

## Executive Summary

1. Pacific Women's Watch (New Zealand) (PWW(NZ)) brings nine recommendations for the New Zealand Government at its Universal Periodic Review. They are listed by subject and referenced to the appropriate page number.

- **National Action Plan for Women and establishment of new Parliamentary Select Committee on Human Rights (p.2)**
- **Workplace discrimination (p.3)**
- **Decent and affordable housing (p.5)**
- **Sexual violence (p.6)**
- **Forced and underage marriage (p.7)**
- **Dowry and trafficking (p.7)**
- **Domestic/family violence training and legal aid (p.8)**
- **Improvement of sexual and reproductive health (p.10)**
- **Improvement of access to health services for LGBTIQ (p.10)**

## Current Status

2. In terms of their human rights and fundamental freedoms New Zealand women and girls continue to suffer discrimination in many areas critical to their future well-being. PWW(NZ), an umbrella organisation and coalition of 20 groups and a number of individuals across a diversity of cultures, many of whom suffer discrimination and marginalisation, brings key concerns and recommendations in this Alternative Report for the second Universal Periodic Review (UPR) of the New Zealand Government's performance. Gender equality is examined through the lens of intersectionality.

3. Central to this Report are the principal areas of concern and recommendations the Committee on the Elimination of Discrimination against Women<sup>1</sup> brought to the New Zealand Government in July 2012 from the 52<sup>nd</sup> session. Well understood and encapsulated were concerns presented by PWW(NZ) on behalf of New Zealand women and girls in its highly regarded NGO Alternative Report to that session.

4. The Committee's Concluding observations stressed the obligation of the State party "to systematically and continuously implement" all the provisions of the Convention. **Priority concerns included attention to gender neutral language with respect to gender violence; pay inequality and pay equity; the status of vulnerable groups of women, including women with disabilities, and minority women; and the impact of policy changes.** The areas of concern were stated very clearly. There can be no doubt that New Zealand women and girls continue to suffer significant discrimination. Many continue to be marginalized and impoverished. This currently causes widespread family deprivation and stress. Little has changed since the first UPR round. While New Zealand women and girls remain the victims of de facto and of systemic inequality they do not have the right to enjoy freedom from discrimination.

5. Particularly worrying are the continuing high levels of violence suffered by women and girls. Conclusions from the 57<sup>th</sup> session of the Commission on the Status of Women, New York, in March 2013 stated that ending violence against women and girls "must be a priority, not an option" for achieving human rights, social cohesion and sustainable development. These are the pillars which will take New Zealand society forward as a country known internationally for its achievement of universal human rights and fundamental freedoms regardless of gender. Priorities must be the establishment of multi-sectoral services for survivors of violence, including health, psychological support and counselling, as well as the need to protect the right to sexual and reproductive health.

6. Gaps and cross-cutting challenges in achieving human rights and equality for New Zealand women and girls were identified in presentations and discussions at meetings, seminars and workshops

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<sup>1</sup> Commonly referred to as the CEDAW committee.

held nationwide by PWW(NZ) during the past four years. Responses to the PWW(NZ) Questionnaire 'How Are We Doing – New Zealand Women Together' provided a longitudinal measure of progress through reporting on women's daily lives. Particular discriminations suffered by the rich diversity of women and girls in Auckland where a high proportion of Maori, Pacific, Asian and migrant women and girls live are a focus for our concerns.

7. PWW(NZ) is well qualified to bring this Report following on from its highly regarded Alternative Report: Status of Women, comments to the CEDAW Monitoring Committee on New Zealand's progress in implementing the Convention for the session in July 2012. In March 2013 fourteen PWW(NZ) representatives attended the Commission on the Status of Women (CSW) in New York when the main agenda item was The prevention and elimination of all forms of violence against women and girls. Their experience at CSW in seeking new strategies to help overcome the unabated scourge of such violence in New Zealand is reflected in this report. The data gathered nationwide by PWW(NZ) for the 15-year review of the Beijing Declaration and Beijing Platform for Action and looked at through the lens of intersectionality also underlies our recommendations.

8. The major discriminations are clear and little changed since the first UPR reporting round. They continue to be the male/female pay gap differential currently growing slowly; unresolved discriminatory workplace issues; the high level of gender-based domestic and sexual violence; the continuing impoverishment of families impacting health and lifelong outcomes for women and girls with 1 in 4 children still in poverty; and the health and welfare of elderly women, women and girls with disabilities, and migrant women. These intersect closely with the issues and challenges raised by the CEDAW Committee in July 2012.

