3.3 per cent are aged 65 years or over. Maori have a similar age distribution with 37.3 per cent age less than 15 years and only 3.4 per cent aged 65 years or over.

17. The Taiwanese Chinese have the lowest median age among Asian groups (23.3 years) and Sri Lankans the oldest (32.1 years). Many Asians are recent migrants to New Zealand and tend to be concentrated in the young-adult age groups. More than half (55.2 per cent) of Asians are aged 15-44 years while just under one quarter (23.6 per cent) are under 15 years and only 4.1 per cent aged 65 years or over. In comparison, 43.2 per cent of all New Zealanders are aged 15-44 years while 22.7 per cent are children and 12.1 per cent are aged 65 years or over.

18. In 2001 the median age for New Zealand females was 35.6 years, compared with 34.0 years for males. Maori and Pacific Island females were younger in comparison to all females, with median ages of 23.0 years and 21.9 years respectively, whereas the median age for Asian females in 1996 was 29.7 years.

19. The European female population has a much higher proportion of older women, with 15.3 per cent 65 or over, compared with only 3.8 per cent in the Maori, Pacific Island and Asian groups combined. Conversely, Maori and Pacific Island females are far more likely to be aged under 15 years, with 35.7 per cent and 37.4 per cent respectively compared with 20.4 per cent of European females. Asian females are concentrated in the working-age groups, with 73.8 per cent aged between 15 and 64 years in 2001.

Economy

20. New Zealand is a developed country with a market economy dependent on overseas trade. Since the 1980s New Zealand, like many other countries, experienced a sustained period of rather flat economic activity, followed by cautious and uneven growth since 1993. By most measures, living standards remained reasonably high, though these economic difficulties and changing patterns of global trade did lead to a decline in per capita incomes.

21. In 1984, a major economic liberalization programme was initiated. Economic policy has been significantly reorientated towards establishing a market-oriented economy based and redressing macroeconomic imbalances. Structural reform was rapid and broad-based and has been accompanied by a medium-term anti-inflationary financial strategy. The repercussions of structural reforms have been pronounced. One consequence of the adjustment process was a significant medium-term fall in employment.

22. New Zealand's small economy is dependent on overseas trade. Traditionally, a large proportion of New Zealand's exports, mainly agricultural products, went to the United Kingdom. In the past 20 years, however, New Zealand has adapted to a changing world so that Asia is now more dominant. Our largest export markets are Australia, Japan, the United States of America, the United Kingdom and the Republic of Korea. New Zealand has developed its agriculture and manufacturing industries to suit the needs of niche markets. This has meant that New Zealand has moved away from its dependence on dairy, meat and wool exports as forestry, horticulture,

fishing and manufacturing have become more significant. Tourism has increased in importance. The New Zealand Tourism Board estimates that in the year to December 2001 international tourism contributed NZ\$ 5.2 billion to the economy, or about 4.4 per cent of GDP, excluding international airfare revenue.

Per capita income

23. The median annual gross income in 2001 was NZ\$ 19,825 for New Zealand Europeans and NZ\$ 14,827 for New Zealand Maori. There were also large differences in the annual incomes of both men and women. In 2001 men had a median annual income of NZ\$ 24,913 and women NZ\$ 14,529. A comparison of average ordinary time hourly rates from the Quarterly Employment Survey indicates that as at February 2002 women were earning approximately 84 per cent of men's rates.

Gross domestic product

24. GDP in current prices for the year ending March 2002 was NZ\$ 120,022 million, a 7.05 per cent increase on the 2001 figure.

Rate of inflation

25. In June 2002 the annual rate of inflation was 2.8 per cent.

External debt

26. Total overseas debt at 31 March 2002 stood at NZ\$ 128,828 million. Of this NZ\$ 18,925 million was government debt.

Rate of unemployment

27. The seasonally adjusted official number of unemployed as at the March quarter of 2002 stood at 104,000, or 5.3 per cent of the labour force. (The official unemployed are defined as those out of work, actively seeking work and available for work.) Of this total, 79,000 were males, and 56,000 were females (unemployment rates of 5.2 per cent and 5.4 per cent respectively). Both New Zealand Maori and Pacific peoples have proportionally much higher levels of unemployment, especially in the 15-19 age groups. The total number of Maori unemployed stood at 21,500 (10.8 per cent rate of unemployment) and the total number of Pacific Islanders unemployed was 9,500 (an unemployment rate of 9.7 per cent).

