



Human Rights Commission  
Te Kāhui Tika Tangata

# Women's Rights in New Zealand

Submission of the New Zealand Human Rights Commission  
for the Seventh Periodic Review of New Zealand under the  
Convention on the Elimination of Discrimination Against  
Women

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# Women’s Rights in New Zealand

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## Introduction

1. The New Zealand Human Rights Commission is New Zealand’s National Human Rights Institution. It is accredited with “A” status. One of the Commission’s functions is “to promote and monitor compliance by New Zealand with, and the reporting by New Zealand on, the implementation of international instruments on human rights ratified by New Zealand.”<sup>1</sup>
2. The Commission welcomes the opportunity to provide this submission to the Committee on the Elimination of Discrimination Against Women for the purposes of New Zealand’s eighth periodic review under the Convention on the Elimination of Discrimination Against Women (CEDAW).
3. Based on the Commission’s consultations with women and its own research and work, we have identified five priority areas for women and girls in New Zealand:
  - a. Gender based violence
  - b. Employment
  - c. Exploitation and trafficking
  - d. Health
  - e. Data collection and resource allocation
4. Our submission references relevant CEDAW articles and Sustainable Development Goals. A full summary of recommendations that the Committee may wish to make to the New Zealand Government is provided at Appendix A.
5. The Commission conducted eight public consultation meetings to help inform this report. Meeting minutes for these consultations can be found here: <https://consultation.hrc.co.nz/womens-convention>.

## Gender-based violence

CEDAW Arts: 1 | 14    SDGs: 5 | 16

### *Violence and abuse*

6. Addressing violence and abuse remains New Zealand’s most significant human rights issue affecting women. Domestic violence is so prevalent in New Zealand it is thought

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<sup>1</sup> Section 5(2)(kc) of the Human Rights Act 1993

there are half a million victims.<sup>2</sup> In 2016 there were over 118,000 police domestic violence callouts - one every five minutes.<sup>3</sup> It is believed only 20% of victims report this violence to the Police.<sup>4</sup>

7. Between 2009 and 2015 there were 92 intimate partner violence events resulting in death. 68% of the deceased were women. Māori were three times more likely to be a victim or offender.<sup>5</sup> In 2017, only 1.5% of government spending was dedicated to violence prevention.<sup>6</sup>
8. The Committee for Economic, Social and Cultural Rights recently raised serious concern about the prevalence of domestic and gender-based violence in New Zealand and made a number of recommendations in this regard.<sup>7</sup>
9. The Commission is concerned that the strategic approach to family violence prevention has changed with successive governments and there seems to be an overall lack of policy coherence in this area.
10. Pre-2012, the Te Rito Family Violence Prevention Strategy, aimed at reducing family violence, was led by the Ministry of Social Development.<sup>8</sup> In 2014, a Ministerial Group on Family Violence and Sexual Violence was established for the same purpose. On 17 May 2018, the current Government announced funding of \$2m to resource the establishment of a dedicated body to lead and coordinate the transformation of the family and sexual violence system.<sup>9</sup> It is currently unclear whether this new work will continue to build upon the three years of work undertaken by the previous Government or whether a new approach will be adopted.
11. The Government recently announced a 30% increase in spend to address family violence, \$76m over four years for front line social services. The Government established a parliamentary under-secretary to the Minister of Justice with a focus on domestic and sexual violence.<sup>10</sup>

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<sup>2</sup> New Zealand Crime and Safety Survey: 2014 (2015) [www.justice.govt.nz/justice-sector-policy/research-data/nzcass/survey-results/](http://www.justice.govt.nz/justice-sector-policy/research-data/nzcass/survey-results/)

<sup>3</sup> New Zealand Family Violence Clearinghouse Data Summaries Snapshot, June 2017, quoting Data Scientist, National Performance & Insights Centre, New Zealand Police. (2017, May), <http://areyouok.org.nz/family-violence/statistics/> on 24.4.2017

<sup>4</sup> New Zealand Crime and Safety Survey: 2014 (2015), [www.justice.govt.nz/justice-sector-policy/research-data/nzcass/survey-results/](http://www.justice.govt.nz/justice-sector-policy/research-data/nzcass/survey-results/)

<sup>5</sup> Family Violence Death Review Committee (2016) *Fifth Report Data: January 2009 to December 2015*, <https://www.hqsc.govt.nz/assets/FVDRC/Publications/FVDRC-FifthReportData-2017.pdf>

<sup>6</sup> New Zealand Family Violence Clearinghouse, NZFVC Data Summaries 2017: Family violence reports reach record High <https://nzfvc.org.nz/news/nzfvc-data-summaries-2017-family-violence-reports-reach-record-high> on 28.4.2018

<sup>7</sup> Committee on Economic, Social and Cultural Rights, Concluding observations on the fourth periodic report of New Zealand, E/C.12/NZL/CO/4 (1 May 2018), paras. 12, 13.