9. PWW(NZ) strongly condemns violence and asks the Government to place machineries for the advancement of women at the highest possible level and to increase its investment in gender equality and the empowerment of women and girls<sup>2</sup>.

#### 10. Recommendation

**That the Government:**

a) **make immediate progress on all outstanding issues and challenges brought by the CEDAW Committee in July 2012 to uphold its obligation to "systematically and continuously implement" all of the provisions of the Convention<sup>3</sup>;**

b) **establish a Parliamentary Select Committee on Human Rights to realise fully the issues associated with gender inequality and further**

**that the Government mandate the Ministry of Women's Affairs to:**

c) **elaborate a new five-year national Action Plan for New Zealand women and girls, time-based with measurable outcomes, to track progress in overcoming discrimination and to mainstream gender in all national plans and institutions;**

d) **report on, actively promote and make more visible its *Indicators for Change: Tracking the Progress of New Zealand Women* developed in 2008 and use the Indicators designed to measure outcomes relating to the government's high-level goals for women and**

e) **close the gap in collection of gender disaggregated data about people with disabilities.**

#### **Right to work and to just and favourable conditions of work**

11. PWW(NZ) consider women to be seriously impacted by stalled progress towards the full realisation of the right to work and just and favourable conditions of work.

12. Women represent 46.9 per cent of the labour force<sup>4</sup> yet despite women's wide participation the pay gap differential for women compared to men continues to be significant. Men's average pay is \$29.28 per hour and women's is \$25.37 per hour<sup>5</sup>, a slowly widening gap<sup>6</sup>. Average hourly wages and

<sup>2</sup> See Agreed Conclusions of Commission of the Status of Women 57 session, March 2013, Paragraphs 29 and A. (j).

<sup>3</sup> Concluding observations of the Committee on the Elimination of Discrimination against Women 52 session, 9-27 July 2012 for New Zealand, Paragraph 17 (c).

<sup>4</sup> Goldman Sachs and Partners NZ Limited.(2011). *Closing the Gender Gap: plenty of potential economic upside*. New Zealand. p.3.

<sup>5</sup> Statistics New Zealand. (2013). *Quarterly Employment Survey: March 2013 quarter*. Wellington. Retrieved from [http://www.stats.govt.nz/browse\\_for\\_stats/income-and-work/employment\\_and\\_unemployment/QuarterlyEmploymentSurvey\\_HOTPMar13qtr/Data%20Quality.aspx](http://www.stats.govt.nz/browse_for_stats/income-and-work/employment_and_unemployment/QuarterlyEmploymentSurvey_HOTPMar13qtr/Data%20Quality.aspx)

salaries of Maori and Pacific women remain substantially lower than those for women overall<sup>7</sup>. Government is not leading by example in terms of the gender pay gap with evidence of gender pay gaps throughout its departments<sup>8</sup>. Disestablishing the Pay and Employment Equity Unit (Department of Labour) in 2008 was an early indicator of our government's waning commitment to pay equity.

**13.** Paid parental leave remains inadequate at 14 weeks only. Gender discrimination in the workplace is of continuing concern, including widespread discrimination against women's choices to breastfeed in the workplace<sup>9</sup>. One in three women and one in six men experience sexual harassment in the workplace<sup>10</sup>. Serious workplace issues for migrant women continue to be ignored.

**14.** The Government's proposed changes to the Employment Relations Act 2000 include providing fewer protections for vulnerable workers such as cleaners, caterers and hospital orderlies, occupations predominantly performed by women. New Zealand women remain concentrated in lower paid occupations and there is a feminisation of particular occupation streams including teaching, care giving, nursing and retail<sup>11</sup>. Predominantly female occupations pay less than predominantly male occupations where similar skills and responsibilities are required. There is not a single industry where females earn more than their male counterparts<sup>12</sup>.

## **15. Recommendation**

**Government to launch robust initiatives to counter stubborn gendered imbalances and injustices in our workplaces and workforce.**

## **Right to participate in public and political life**

**16.** PWW(NZ) recognizes that the participation rate of women in New Zealand in both the labour market and in tertiary education is high by international standards. New Zealand was ranked 6<sup>th</sup> out of 134 countries for women's representation in Parliament. However, women's representation and participation remains a critical issue relating to women's rights<sup>13</sup>. New Zealand is no longer an international leader in progressing gender equality in terms of women's representation at the top in corporate and public governance, management and aspects of professional and public life<sup>14</sup>. This is well documented in the 2012 New Zealand Census of Women's Participation report published by the New Zealand Human Rights Commission (NZHRC)<sup>15</sup>.