Literacy rate

28. New Zealand has no official measure of adult literacy, but is internationally recognized as having a high level of literacy for both men and women. The International Literacy Survey in 1996 identified literacy patterns in New Zealand similar to that of the United Kingdom, the United States of America and Australia. Various literacy projects are in place at no cost to the learner: literacy projects include the indigenous Maori model Te Whare Ako, (The House of Learning), sited in a paper mill, a long-running literacy programme in the workplace;

English-language courses for new immigrants and refugees such as the National Association of ESOL Home Tutor schemes which provides tuition for over 6,500 new migrants and refugees; English as a second language course offered by other regional providers, Polytechnics and a number of secondary schools; Foundations Skills courses, including a literacy component, provided to 33,000 unemployed adult learners annually through both private and State providers; Literacy Aotearoa's tuition of over 8,000 adults nationally (one third of whom are women); and the development of Literacy and English to Speakers of Other Language programmes as an educational priority in New Zealand prisons. In addition there are full-time fee-paying courses available and a student loan scheme in place for learners who are permanent residents of New Zealand.

Religion

29. Of those stating a religious affiliation in 2001, 95.4 per cent chose Christian, a decrease of 4.1 per cent since the 1996 Census. There have been increases in the number of people affiliated to non-Christian religions. Numbers of Hindus, Buddhists and Islam/Muslims each increased by over 10,000 people between 1996 and 2001.

30. Nearly 30 per cent of the usually resident population stated that they had no religion in 2001, 18.5 per cent higher than 1996, when one quarter had no religion. The number who objected to answering the religion question dropped slightly between 1996 (256,593) and 2001 (239,244).

Language

31. English is the principal language used by the majority of the population, and in public life. Maori is the language of the tāngata whenua (the indigenous people) of New Zealand. It is a taonga (treasure) under the terms of the Treaty of Waitangi, and became an official language of New Zealand by virtue of the Maori Language Act 1987. The Act also provides that people may speak Maori in any legal proceedings and that a competent interpreter may be made available. The curricula of many schools contain programmes for the instruction of the Maori language. Students whose mother tongue is a Pacific Island language or another community language are given the opportunity to develop and use their own language as an integral part of their schooling.

32. Almost all (90.5 per cent) New Zealand Europeans speak only one language, predominantly English. In 2001, some 4.5 per cent of New Zealanders and 25.2 per cent of New Zealand Maori said that they could have a conversation in Maori.

Life expectancy

33. Life expectancies at birth for 1995-1997 were as follows:

Non-Maori females	80.6 years
Maori females	71.6 years
Non-Maori males	75.3 years
Maori males	67.2 years

34. Cancer and ischaemic heart disease have been the leading causes of death over the last 10 years, each accounting for approximately one in four deaths. In 1998 cancer accounted for 29 per cent of total deaths while ischaemic heart disease accounted for 23 per cent.

Infant mortality

35. The infant mortality rate was 5.3 per 1,000 live births for the calendar year 2001. Neonatal mortality accounted for almost half of the infant mortality rate (2.76 deaths per 1,000 live births).

Direct maternal deaths

36. The rates for direct maternal deaths (e.g. due to complications of pregnancy, childbirth and the immediate post-partum period) fluctuate markedly from year to year due to the small number of deaths. The rate per 100,000 live births in 1998 was 1.7 per cent (there was one direct maternal death in that year) and the rate for 1997 was 3.5 per cent (there were two direct maternal deaths in 1997).

Fertility rate

37. Live births registered in the March year 2002 totalled 54,700. The latest fertility rates indicate that New Zealand women average about 1.97 births per woman. The latest figure is about 6 per cent below the level (2.10 births per woman) required by any population to replace itself, without migration. In 18 of the last 22 years, fertility in New Zealand has been below the "replacement level".

38. In the March 2002 year, just under half (49 per cent) of all newborn babies had a mother aged 30 years or older, well up from 35 per cent in 1992. In contrast, the number of newborn babies with a mother under 25 years of age dropped from 31 per cent in 1992 to 24 per cent in 2002. There has been a long-term trend away from early childbearing. The average age of New Zealand women giving birth is now 29.5 years, compared with 27.9 years in 1992 and 25.6 years in the early 1970s.

39. The total fertility rate for Maori was approximately 34 per cent higher than their non-Maori counterparts in the calendar year 2001. The median childbearing age for Maori women in 2001 was 25.97 years compared with 30.58 years for non-Maori.

Age distribution

40. Both the 1996 Census and the latest estimates show that the ageing of the New Zealand population is continuing slowly. The median age at 31 March 2002 (provisional) was 34.7 years, compared with 34.2 years at 31 March 2001 and 31.3 years at 31 March 1991.

41. Between 31 March 2001 and 31 March 2002 (provisional), the number of children under 15 years of age increased by 4,240 or 0.48 per cent, from 874,410 to 878,650. The number of New Zealanders of working age (15 to 64 years) rose by 41,630 or 1.65 per cent to 2,557,160

and their share of the total population rose slightly from 65.4 to 65.6 per cent over the year to 31 March 2002. The number of elderly New Zealanders (65 years and over) increased by 6,590 or 1.4 per cent, from 456,230 to 462,820. At 31 March 2002 half of elderly New Zealanders were more than 74.2 years of age.