<sup>8</sup> Ministry of Social Development, *Te Rito Family Violence Strategy*, <https://www.msd.govt.nz/about-msd-and-our-work/publications-resources/planning-strategy/te-rito/the-strategy.html>

<sup>9</sup> Ministry of Justice, *Family and sexual violence updates*, <https://www.justice.govt.nz/justice-sector-policy/key-initiatives/reducing-family-and-sexual-violence/work-programme/updates/#H1>

<sup>10</sup> *Ibid.*

12. The Government's Family Violence Death Review Committee highlighted the need for Kaupapa Māori responses (responses based on Māori principles or ideas); reclaiming mātauranga Māori (Māori wisdom) and bodies of knowledge, strengthening cultural identity, and restoring connections. These approaches must be adopted to effectively address the large number of Māori victims and offenders.

### **Recommendation 1**

- a. Agree on a cross party family violence strategic accord that will be adhered to by all political parties and implemented by successive governments.**
- b. Issue a long-term, coherent policy statement and strategy for reducing family violence, including milestones that will be achieved, so that progress can be transparently evaluated.**
- c. Report back within 12 months on progress made to address violence and abuse against women and girls with data disaggregated by race, gender, disability, sexual orientation, and age.**
- d. Ensure that women with disabilities, Māori, and ethnic minorities are consulted in the formation of any domestic violence work programme.**
- e. Ensure domestic violence services align with kaupapa Māori and that Māori are included in developing the family violence prevention service design.**

### *Violence against women with disabilities*

13. Evidence shows disabled women are up to three times more likely to be victims of physical and sexual abuse, and have less access to physical, psychological, and judicial interventions.<sup>11</sup> These risks are compounded by a lack of accessibility and visibility of the barriers people with disabilities face. Disabled women are often not consulted regarding decisions that affect them and are not included in the development of solutions.
14. Disabled women living in residential care and supported environments often have relationships of a close, dependent, nature with their caregiver and support workers. These relationships are of a personal nature and can involve a person exercising significant physical control over another individual. New Zealand's current domestic violence legislation defines domestic relationships in a way that excludes these types of carer relationships. "Employer-employee" relationships are specifically excluded from the definition of "close personal relationship" in the Domestic Violence Act 1989.

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<sup>11</sup> World Health Organization (2009), Promoting Sexual and Reproductive Health for Persons with Disabilities WHO/UNFPA Guidance Note, [https://www.unfpa.org/sites/default/files/pub-pdf/srh\\_for\\_disabilities.pdf](https://www.unfpa.org/sites/default/files/pub-pdf/srh_for_disabilities.pdf)

## **Recommendation 2**

- a. Ensure all domestic violence related services are inclusive and accessible, and that they are developed in consultation with disabled women.**
- b. Amend domestic violence legislation to include, within the definition of domestic violence, violence occurring between a person and their nonfamily caregiver or paid support worker.**

### *Forced marriage, dowry, violence towards ethnic women*

15. There is no systemic data collection on the rates and prevalence of forced marriage in New Zealand. This is concerning as girls aged 16 or 17 can currently get married with parental consent. Shakti International recorded 64 cases of actual or threatened forced marriage from January 2009 to November 2011.<sup>12</sup> As this data relates to only one geographical area it is likely the actual number is higher.
16. Currently there is a Bill before Parliament that would remove the ability of parents to consent to marriage on behalf of 16 and 17-year-olds.<sup>13</sup> The power to approve such marriages will instead rest with a Family Court Judge. The Commission's position is that marriage should be outlawed for all people under the age of 18 years, to bring New Zealand in line with international law.<sup>14</sup>
17. Victims of family violence within ethnic communities can face potential stigma when disclosing violence, and can experience a lack of trust in, and fear of, authority.<sup>15</sup> Information about violence, processes for reporting domestic violence, and the supports available following violent incidents are often not culturally sensitive and the details may not be available in the required languages.