**17.** A scarcity of women in high-ranking positions demonstrates persistent gender discrimination. The NZHRC's report documents the low representation of women in high-level and managerial positions on boards of private enterprises. Two companies in the top ten, Sky Network Television and Trust Power, have no women on their boards. Women are underrepresented in senior management positions and higher positions within the legal profession. Women are still less than 30 per cent of judges, less than 25 per cent of senior academic staff, and less than 20 per cent of top legal partnerships. There has been a reduction in representation of women public chief executives. The New Zealand Police and the New Zealand Defence Force have stalled in terms of women's progress at the top. Rather than progressing women's representation at the top, current strategies are "marked by complacency and revisionism"<sup>16</sup>.

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<sup>6</sup> Wade, A. (2013). Pay gap between men and women slowly widening. *NZ Herald* (April 27 2013). Retrieved from [http://www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=10880050](http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10880050)

<sup>7</sup> Statistics New Zealand. (2012). *New Zealand Income Survey: June 2012 quarter*. Wellington. Retrieved from [http://www.stats.govt.nz/browse\\_for\\_stats/income-and-work/Income/nz-income-survey-info-releases.aspx](http://www.stats.govt.nz/browse_for_stats/income-and-work/Income/nz-income-survey-info-releases.aspx)

<sup>8</sup> New Zealand Human Rights Commission. (2012). *The New Zealand Census of Women's Participation, 2012*. Wellington.

<sup>9</sup> National Equal Opportunities Network (NEON). *EEO Issues*. Retrieved from <http://www.neon.org.nz/eoissues/#3>

<sup>10</sup> Workplaces Against Violence in Employment. *Sexual and Racial Harassment*. Retrieved from <http://www.wave.org.nz/index.php/information/sexual-and-racial-harassment>

<sup>11</sup> Goldman Sachs, 2011, p.6

<sup>12</sup> Goldman Sachs, 2011, p.8

<sup>13</sup> For example see, New Zealand Human Rights Commission. (2010). *Human Rights in New Zealand 2010*. Retrieved from [http://www.hrc.co.nz/hrc\\_new/hrc/cms/files/documents/09-Dec-2010\\_12-25-21\\_Summary\\_of\\_HR\\_in\\_NZ\\_2010.html](http://www.hrc.co.nz/hrc_new/hrc/cms/files/documents/09-Dec-2010_12-25-21_Summary_of_HR_in_NZ_2010.html)

<sup>14</sup> This has been noted by the United Nations Committee on the Elimination of Discrimination Against Women during the Committee on the Elimination of Discrimination against Women 52 session, 9-27 July 2012.

<sup>15</sup> New Zealand Human Rights Commission, *The New Zealand Census of Women's Participation, 2012*.

<sup>16</sup> See Dr Judy McGregor's oral statement to CEDAW pre session available from <http://www.hrc.co.nz/2011/nz-womens-rights-report-presented-in-geneva>

**18.** A measure of the right of women to participate at all levels is to be found in New Zealand's Queen's Birthday Honours list, 3 June 2013. Women gained 10 honours in the New Zealand Order of Merit compared to 34 for men. For the Queens Service Order one woman and five men were honoured. Only at very the lowest level, Queen's Service Medal, was there some measure of equality with 34 women compared to 38 men. Women have a long way to go before their service compared to men is equally recognized.

**19.** There is serious concern over the sufficiency of targets, goals and time frames set for the advancement of women in decision-making positions in business, government and community sectors. Special measures, which are permissible in international and domestic law, that specifically target the realization of women's de jure and de facto equality have been recommended in the Concluding observations of the CEDAW Committee<sup>17</sup>.

**20.** PWW(NZ) applauds and strongly supports the NZ Stock Exchange's proposed gender diversity rule which has the potential to increase speedily the number of women on private corporate boards and in senior management positions. The rule would require members to disclose their diversity policies and the gender compositions of both board and senior management in annual reporting. PWW(NZ) urges the specific addition of ethnic diversity.