Youth structure

42. At 31 March 2002, the under-20 years of age group was estimated at 1,161,460 or 29.8 per cent of the total New Zealand population. Within this group, under-5 year olds decreased marginally by 0.1 per cent (from 282,520 at 31 March 2001 to 282,100 at 31 March 2002), 5-9 year olds decreased 1.3 per cent (from 294,910 at 31 March 2001 to 303,620 at 31 March 2002) and 15-19 year olds increased 2.9 per cent (from 274,870 at 31 March 2001 to 282,720 at 31 March 2002).

Percentage of population in rural areas and in urban areas

43. Although New Zealand is a predominantly rural country in terms of its land use, only 14.3 per cent of the “usually resident population count” lived in rural areas at the time of the 2001 census. (Rural areas are defined as areas where the largest population centres contain less than 1,000 people). Seventy-one per cent of the population lives in main urban areas (which are areas with 30,000 people or more) and approximately 14.7 per cent are urban but in secondary and minor urban areas with populations of under 30,000.

44. Auckland’s urban area is the single largest urban agglomeration with an estimated population of 1,074,507. At the 2001 census, 66.9 per cent of the total population in the Auckland urban area were European, 11.5 per cent Maori, 14.9 per cent Pacific peoples, and 14.6 per cent Asian (using total response information so percentages do not add to 100). The Auckland urban area’s “usually resident” population increased by 82,671 between 1996 and 2001, making it one of the fastest-growing areas in New Zealand.

Percentage of one-parent families with dependent children

45. As in 1996, the most common family type at the 2001 census was “couple with children”. However, the proportion of “couple with children families” and “couple-only families” are now quite similar, at 42.1 per cent and 39.0 per cent, respectively. This continues a trend, which has been evident since 1991, of an increase in the proportion of “couple-only families” and a decrease in the number of “couple with children” families. One-parent families made up 18.9 per cent of families, up from 17.7 per cent in 1996 and 17.2 per cent in 1991. Most (81.9 per cent) sole parents were females although the proportion has declined by just over 1 per cent since 1996.

46. Family households are still dominant in New Zealand. At the 2001 census, 71.3 per cent of households contained families, down from 73.9 per cent in 1996. There was an increase in the number of one-person households, with 23.4 per cent of all households compared with 20.7 per cent in 1996. The remaining households were multiple non-family members (for example people in a house-sharing situation).

II. GENERAL POLITICAL STRUCTURE

47. The supreme legislative body in New Zealand is the New Zealand Parliament which comprises Her Majesty the Queen (who is usually represented by the Governor-General) and the single-chamber, 120-member, House of Representatives.

48. The principal functions of Parliament are:

- (a) To make laws and delegate law-making powers to the Executive;
- (b) To scrutinize and control Government (annual grant of financial authority, scrutiny of delegated powers and functions);
- (c) To provide a Government; and
- (d) To represent the people of New Zealand.

49. The Electoral Referendum Act 1991 provided for an indicative referendum on electoral reform. The referendum was divided into two parts. The first part asked voters to choose between electoral reform or maintaining the existing first past the post system. The second part of the ballot asked voters to indicate which of four options for electoral reform they preferred. The majority of voters indicated a preference for electoral reform and for mixed member proportional representation (MMP). MMP was introduced after the second and final binding referendum held in conjunction with the 1993 general election.

50. The Electoral Act 1993 governs elections, including the implementation of MMP. Voters have a party vote and an electorate vote under MMP. The party vote enables the voter to choose what party they would like represented in Parliament. As of June 2002, there were 21 registered political parties. The electorate vote is for choosing a Member of Parliament (MP) to represent the voter's electorate.

51. Under the MMP system, there will usually be 120 MPs. In the Parliament elected in July 2002, 62 MPs represented the 62 general electorates and seven MPs represented the seven Maori electorates. The remaining 51 MPs were list MPs. The boundaries of general and Maori electorates are reviewed every five years by the Representation Commission, which last met in 2001. With respect to the Maori seats, it should be noted that under the Electoral Act 1993, Maori have the option of being registered either as an elector of a Maori electorate or as an elector of a General electorate. Once a person has made their choice, the person cannot change the type of roll they are registered on until the next Maori Electoral Option is held in five years time. The results of the Maori Electoral Option form the basis for calculating the Maori electoral population and affect the number of Maori seats that there will be for the next two general elections.

52. The Cabinet, all of whose members are elected members of the House of Representatives, supervises the administration of government. Cabinet, the public service and a

number of bodies connected to Government form the executive. Generally, each government department has an appointed Minister as its political head. In addition, every department has a public servant as its administrative head.