## **Recommendation 3**

- a. Raise the legal minimum age of marriage to 18 years without any exceptions.**
- b. Introduce legal measures to prohibit forced marriages.**
- c. Consult with ethnic NGOs and resource them to establish an ethnic violence prevention strategy for New Zealand.**

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<sup>12</sup> Shakti International – a non-profit organisation serving migrant and refugee women of Asian, African and Middle Eastern origin, <https://shakti-international.org/shakti-nz/>

<sup>13</sup> Marriage (Court Consent to Marriage of Minors) Amendment Bill

<sup>14</sup> Submission available at [https://www.parliament.nz/resource/en-NZ/51SCJE\\_EVI\\_BILL\\_73911\\_A565358/afe35d47dd363a9e34ef526aac285d8c91c227b7](https://www.parliament.nz/resource/en-NZ/51SCJE_EVI_BILL_73911_A565358/afe35d47dd363a9e34ef526aac285d8c91c227b7)

<sup>15</sup> Simon-Kumar, Rachel, Kurian, PA, Young-Silcock, F, Narasimhan, N. (2017) *Mobilising culture against domestic violence in migrant and ethnic communities: practitioner perspectives from Aotearoa/New Zealand*, <https://researchspace.auckland.ac.nz/handle/2292/34249>

## Employment

CEDAW Arts: 7 | 11      SDGs: 5 | 8

### *Gender pay gap*

18. In May 2018, the Committee for Economic, Social, and Cultural Rights raised concern that the principle of equal pay for work of equal value for women is not reflected in New Zealand’s legislation. The Committee recommended that New Zealand “Adopt measures to incorporate the principle of equal pay for work of equal value in the State party’s legislation and develop a streamlined mechanism to implement it across occupations.”<sup>16</sup>
19. Statistics New Zealand (StatsNZ) announced a gender pay gap of 9.4% in New Zealand.<sup>17</sup> This has stagnated fluctuating between 12.5% and 9.1% between 2008 and 2017.<sup>18</sup> The pay gap is even worse for Māori, Pasifika, and Asian women, and women with disabilities.<sup>19</sup>
20. In May 2018, the Ministry of Women published research on how parenthood contributes to the gender pay gap in New Zealand.<sup>20</sup> The study tracked a sample of men and women from five years before their first baby to 10 years after. Men and women without children had a wage difference of 5.7% and men and women who were parents had a wage difference of 12.5%. The research found that women on average experience a 4.4% decrease in hourly wages upon becoming mothers. While men experience no significant decrease. The pay cut is worse the longer the mother takes off to look after children, including up to an 8.3% decrease if they took more than 12 months off.
21. Women in New Zealand are entitled to 18 weeks paid parental leave. Some or all of that entitlement can be transferred to the partner of a mother if the partner is the primary care giver. However, the partner of a mother is not entitled to additional paid leave, separate to that of the mother.<sup>21</sup>
22. The Ministry for Women’s report *Empirical evidence of the gender pay gap in New Zealand* showed 80% of the gender pay gap is driven by unexplainable factors such as unconscious and conscious bias that negatively affect the recruitment pay and promotion of women.<sup>22</sup> Action is needed to combat these biases.

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<sup>16</sup> Committee on Economic, Social and Cultural Rights, Concluding observations on the fourth periodic report of New Zealand, E/C.12/NZL/CO/4 (1 May 2018), para. 31(d).

<sup>17</sup> Percentage in the July 2017 quarter, <http://women.govt.nz/work-skills/income/gender-pay-gap>

<sup>18</sup> <http://women.govt.nz/work-skills/income/gender-pay-gap>

<sup>19</sup> New Zealand Human Rights Commission, *Tracking Equality at Work 2018*, <http://tracking-equality.hrc.co.nz/#/>

<sup>20</sup> Isabelle Sin, Kabir Dasgupta, Gail Pacheco, *Parenthood and Labour Market Outcomes*, Ministry of Women, May 2018, [http://women.govt.nz/sites/public\\_files/Parenthood%20and%20the%20Labour%20Market-slides.pdf](http://women.govt.nz/sites/public_files/Parenthood%20and%20the%20Labour%20Market-slides.pdf)

<sup>21</sup> Section 71E of the Parental Leave and Employment Protection Act 1987

<sup>22</sup> Ministry for Women (2017) *Empirical evidence of the gender pay gap in New Zealand*, [http://women.govt.nz/sites/public\\_files/Empirical%20evidence%20of%20GPG%20in%20NZ%20-%20Mar2017\\_0.pdf](http://women.govt.nz/sites/public_files/Empirical%20evidence%20of%20GPG%20in%20NZ%20-%20Mar2017_0.pdf)