**21.** Analysis of the progress of women from different ethnicities or with disabilities across a range of areas lacks visibility, because of the inadequate collection of, and disaggregation of, data<sup>18</sup>. This limits the ability to analyse the participation and representation of different groups of women across a wide range of public life and professional activities. The New Zealand Human Rights Commission report outlines however, where data exists to show that "the persistent and pervasive inequalities that persist for women at the top are even more marked by ethnicity and disability"<sup>19</sup>. There is a need for collection and analysis of gender disaggregated data relating to women's labour market participation, management and governance representation, including the status of women with disabilities, Māori, Pacific and other ethnicities. This data must be used in mainstream policy development.

## Social security and adequate standard of living

**22.** There is serious concern that ongoing welfare reforms discriminate against women and children and further impoverish and marginalise sole parents. CEDAW Concluding observations, 2012, outlined that new social security legislation will likely predominantly affect Maori women and reduce their social benefits<sup>20</sup>. PWW(NZ) supports the call for an independent evaluation of the gendered impacts of welfare reforms.

**23.** New Zealand's child poverty rates are above average for the OECD<sup>21</sup>. but child poverty was not considered in the 2013 Budget. New Zealand needs to take a stronger position on child poverty.

**24.** There is concern that the Government's focus in Christchurch is disproportionately on the recovery of business as opposed to economic recovery of families many of whom are living in temporary and overcrowded accommodation<sup>22</sup>. The social security of women in Christchurch must be prioritized and actively monitored as noted by CEDAW<sup>23</sup>.

**25.** Housing is a primary determinant of an adequate standard of living. The inability to obtain decent, affordable housing is one of the most significant barriers to an adequate standard of living<sup>24</sup>. In Auckland in particular the growing shortage of housing is an ongoing issue. New Zealand has at least one million substandard homes, of which rental properties are generally the worst<sup>25</sup>.

<sup>17</sup> Concluding observations of the Committee on the Elimination of Discrimination against Women 52 session, 9-27 July 2012 for New Zealand, Paragraph 19.

<sup>18</sup> New Zealand Human Rights Commission. (2010) *Human Rights in New Zealand 2010*, Chapter 18

<sup>19</sup> New Zealand Human Rights Commission. (2012). *The New Zealand Census of Women's Participation, 2012*

<sup>20</sup> Concluding observations of the CEDAW committee of experts, 52nd session, 9-27 July 2012 for New Zealand, Paragraph 35.

<sup>21</sup> New Zealand Human Rights Commission (2010) *Human Rights in New Zealand 2010*, Chapter 15

<sup>22</sup> Radio New Zealand. (2013). Budget a 'missed opportunity' to tackle child poverty. *Radio New Zealand News* (17 May 2013). Retrieved from <http://www.radionz.co.nz/news/budget-2013/135310/budget-a-missed-opportunity-to-tackle-child-poverty>

<sup>23</sup> Concluding observations of the Committee on the Elimination of Discrimination against Women 52 session, 9-27 July 2012 for New Zealand, Paragraph 36

<sup>24</sup> New Zealand Human Rights Commission. *Human Rights in New Zealand Today*. Retrieved from <http://www.hrc.co.nz/report/>

<sup>25</sup> See Green Party of Aotearoa New Zealand. *Warm Healthy Rentals*. Retrieved from [www.greens.org.nz/warmhealthyrentals](http://www.greens.org.nz/warmhealthyrentals)

26. Results continue to be: overcrowding, the spread of preventable chronic illness and disease, transience that interrupts children's education, high house prices and rentals. There is huge impact on the level of impoverishment for families. The human rights face of housing in New Zealand has been raised by various organisations over the years but nothing has improved.

**27. Recommendation**

**New Zealand needs a positive plan for decent and affordable housing for all New Zealanders which prioritises accommodation for women escaping from violence.**

**Right to life, liberty and security of the person**

28. Domestic violence continues to be a significant issue. According to a 2004 *New Zealand Medical Journal* Report by Dr Janet Fanslow<sup>26</sup>, one in three New Zealand women will be victims of intimate partner violence in their lifetime.