53. The courts, which operate on an adversarial system, comprise the judicial branch of government. Currently, New Zealand's highest court is the Judicial Committee of the Privy Council, which sits in London as the final court of appeal for New Zealand. The Government has made the decision to abolish New Zealand appeals to the Privy Council and replace it with a Supreme Court based in Wellington. The Supreme Court, subject to the necessary legislation being enacted, will therefore be New Zealand's highest court when it is established. The second highest court in New Zealand is the Court of Appeal, which hears the vast majority of appeals. Below the Court of Appeal is the High Court, which is New Zealand's only court of general jurisdiction. It hears the most serious jury trials and civil cases as well as administrative law cases.

54. Below the High Court are the District Courts. They deal with a large number of criminal and civil cases and conduct some jury trials. The Family Court, a division of the District Court, deals with matters of family law. Disputes Tribunals (established as divisions of District Courts) deal with lower level civil disputes (other than debt recovery) by way of a simplified procedure. In addition, there are a number of specialist courts and tribunals. In 1997, the government of the day agreed to pilot a new judicial office in the District Court - Community Magistrates. Community Magistrates are lay persons from local communities who hear minor and mostly undefended criminal matters. They may exercise the usual range of sentencing powers except for imprisonment. An evaluation of the office was conducted in 2000. The Government is currently considering options for the future of the office.

55. The courts act as a curb on the power of the Government by ensuring that the Government acts in accordance with the law. However, in the New Zealand system of Government, Parliament is supreme, the courts are bound by statute and cannot strike down the provisions of any Act of Parliament.

56. The laws of New Zealand consist of:

(a) The common law, sometimes referred to as "judge-made law", which has been developed by the courts of England and the courts of New Zealand;

(b) Statute law enacted by the New Zealand Parliament. Parliament's power to make laws was preserved by section 15 (1) of the Constitution Act 1986. Prior to the Constitution Act this power was derived from the Statute of Westminster Adoption Act 1947, which gave the New Zealand Parliament sole authority to legislate for New Zealand;

(c) A small number of British statutes and subordinate legislation which were passed prior to 1947 are also declared to be part of the laws of New Zealand by the Imperial Laws Application Act 1988.

57. The common law relates to the interpretation of statute law and to developing the general law based on fundamental legal principles. Statute law includes Acts of Parliament and delegated legislation made under those Acts.

The Treaty of Waitangi

58. The Treaty of Waitangi, signed in 1840 between representatives of the British Crown and Maori hapu (sub-tribe) and iwi (tribe), established the legal basis for the settlement of New Zealand, and aimed to protect the rights and properties of the indigenous Maori inhabitants.

59. The last decade and a half has seen a greater prominence given to the Treaty of Waitangi as a basis for settling Maori claims against the Crown. Debate on the place and role of Maori people in New Zealand society has increased considerably and successive governments have continued to develop their policies on Maori affairs.

60. The Waitangi Tribunal was established by the Treaty of Waitangi Act 1975 to make recommendations to the Crown on claims relating to the Treaty. A 1985 amendment allowed for claims to be retrospective to the signing of the Treaty in 1840.

61. The work of courts and the Waitangi Tribunal is developing the contemporary meaning of the Treaty. This work is wide-ranging and is having a profound and continuing influence on the way New Zealand is learning to see itself. The Crown recognizes the Treaty as the founding document of the nation, and the Treaty is now widely accepted as the most important instrument in the continuing evolution of the Treaty partnership between the Crown and Maori. As the Waitangi Tribunal says to describe its work: “The Treaty is always speaking”.

62. Further to the establishment of the Waitangi Tribunal, a special Office of Treaty Settlements was established on 1 January 1995 under the Minister in Charge of Treaty of Waitangi Negotiations. The aim of the office is to give better focus to government objectives to resolve historical Treaty of Waitangi claims.

63. In a landmark Court of Appeal case in 1987, the special relationship between the Maori people and the Crown was interpreted by the Court as requiring the Treaty partners to act reasonably and with the most utmost good faith towards each other. A number of Acts of Parliament now require the Crown to have regard to the principles of the Treaty of Waitangi, or to Maori interests or a Maori perspective. Successive governments have negotiated with large natural groups to attempt to resolve grievances concerning breaches of the Treaty.

64. The New Zealand Government continues to make steady progress in negotiating the settlement of claims arising from historical breaches of the Treaty of Waitangi. In 2001, the Crown achieved two significant settlements with tribal groups in the North Island, relating to land confiscation by the Crown after warfare in the 1860s and other Treaty breaches (Ngati Ruanui for NZ\$ 41 million and Ngati Tama for NZ\$ 14.5 million). As well as financial

redress, the settlements included apologies by the Crown for the warfare and confiscation. A further settlement (Ngati Awa) was initialled on 8 July 2002 and is conditional on it being ratified by the Ngati Awa people. A non-binding Agreement in Principle has recently been reached with a third North Island iwi, Nga Rauru. By July 2002, over NZ\$ 628 million has been committed as redress for final and comprehensive Treaty settlements.