23. On 18 April 2017, the Government announced a \$2 billion pay equity settlement for 55,000 care and support workers in New Zealand’s aged and disability residential care, and home and community support services. The settlement followed a successful legal claim brought by a union arguing the pay that caregivers (who are predominantly female) received was less than what would have been paid to a male with the same skill set in a different occupation.
24. This settlement is historic and is an important step towards pay equity. However it does not extend to all sectors where female workers continue to be underpaid, such as education. In January 2018 the Government reconvened the Joint Working Group on Pay Equity Principles. The group will consider how to determine the merit of a claim as a pay equity claim and how to select appropriate male comparators. The Minister for Women stated, “Once we receive the recommendations we will work to develop pay equity legislation which we expect to introduce mid-2018.”<sup>23</sup>

#### **Recommendation 4**

- a. **Incorporate the principle of equal pay for equal value in legislation.**
- b. **Require State sector organisations, particularly State-Owned Enterprises and Mixed Ownership Model Companies, to publish annual gender and ethnic pay gaps and their plans to eliminate these gaps.**
- c. **Enact legislation that requires companies with more than 100 workers to publicly report on their gender pay and bonus gap annually.**
- d. **Enact fair and robust pay equity legislation that will allow women in low paid female dominated occupations to make claims against their employers.**
- e. **Fund specific research on the impact of conscious and unconscious bias on the gender pay gap, and identify and implement recommendations to address this issue.**
- f. **Provide the partner of a mother or nominated primary care giver with paid partner’s leave that is additional to and not shared with the mother or primary care giver’s parental leave entitlement.**

#### *Women in leadership*

21. New Zealand women are well represented in leadership positions in some areas but not in others. Three of New Zealand’s senior constitutional roles, the Prime Minister, the

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<sup>23</sup> Hon Julie Anne Genter (2018) *Joint Working Group on Pay Equity Principles Reconvened* Available: <https://www.beehive.govt.nz/release/joint-working-group-pay-equity-principles-reconvened>

Governor-General, and the Chief Justice, are held by women. Following the 2017 general election, women comprise 38% of Members of Parliament.

22. Nevertheless, while women comprise 61% of public servants, they comprise only 42% of chief executives of public service departments<sup>24</sup> and 48% of the top three tiers of senior management.<sup>25</sup> In the private sector, only 19% of directors of companies listed on the New Zealand Stock Exchange Main Board were female.<sup>26</sup> Only 18% of senior roles are held by women, and 56% of businesses have no women in senior roles.<sup>27</sup> In one global report, New Zealand ranks 33 out of the 35 countries surveyed for the proportion of senior leadership roles held by women.<sup>28</sup>
23. The Government has an aspirational goal of 45% participation of women on state sector boards. There is not a goal for equal representation of women in the public sector and no real leadership for the private sector.

#### **Recommendation 5**

- a. **Prioritise and fund affordable, high quality childcare to ensure women with children can remain in the workforce and progress to senior roles.**
- b. **Increase targets for women on public sector boards to 50%. Make it a target, not an aspirational goal.**
- c. **Implement an initial target for private sector boards of 30% women.**
- d. **Make a commitment to encourage the New Zealand Stock exchange to introduce mandatory gender/diversity policies, and include a requirement to disclose how the policy will be implemented and evaluated in line with the United Nations Guiding Principles on Business and Human Rights.**
- e. **Act on previous CEDAW recommendations regarding temporary special measures.**

#### *Sexual harassment in the workplace*

24. Sexual harassment and bullying within the workplace, particularly within the legal industry, police, defence force, and health sector has been reported. A survey of members of the New Zealand Law Society showed nearly one third of female

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<sup>24</sup> State Services Commission (2018) *Public Service Chief Executives*, <http://www.ssc.govt.nz/ce-photo-file>

<sup>25</sup> State Services Commission (2017) *Diversity and Inclusion*, <http://www.ssc.govt.nz/public-service-workforce-data/hrc-diversity>

<sup>26</sup> NZX (2017) *Diversity Statistics*, [https://www.nzx.com/regulation/diversity\\_statistics](https://www.nzx.com/regulation/diversity_statistics)

<sup>27</sup> Grant Thornton (2018) *Proportion of women in NZ senior leadership roles has hit rock bottom*, <http://www.grantthornton.co.nz/press/press-releases-2018/proportion-of-women-in-nz-senior-leadership-roles-has-hit-rock-bottom/>

<sup>28</sup> Grant Thornton (2018) *Women in business: beyond policy to progress*, <http://www.grantthornton.co.nz/insights/women-in-business-2018/>

lawyers had been harassed during their working life and 52% of lawyers had been bullied during their working life.<sup>29</sup>

25. The Commission receives between 70 and 80 sexual harassment complaints annually, with approximately 85% from women. It is thought sexual harassment is grossly underrepresented for reasons such as fear of retaliation, a lack of workplace support, self-minimisation of the harassment, or concern by victims that they will not be believed if they speak up.
26. Sexual harassment is covered by both the Employment Relations Act 2000 and the Human Rights Act 1993. Both agencies hear complaints and provide a mediation service, however, the processes can be complex and arduous. There is increasing concern that sexual harassment is more prevalent than is reported and that current mechanisms are not victim-centric.