65. Increased funding has been allocated to the negotiation process, for the purpose of facilitating claimants' entry into negotiations, and to protect and maintain surplus Crown property for potential use in settlements.

66. In July 2000, the Minister in Charge of Treaty of Waitangi Negotiations released a set of principles to guide the Crown in the negotiation and settlement of historical Treaty of Waitangi claims. The principles state that negotiations are conducted in good faith; that settlements should restore the relationship between the Crown and claimants; that redress should be just (not limited by a fiscal envelope); that like claims should be treated as like; that there should be greater transparency of the Treaty settlement process; and that settlements should be negotiated between the Government and claimants.

67. The Waitangi Tribunal has recently endorsed elements of the Crown's approach to settling Treaty claims relating to its recognition of claimant negotiators' mandate, and its treatment of overlapping claims. The Crown has passed legislation to implement the Pouakani claims, and legislation has been introduced into the House of Representatives for the Te Uri o Hau and Ngati Ruanui settlements.

68. The Crown is committed to fulfilling its obligations as a Treaty partner. The settlement of historical grievances is a necessary part of establishing ongoing healthy Crown/Maori relationships. However, the Crown recognizes that, while the settlement process is important, it should not be seen as the primary focus or mechanism for encouraging that relationship in the future. It will continue the significant progress already made in negotiating and implementing fair, durable and affordable settlements of historical grievances; and improving the social and economic status of Maori. In order to achieve this goal, the Government aims to extend economic and social opportunities by significantly improving the health, employment, education and housing status of Maori. This emphasis on the management and development of healthy relationships reflects the underlying purpose of the Treaty of Waitangi: to establish a basis on which two quite different peoples could live together harmoniously and to mutual advantage.

69. The current Ministry of Maori Development - Te Puni Kokiri - was established in 1992, replacing earlier government bodies dealing with Maori affairs. Te Puni Kokiri's role is to provide advice on the Crown's relationship with Maori and to promote higher levels of achievement for Maori by improving education, health and economic opportunities. The Ministry of Women's Affairs, through its policy unit, Te Ohu Whakatupu, gives advice to Government on the status of Maori women and the impact of government policy on them.

III. GENERAL LEGAL STRUCTURE WITHIN WHICH HUMAN RIGHTS ARE PROTECTED

A. Judicial, administrative or other competent authorities with jurisdiction affecting human rights

70. The key pieces of legislation in this regard are described in the following paragraphs.

The New Zealand Bill of Rights Act 1990

71. This Act was designed to affirm, protect and promote human rights and fundamental freedoms in New Zealand and to affirm New Zealand's commitment to the International Covenant on Civil and Political Rights. The Act applies to acts done by the legislative, executive or judicial branches of the Government of New Zealand or by any person or body in the performance of any public function, power or duty conferred or imposed on that person or body by or pursuant to the law. The Attorney-General is required, on the introduction of a bill, to bring to Parliament's attention any provision that appears to be inconsistent with any of the rights and freedoms contained in the Bill of Rights. The Court of Appeal has held that an action against the Crown for damages is available in respect of breaches of rights and freedoms in the New Zealand Bill of Rights Act 1990.

The Human Rights Act 1993

72. The Human Rights Act 1993 came into force on 1 February 1994, amalgamating the provisions of the Human Rights Commission Act 1977 and the Race Relations Act 1971. This piece of legislation is primarily an anti-discrimination statute and sets out 13 prohibited grounds of discrimination: sex, marital status, religious belief, ethical belief, colour, race, ethnic or national origin, disability (including the presence in the body of organisms capable of causing illness), age, political opinion, employment status, family status, and sexual orientation. The Act applies both to the public and private sectors. In regard to the latter, Part II of the Act sets out seven broad areas in which it is unlawful to discriminate. These are: employment (including pre-employment); partnerships; industrial and professional associations; qualifying bodies and vocational training bodies; access to places, vehicles and facilities; provision of goods and services; provision of land, housing and other accommodation; and access to educational institutions. The Act also contains provisions relating to racial disharmony, sexual harassment and racial harassment.

73. In relation to the public sector, most activities are governed by Part 1A of the Act, which incorporates the non-discrimination standard developed under the New Zealand Bill of Rights Act 1990, thereby allowing complaints about public sector discrimination to be made through the publicly-funded dispute resolution process. However, government employment policies and practices as well as the related areas of racial and sexual harassment and victimization continue to be regulated by the same standard as private sector activities, which are set out in Part II of the Human Rights Act.

74. The Human Rights Act also governs the Human Rights Commission and requires it to be strategically focused on general human rights (not just non-discrimination), education and advocacy. The inclusion of the Race Relations Commissioner (formerly the Race Relations Conciliator) in the Commission following the adoption of the Human Rights Amendment Act 2001, meets the need for a holistic approach to human rights by providing a single entry point for complaints on all prohibited grounds of discrimination whether relating to private or public sector activity while recognizing that race relations have a very significant place in human rights activity in New Zealand. Similarly, the establishment of a new full-time Equal Employment Opportunities Commissioner ensures the continued development of guidelines and voluntary codes of practice to facilitate and promote best practice in equal employment opportunities (including pay equity).

75. The Human Rights Act also requires the Human Rights Commission to develop a National Plan of Action, in consultation with interested parties, for the promotion and protection of human rights in New Zealand. Moreover, the Government has initiated a work programme on ways and means to integrate human rights considerations into policy-making, thereby strengthening the human rights culture that exists within government. The Ministry of Justice is leading interdepartmental work on this project

The Ombudsman Act 1975

76. This Act provides for the appointment of Ombudsmen by the Governor-General on the recommendation of the House of Representatives. The Ombudsmen may investigate any decision or recommendation made, or any act done or omitted, relating to a matter of administration and affecting any person or body of persons in her, his, or its personal capacity by any Minister of the Crown, government department, or certain other organizations that are listed in the Schedules to the Act. These investigations occur on a complaint from any person or an Ombudsman's own motion. An Ombudsman may make such recommendations as she or he thinks fit and report these to the appropriate Department or organization and the Minister of Justice (if relevant). If the requested action is not taken within a reasonable time, then the report may be sent to the Prime Minister and reported to the House of Representatives.

77. When new bodies are created by statute, consideration is given to the desirability of including them in the Schedules to the Ombudsmen Act 1975 and the Official Information Act 1982.

Official Information Act 1982

78. This Act is designed to make official information more freely available, to protect that official information to the extent consistent with the public interest and preservation of personal privacy, and to establish procedures for those purposes. What is official information is widely defined by section 2 of the Act and the bodies to which the Act is applicable are listed in Schedules to the Act and the Ombudsmen Act. Generally Ministers, government departments and all agencies of government are subject to the Act.

79. Individuals and some bodies corporate may request the various bodies listed in the Schedules to make official information available. Official information is to be made available unless there is a good reason (as defined by the Act) to withhold it. The Ombudsman can investigate and review any refusal by a Department, Minister or organization to make official information available once requested. They then report to the relevant body with any recommendations. Departments, Ministers and organizations have a public duty to observe any recommendation unless the Governor-General, by Order in Council, directs otherwise. It is possible for the person who made the original request to review the making of such an Order in Council in the High Court, and to appeal to the Court of Appeal.

80. The Local Government Official Information and Meetings Act 1987 establishes a similar regime in relation to official information held by local government agencies.

Privacy Act 1993

81. Amongst other things, this Act:

(a) Carries forward from the Privacy Commissioner Act 1991 the provisions establishing the Privacy Commissioner;

(b) Establishes 12 information privacy principles with respect to:

(i) The collection, retention, use and disclosure, by public and private sector agencies, of information relating to individuals; and

(ii) Access to and requests for correction of personal information that is held by public and private sector agencies;

(c) Establishes four public register privacy principles, which regulate the manner by which personal information may be accessed from public registers;

(d) Applies the principles to both the public and private sectors;

(e) Gives the Privacy Commissioner jurisdiction to grant exemptions from some of the principles, principally by way of codes of practice;

(f) Sets out controls on information-matching to apply to statutory matching provisions implemented by the public sector; and

(g) Enables individuals to complain to the Privacy Commissioner if they believe their privacy has been infringed. The focus of the complaints regime in the Privacy Act is on the resolution of complaints by the Privacy Commissioner securing a settlement wherever possible. However, civil proceedings before the Human Rights Review Tribunal are available where a complaint is not resolved;

(h) Empowers the Privacy Commissioner to perform a general monitoring and reporting function in relation to policy and legislative proposals with privacy implications.

Police Complaints Authority Act 1988

82. This Act makes provision for the investigation and resolution of complaints against the police by establishing a Police Complaints Authority. The Authority can receive complaints alleging any misconduct or neglect of duty by any member of the police, or concerning police procedures. Complaints to the Authority may be investigated by the Authority itself or by the Commissioner of Police on behalf of the Authority. If the Authority has investigated the complaint itself, it conveys its opinions and recommendations to the Police Commissioner. Where the Police Commissioner investigates a complaint on behalf of the Authority, the Authority reviews the outcome of the investigation, and can agree with the Commissioner's decision or make recommendations including that disciplinary or criminal proceedings be considered or instituted. If no adequate and appropriate action is taken within a reasonable time, the opinion and recommendations may be sent to the Attorney-General and the Minister of Police, and where appropriate, tabled in the House of Representatives.

83. In April 2001 the Government announced decisions designed to enhance the independent investigative capacity of the Authority. While no legislative amendment is needed to implement that decision, there will be amending legislation to change the Authority's name to the Independent Police Complaints Authority and increase its membership.