### **Recommendation 6**

- a. Introduce legislation requiring all workplaces to have a sexual harassment policy that is robust and meets certain minimum standards.**
- b. Create a nation-wide sexual harassment strategy and fund a centralised agency (like WorkSafe) that is mandated to confidentially investigate complaints, provide support to victims, and conduct sexual harassment training within work places.**
- c. Investigate potential systems for appropriately recording complaints about individuals to help identify potential patterns or recidivist activity.**

## **Exploitation and Trafficking**

**CEDAW Arts: 6     SDGs: 5 | 8 | 16**

27. New Zealand is a destination country for men and women subject to forced labour and trafficking.<sup>30</sup> Around 80% of transnational victims of human trafficking are women and girls.<sup>31</sup> As outlined in the report *Worker Exploitation in New Zealand: A Troubling Landscape*<sup>32</sup> exploitative practices affecting female workers include non-payment of wages, payment of wages well below minimum wage, excessive working hours, employers threatening to report workers to government authorities if they complain,

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<sup>29</sup> New Zealand Law Society (2018) *Workplace Environment Survey* Available:

[https://www.lawsociety.org.nz/\\_data/assets/pdf\\_file/0009/122679/Report-28-May-2018.pdf](https://www.lawsociety.org.nz/_data/assets/pdf_file/0009/122679/Report-28-May-2018.pdf)

<sup>30</sup> US Department of State (2017) *Trafficking in Persons Report* Available:

<https://www.state.gov/documents/organization/271344.pdf>

<sup>31</sup> Joy Ngozi Ezeilo (2009) *Report of the Special Rapporteur on Trafficking in Persons, Especially Women and Children*, A/HRC/10/16 (2009) at 6

<sup>32</sup> Christina Stringer, *Worker Exploitation in New Zealand: A Troubling Landscape* (December 2016)

[www.workerexploitation.co.nz/report](http://www.workerexploitation.co.nz/report)

and degrading and abusive treatment. The industries where women are particularly being exploited are hospitality, international students, and migrant sex work.<sup>33</sup>

28. There is no concise strategy that addresses this programme of work, despite a commitment from the new government to prioritise the elimination of worker exploitation.
29. There has been a lack of research ascertaining the extent of worker exploitation in key industries, a lack of transparency from the government in publishing the results of monitoring that does take place by the labour inspectorate, and extremely slow progress in updating the “Plan of Action to prevent People Trafficking 2009” despite an interagency meeting formed for this purpose operating for several years.
30. Section 19 of the Prostitution Reform Act 2003 prohibits temporary visa holders being a sex worker. It was introduced as a safeguard against trafficking.<sup>34</sup> This law puts migrant sex workers at risk as they feel unable to report exploitative employers due to the risk of deportation and are unable to seek assistance from health professionals.<sup>35</sup>
31. The Government has a duty to embed human rights principles and to outlaw labour exploitation and human trafficking in its supply chain through its own public procurement policy.

#### **Recommendation 7**

- a. Prepare an interagency strategy, in alignment with best practice, to address human trafficking and worker exploitation in New Zealand.**
- b. Carry out research into key industries where human trafficking and exploitation affecting women is taking place; specifically, migrant sex work, international students, and the hospitality sector.**
- c. Expedite current efforts to update the New Zealand Plan of Action to prevent People Trafficking and provide a deliverable timeframe for completion of this.**
- d. Repeal section 19 of the Prostitution Reform Act.**
- e. Embed the United Nations Guiding Principles on Business and Human Rights into the Group Sourcing Code that provides guidance for public procurement. Ensure that goods and services provided under All-of-Government contracts are free from human trafficking and worker exploitation.**

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<sup>33</sup> Ibid.

<sup>34</sup> Dr Michael Roguski (2013) *Occupational Health and Safety of Migrant Sex Workers in New Zealand* Available: <http://www.nswp.org/sites/nswp.org/files/Roguski-2013-OSH-of-migrant-sex-workers-in-NZ-1.pdf>

<sup>35</sup> Ibid

## Health

CEDAW Arts: 12    SDGs: 5 | 3

### *Abortion*

32. Women in New Zealand do not have the right to an abortion on request. Under the Crimes Act 1961, procuring an abortion or supplying the means of procuring an abortion are crimes if carried out unlawfully.<sup>36</sup> The term “unlawfully” is defined in section 187A of the Act, which stipulates that an abortion will not be unlawful if performed earlier than 20 weeks into the pregnancy and if one of four grounds is met, including that it is believed that continuance of the pregnancy would result in serious danger to the life, physical or mental health of the woman or there is a substantial risk that the child would be so physically or mentally abnormal as to be seriously handicapped.<sup>37</sup>
33. An abortion is only lawful after 20 weeks’ gestation if the person performing it believes that it is necessary to save the life of the woman or to prevent serious permanent injury to her physical or mental health.<sup>38</sup> In order to obtain an abortion, the procedure must be authorised by two separate certifying medical consultants to confirm that the statutory requirements have been met.<sup>39</sup>
34. The current law has been described as outdated and clumsy leading to difficulties in understanding the requirements and problems applying the rules in practice.<sup>40</sup> To greater recognise women’s right to health, abortion should be decriminalized.
35. In February 2018, the Minister of Justice proposed a policy shift to treat abortion as a health issue.<sup>41</sup> The Minister has asked the Law Commission to review the criminal aspects of abortion law, the statutory grounds for an abortion and the process for receiving service.<sup>42</sup> The advice is due on 27 October 2018.

### **Recommendation 8**

- a. Repeal sections 182-187A of the Crimes Act 1961.**
- b. Repeal the provisions of the Contraception, Sterilisation and Abortion Act that make it an offence for a woman to unlawfully have an abortion or for a medical practitioner to unlawfully provide an abortion and require the authorization of two certifying consultants before an abortion can be performed.**

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<sup>36</sup> Crimes Act 1961, Section 183-186

<sup>37</sup> Section 187A(1)

<sup>38</sup> Ibid. Section 187A (3)

<sup>39</sup> Contraception, Sterilisation and Abortion Act 1977, Section 33.

<sup>40</sup> Report of the Abortion Supervisory Committee (2016), <https://www.justice.govt.nz/assets/Documents/Publications/asc-annual-report-2016.pdf>

<sup>41</sup> Letter available: <http://www.lawcom.govt.nz/sites/default/files/projectAttachments/180227-LITTLE%20Hon%20A-Law%20Commission%20referral%20re%20abortion%20law.pdf>

<sup>42</sup> Law Commission (2018) *Abortion Law Reform*, <http://lawcom.govt.nz/abortion>

- c. **Ensure equitable access to medical and surgical abortion services.**
- d. **Provide, within one year, information on the steps taken to treat abortion as a health care, rather than a criminal issue.**

### *Sterilisation*

36. Sterilisation is legal in New Zealand under the Contraception, Sterilisation and Abortion Act. The consent of an intellectually disabled girl under the age of 18 is not required before sterilisation can be performed. The Care of Children Act provides that a minor's guardians together with the appropriate medical professionals have the authority to decide which medical treatments they will receive,<sup>43</sup> and the High Court has observed that court authorisation for sterilisation is not required.<sup>44</sup> In similar jurisdictions, such as Australia, a court order is required before sterilisation can occur.

### **Recommendation 9**

**Enact legislation prohibiting the use of sterilisation on boys and girls with disabilities, and on adults with disabilities, in the absence of their prior, fully informed, and free consent.**

### *Maternity care*

37. There is a shortage of midwives, who act as lead maternity carers for most New Zealand women. This shortage is attributed to low pay, high overhead costs, and travel costs not being covered by the funding contract. Over 140 women in Canterbury were unable to find a lead maternity carer over the 2017/18 Christmas period.<sup>45</sup> The Government recently announced that the Ministry of Health and the New Zealand College of Midwives are working together on a maternity programme to address current pressure on midwives.

### **Recommendation 10**

**Report back to the Committee within one year on measures taken to address the current critical shortage of midwives.**

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<sup>43</sup> Care of Children Act 2004 s36(1)

<sup>44</sup> *Re X* [1991] 2 NZLR 365 (HC)

<sup>45</sup> Henry, Dubby (2018) *Midwifery in 'crisis' with pregnant women unable to find lead maternity carers*, [http://www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=11997502](http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11997502)

## Data collection and resource allocation

### CEDAW Arts: 1 SDGs: 5

#### *Sustainable Development Goals*

38. The New Zealand Government endorsed the 2030 Agenda for Sustainable Development. Many of the Goals have a direct correlation to CEDAW obligations such as achieving gender equality (Goal 5), ensuring decent work for all (Goal 8), and reducing inequalities (Goal 10). There is a lack of robust disaggregated data across the key indicators for these goals. This makes it difficult to accurately understand areas of multiple discrimination for women in relation to characteristics such as ethnicity, gender, and disability. Furthermore, there is still no overarching plan about how the SDGs will be measured or implemented.