Children, Young Persons and Their Families Act 1989

84. This Act established, among other things, the post of Commissioner for Children. The Commissioner has broad-ranging functions, which are aimed at promoting and ensuring the welfare of children and young people. The Convention on the Rights of the Child is used as a basis for this work.

Health and Disability Commissioner Act 1994

85. The Health and Disability Commissioner was established by section 8 of the above Act. The Commissioner is responsible for promoting and protecting the rights of health and disability service consumers through public education activities and the resolution of complaints. The rights themselves are outlined in the Code of Health and Disability Services Consumers' Rights, a regulation under the Act that came into effect in July 1996.

86. The Human Rights Commission, the Privacy Commissioner and the Police Complaints Authority report annually to the Minister of Justice on the exercise of their functions under their Acts. These reports are tabled in Parliament by the Minister after receipt. The Ombudsman report annually to the House of Representatives.

B. Remedies available to an individual who claims that any of his or her rights have been violated, and what systems of compensation and rehabilitation exist for victims

87. As stated above, individuals who consider that any of their rights under the Bill of Rights Act have been infringed can bring an action against the Crown. There are a number of possible remedies available for such breaches including damages and orders excluding evidence obtained during an unreasonable search.

88. With respect to the Human Rights Act 1993, complaints of unlawful discrimination can be determined through the complaints mechanism of the Human Rights Commission. The Commission attempts to assist the parties to resolve the complaint by using a flexible and speedy approach to dispute resolution, which includes mediation and other low-level dispute resolution mechanisms. If low-level dispute resolution fails or is inappropriate, complainants may take their case to the Human Rights Review Tribunal (formerly the Complaints Review Tribunal) for adjudication. The Director of Human Rights Proceedings (an autonomous office situated within the Human Rights Commission), who represents complainants free of charge in the litigation if they meet certain criteria, may represent a complainant. Alternatively, complainants may take their case to the Tribunal themselves or engage their own legal counsel.

89. Where a complaint is upheld by the Human Rights Review Tribunal, including complaints about government policies and practices, a wide range of remedies are available, including awards of damages and orders for specific performance. When a complaint concerns legislation or validly made regulations, and the complaint is upheld, the sole remedy available is a declaration of inconsistency. This does not mean that the legislation is invalidated, but the responsible Minister is required to bring the declaration to the attention of the House of Representatives, along with the Executive's response to that declaration.

90. Decisions of the Human Rights Review Tribunal may be appealed to the High Court whose decision is final, or to the Court of Appeal on a point of law.

91. The Employment Relations Authority and Employment Court also have some jurisdiction in relation to personal grievance claims and claims concerning a breach of an employment contract. Matters covered by personal grievance procedures include claims of unjustified dismissal, discrimination in particular areas, unjustifiable action by an employer, sexual harassment and duress in relation to membership or non-membership of an employees' organization. It is not possible to complain to the Commission and take a personal grievance. Decisions of the Employment Relations Authority can be appealed to the Employment Court.

92. Finally, under sections 131 and 134 of the Human Rights Act, the District Court has jurisdiction over the offences of inciting racial disharmony and of refusing access on discriminatory grounds to a public place, vehicle or facility, respectively. Such prosecutions may be instituted only with the consent of the Attorney-General.

93. New Zealand citizens may also avail themselves of the complaint provisions under the individual communication procedures contained in both the first Optional Protocol to the

International Covenant on Civil and Political Rights and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. New Zealand has also made the declaration under article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment recognizing the competence of the Committee against Torture to receive communications from individuals subject to its jurisdiction.

C. Protection of the rights referred to in the various human rights instruments either in the Constitution or by a separate Bill of Rights and provisions made in the Constitution or Bill of Rights for derogations

94. New Zealand does not have a single constitutional document. The constitutional framework comprises the Constitution Act 1986 and a number of statutory provisions and common law rules. How these legal powers are exercised is determined by constitutional “conventions”, a series of rules, which, albeit unwritten, are accepted as binding by constitutional actors. This framework is erected on and maintained by the ordinary law and not through the operation of a supreme or basic law such as that found in other jurisdictions. For this reason, although New Zealand does have a Bill of Rights, which was enacted in the New Zealand Bill of Rights Act 1990, it is not an entrenched Bill of Rights. The rights and freedoms contained within that Act are subject to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society. Wherever an enactment can be given meaning that is consistent with the rights and freedoms contained in the Bill of Rights, that meaning shall be preferred by the Courts to any other meaning. The Courts, however, have no power to strike down legislation on the basis of inconsistency with the Bill of Rights. The Act provides for a mechanism whereby the Attorney-General reports to Parliament any inconsistency of proposed legislation with the Bill of Rights.