#### **Recommendation 11**

- a. **Ensure that the environmental, social, and economic sustainability indicators that are currently under development by the Government reflect the targets and indicators set out in the SDGs as they relate to women.**
- b. **Develop comprehensive data collection measures for the SDGs.**
- c. **Develop a plan for implementation of the SDGs including clear timeframes, appointment of a lead Minister and identification of responsible Government agencies to lead the required indicator and data collection activities.**

#### *Family violence data*

39. New Zealand does not have a single data source dedicated to family violence. Data is recorded in numerous places including the Police, the Ministry of Justice, the Ministry of Health, NGOs, Child and Youth Mortality Review Committee, Family Violence Death Review Committee reports, and other bodies. These different bodies may use different terminology, for example the Police talk about “family harm” while the Ministry of Justice use the term “domestic violence”. Not all data is collected, for example Police are often not recording the relationship between the victim and offender.<sup>46</sup>

#### **Recommendation 12**

**Ensure systematic collection and publication of data regarding family violence, disaggregated by sex, ethnicity, type of violence, and by the relationship of the perpetrator to the victim. Collect data on the number of women killed by partners or ex-partners; and ensure data is available in one data source.**

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<sup>46</sup> New Zealand Family Violence Clearinghouse (2017) *NZFVC Data Summaries 2017: Family violence reports reach record high*, <https://nzfvc.org.nz/news/nzfvc-data-summaries-2017-family-violence-reports-reach-record-high>

## Census

40. A census took place in March 2018. This population-level survey did not include questions on self-identified sexual orientations, gender identities or expressions, or sex characteristics.

### **Recommendation 13**

**Ensure that StatsNZ and other government agencies collect confidentially, detailed, accurate, inclusive and intersectional data on the self-identities of sex, gender, and sexually diverse people for the 2023 census, NZ Health Survey, and other key surveys to ensure that transgender, non-binary and intersex women are accounted for.**

## Gender Budgeting

25. The Government is not required to consider or report on gender impacts when making fiscal or resourcing decisions. The OECD's 2016 gender budgeting survey shows New Zealand has not indicated any intention to adopt gender budgeting tools.<sup>47</sup> This is despite almost half of OECD countries having introduced or actively considering the introduction of gender budgeting.<sup>48</sup> A Working Paper published by the New Zealand Treasury in April 2018 argued that New Zealand would benefit from exploring the potential application of gender budgeting principles to increase transparency of fiscal policy and inform policy debate.<sup>49</sup>

### **Recommendation 14**

- a. **Consider making it a requirement that when the Minister of Finance tables a budget in the House, a gender analysis of the budget documents is also tabled.**
- b. **Amend the Public Finance Act 1989 to introduce gender budgeting in the Government's budgetary and financial process.**

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<sup>47</sup> Organisation for Economic Cooperation and Development, *Gender budgeting in OECD countries* (2017) See Figure 2.9, pg 18.

<sup>48</sup> Ibid. pg. 2.

<sup>49</sup> OECD, *Gender budgeting in OECD countries* (2017), Executive Summary, pg. ii +

## **Appendix A: Recommendations**

### **Recommendation 1**

- a. Agree on a cross party family violence strategic accord that will be adhered to by all political parties and implemented by successive governments.**
- b. Issue a long-term, coherent policy statement and strategy for reducing family violence, including milestones that will be achieved, so that progress can be transparently**
- c. Report back within 12 months on progress made to address violence and abuse against women and girls with data disaggregated by race, gender, disability, sexual orientation, and age.**
- d. Ensure that women with disabilities, Māori, and ethnic minorities are consulted in the formation of any domestic violence work programme.**
- e. Ensure domestic violence services align with kaupapa Māori and that Māori are included in developing the family violence prevention service design.**

### **Recommendation 2**

- a. Ensure all domestic violence related services are inclusive and accessible, and that they are developed in consultation with disabled women.**
- b. Amend domestic violence legislation to include, within the definition of domestic violence, violence occurring between a person and their nonfamily caregiver or paid support worker.**

### **Recommendation 3**

- a. Raise the legal minimum age of marriage to 18 years without any exceptions.**
- b. Introduce legal measures to prohibit forced marriages.**
- c. Consult with ethnic NGOs and resource them to establish an ethnic violence prevention strategy for New Zealand.**