D. How human rights instruments are made part of the national legal system

95. International agreements do not automatically become part of the law of New Zealand simply by the process of ratification, accession or acceptance of a treaty. For an international agreement to have domestic effect either its provisions must be reflected already in New Zealand’s existing law or new legislation must be enacted. Before becoming a party to an international human rights instrument, therefore, the Government reviews New Zealand’s domestic law to see what additional legislation, or amendments to existing legislation, might be necessary to ensure the full and effective implementation of the agreement in New Zealand law, or whether reservations might be necessary.

E. Whether the provisions of the various human rights instruments can be invoked before, or directly enforced by, the courts, other tribunals or administrative authorities or whether they must be transformed into internal laws or administrative regulations in order to be enforced by the authorities concerned

96. Generally, for an individual to found a direct cause of action on rights protected by international human rights instruments, the right needs to be incorporated into domestic statute law (e.g. New Zealand Bill of Rights Act 1990). Where the wording of a statute permits it, the

courts will interpret the statute in a way that is consistent with, and gives effect to, international law. Failure to consider relevant international instruments renders a decision maker liable to judicial review for failure to consider relevant considerations.

**F. Institutions or national machinery with responsibility
for overseeing the implementation of human rights**

97. As noted in section A above, the Human Rights Commission has responsibilities in the area of human rights generally and the Race Relations Commissioner and the Privacy Commissioner have responsibilities in respect of racial discrimination and privacy, respectively. A Commissioner for Children, established under the Children, Young Persons and Their Families Act 1989, has responsibility in the area of welfare of children and young persons.

IV. INFORMATION AND PUBLICITY

98. The Human Rights Commission has a statutory duty:

(a) To advocate and promote respect for, and an understanding and appreciation of, human rights in New Zealand society; and

(b) To encourage the maintenance and development of harmonious relations between individuals and among the diverse groups in New Zealand society.

99. The Privacy Commissioner has a similar function in relation to the promotion, by education and publicity, of an understanding and acceptance of the protection of individual privacy.

100. In the fulfilment of its key functions, the Human Rights Commission is responsible, inter alia, for:

(a) The encouragement and coordination of programmes and activities in the field of human rights;

(b) The promotion by research, education and discussion of a better understanding of the human rights dimensions of the Treaty of Waitangi and their relationship with domestic and international human rights law;

(c) The preparation and publication, as the Commission considers appropriate, of guidelines and voluntary codes of practice for the avoidance of acts or practices that may be inconsistent with, or contrary to the Human Rights Act; and

(d) The making of public statements in relation to any group of persons in, or who may be coming to, New Zealand who are or may be subject to hostility, or who have been or may be brought into contempt, on the basis that the group consists of persons against whom discrimination is unlawful under the Act.

101. Human rights information and education is delivered in a number of ways. The first point of contact for most people seeking information and advice from the Human Rights Commission is *Infoline*, a toll-free telephone service that handles over 30,000 calls per year. The Commission also has a comprehensive web site, which provides users with online access to case notes, complaints information, library resources, submissions and discussion papers. Human rights education and information is further provided via a wide range of printed material including leaflets about the Commission's services, guidelines, discussion papers, pamphlets and posters. Moreover, the Commission regularly holds public seminars on a wide range of human rights topics.

102. The Human Rights Commission has a dedicated education team that delivers training services to a wide range of public and private organizations. The subject matter of such training services includes "Making Human Rights Work" for the public sector; "Tu Tikanga", enabling people with disabilities to deliver training to other people with disabilities; a human-rights kit on racial harassment for use in schools; and "Taku Manawa" for wider delivery of human rights information to communities throughout New Zealand.

103. The Ministry of Foreign Affairs and Trade is responsible for coordinating the preparation of New Zealand's periodic reports to the United Nations human rights treaty bodies. The Ministry of Women's Affairs and the Ministry of Youth Affairs prepare the reports under the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child respectively. The reports are prepared on the basis of information received from a wide range of government departments and agencies. The reports are also made available for public and non-governmental organization comment, and can be obtained from the relevant Ministry's web site. The International Covenant on Civil and Political Rights (and its first Optional Protocol), Convention on the Elimination of all forms of Discrimination against Women (and its Optional Protocol), and the Convention on the Rights of the Child have all been translated into Maori.

104. A summary of the relevant United Nations human rights treaty bodies' consideration of New Zealand's periodic reports, including the specific questions of the Committees, have been published by the Ministry of Foreign Affairs and Trade and are available free of charge to the public. In commemoration of the fiftieth anniversary of the Universal Declaration of Human Rights, the Government produced the *New Zealand Handbook on International Human Rights*. The handbook was published to provide an introduction for New Zealanders wanting to know more about the international human rights framework. In addition, the Ministry of Foreign Affairs and Trade publishes a biannual free newsletter updating civil society on developments in international human rights, including progress on New Zealand's reporting obligations under the human rights treaties.