### **Recommendation 4**

- a. Incorporate the principle of equal pay for equal value in legislation.**
- b. Require State sector organisations, particularly State-Owned Enterprises and Mixed Ownership Model Companies, to publish annual gender and ethnic pay gaps and their plans to eliminate these gaps.**

- c. Enact legislation that requires companies with more than 100 workers to publicly report on their gender pay and bonus gap annually.
- d. Enact fair and robust pay equity legislation that will allow women in low paid female dominated occupations to make claims against their employers.
- e. Fund specific research on the impact of conscious and unconscious bias on the gender pay gap, and identify and implement recommendations to address this issue.
- f. Provide the partner of a mother or nominated primary care giver with paid partner's leave that is additional to and not shared with the mother or primary care giver's parental leave entitlement.

#### **Recommendation 5**

- a. Prioritise and fund affordable, high quality childcare to ensure women with children can remain in the workforce and progress to senior roles.
- b. Increase targets for women on public sector boards to 50%. Make it a target, not an aspirational goal.
- c. Implement an initial target for private sector boards of 30% women.
- d. Make a commitment to encourage the New Zealand Stock exchange to introduce mandatory gender/diversity policies, and include a requirement to disclose how the policy will be implemented and evaluated in line with the United Nations Guiding Principles on Business and Human Rights.
- e. Act on previous CEDAW recommendations regarding temporary special measures.

#### **Recommendation 6**

- a. Introduce legislation requiring all workplaces to have a sexual harassment policy that is robust and meets certain minimum standards.
- b. Create a nation-wide sexual harassment strategy and fund a centralised agency (like WorkSafe) that is mandated to confidentially investigate complaints, provide support to victims, and conduct sexual harassment training within work places.
- c. Investigate potential systems for appropriately recording complaints about individuals to help identify potential patterns or recidivist activity.

#### **Recommendation 7**

- a. Prepare an interagency strategy, in alignment with best practice, to address human trafficking and worker exploitation in New Zealand.
- b. Carry out research into key industries where human trafficking and exploitation affecting women is taking place; specifically, migrant sex work, international students, and the hospitality sector.

- c. Expedite current efforts to update the New Zealand Plan of Action to prevent People Trafficking and provide a deliverable timeframe for completion of this.
- d. Repeal section 19 of the Prostitution Reform Act.
- e. Embed the United Nations Guiding Principles on Business and Human Rights into the Group Sourcing Code that provides guidance for public procurement. Ensure that goods and services provided under All-of-Government contracts are free from human trafficking and worker exploitation.

#### **Recommendation 8**

- b. Repeal sections 182-187A of the Crimes Act 1961.
- a. Repeal the provisions of the Contraception, Sterilisation and Abortion Act that make it an offence for a woman to unlawfully have an abortion or for a medical practitioner to unlawfully provide an abortion and require the authorization of two certifying consultants before an abortion can be performed.
- c. Ensure equitable access to medical and surgical abortion services.
- d. Provide, within one year, information on the steps taken to treat abortion as a health care, rather than a criminal issue.

#### **Recommendation 9**

Enact legislation prohibiting the use of sterilisation on boys and girls with disabilities, and on adults with disabilities, in the absence of their prior, fully informed, and free consent.

#### **Recommendation 10**

Report back to the Committee within one year on measures taken to address the current critical shortage of midwives.

#### **Recommendation 11**

- a. Ensure that the environmental, social, and economic sustainability indicators that are currently under development by the Government reflect the targets and indicators set out in the SDGs as they relate to women.
- b. Develop comprehensive data collection measures for the SDGs.
- c. Develop a plan for implementation of the SDGs including clear timeframes, appointment of a lead Minister and identification of responsible Government agencies to lead the required indicator and data collection activities.

#### **Recommendation 12**

Ensure systematic collection and publication of data regarding family violence, disaggregated by sex, ethnicity, type of violence, and by the relationship of the perpetrator

to the victim. Collect data on the number of women killed by partners or ex-partners; and ensure data is available in one data source.

**Recommendation 13**

Ensure that StatsNZ and other government agencies collect confidentially, detailed, accurate, inclusive and intersectional data on the self-identities of sex, gender, and sexually diverse people for the 2023 census, NZ Health Survey, and other key surveys to ensure that transgender, non-binary and intersex women are accounted for.

**Recommendation 14**

- a. Consider making it a requirement that when the Minister of Finance tables a budget in the House, a gender analysis of the budget documents is also tabled.
- b. Amend the Public Finance Act 1989 to introduce gender budgeting in the Government's budgetary and financial process.