29. In 2012, the Police attended 87,648 family violence (FV) incidents yet it has been estimated that only 18–20 per cent of all family violence offences are actually reported to the Police.<sup>27</sup>

Measure	2011	2012
Total FV Investigations	89,885	87,648
FV investigations involving an offence	44,669	41,486
FV investigations with apprehension	33,933	30,515
FV investigations resulting in prosecution	19,903	18,009

30. Of the 87,648 events attended in 2012, only 41,486 offences were recorded. Of these 18,009 resulted in a successful prosecution. So over half of all police attendances at a family violence event do not end up in an offence and less than 20% of all family violence investigations lead to a successful prosecution. This is very concerning. One of the reasons for this may be as a result of changes made in 2010 to the Solicitor General's Prosecution Guidelines which increased the threshold for evidence for crimes to be prosecuted. It appears then that in cases where parties have different versions of events or the victim will not cooperate (as is common in domestic and sexual violence cases) cases seem less likely to be pursued.

31. From 2002 to 2010, there were 258 family violence deaths in New Zealand.<sup>28</sup> This equates to 28.7 per year on average. Including provisional data from 2011 and 2012, there were 312 family violence deaths in New Zealand from 2002 to 2012, equating to 28.4 per year on average. The majority of victims are female.<sup>29</sup> Victims of the most severe family violence are women and children. Maori continue to be overrepresented as victims and perpetrators.

32. Family Court reforms currently before Parliament are aimed at decreasing the costs of this Court rather than improving the justice system for women victims of domestic violence.

33. The number of applications for protection orders continues to fall. There are several reasons for this including the perception that they are hard to obtain and often poorly enforced. In 2009 and 2010, 91% of applicants for a protection order were female.

34. Refuge services and other services to victims of family violence remain significantly under funded.

<sup>26</sup> Fanslow, J., & Robinson, E. (2004). Violence against Women in New Zealand: Prevalence and health consequences. *New Zealand Medical Journal* 117.

<sup>27</sup> Nimmo B. (2012). *Stakeholder update: Police family violence process changes*. Presentation available <http://www.nzfvc.org.nz/?q=node/661>

<sup>28</sup> 2002 to 2006 data from Martin, J., Pritchard, R. (2010). *Learning from Tragedy: Homicide within Families in New Zealand 2002-2006*. Wellington: Ministry of Social Development. 2007 and 2008 data from Paulin, J. (2011). *Homicide within Families in New Zealand 2002-2008*. Unpublished work by the Health Quality & Safety Commission. 2009 and 2010 data is from the Family Violence Death Review Committee database housed at the Health Quality & Safety Commission offices, Wellington. Info on family violence deaths since 2002–2008 see Martin and Pritchard, 2010; Family Violence Death Review Committee. (2011). *Second Report: Oct 2009-Novr 2011*. Wellington: Family Violence Death Review Committee, see next:

<sup>29</sup> [www.fvdr.health.govt.nz](http://www.fvdr.health.govt.nz) or [www.hqsc.govt.nz](http://www.hqsc.govt.nz).ibid

## Sexual violence in Aotearoa/New Zealand

35. Sexual violence (SV) is prevalent in our communities<sup>30</sup>. Overwhelmingly, sexual assault is perpetrated by men against women. Research suggests young women and Māori women are almost twice as likely to experience SV; young Pacific people also report high levels of unwanted sexual contact. SV is more likely to be experienced by people with a disability and people who were abused as children. It is both a consequence and cause of gender inequality. SV is more likely to be committed by a person known to the victim, with over one-third of sexual offences committed by current partners, a quarter by a friend, one in 10 a boyfriend or girlfriend, one in 20 incidents a work colleague. Strangers and very recent acquaintances commit around one quarter of adult sexual assaults reported to Police.

36. Sexual violence is a hidden crime. Over 90 per cent of sexual offences go unreported – sexual assault victims are the least likely victims to report to NZ Police. Of offences reported, approximately only 13 per cent result in the perpetrator's conviction.<sup>31</sup>

37. Sexual violence has significant physical and mental health impacts on victims, including physical injury, sexually transmitted infections, post-traumatic stress disorder, depression. High correlation exists between SV and almost every indicator of deprivation and poor health, e.g. 'social problems' including increased smoking, drug and alcohol overuse, relationship breakdowns, truancy, teenage pregnancy, the ability to parent well and suicidality.

38. Sexual violence is a costly crime: high economic and social costs associated with SV result from victims suffering long-term mental health problems and inability to function well in society. High numbers of prisoners, mental health patients and people with drug and alcohol problems report a history of sexual violation. Treasury has estimated that sexual offending is by far the most costly crime per incident, costing the New Zealand economy billions of NZ dollars each year. Despite this, not enough has been done.

39. Sexual violence prevention strengthens individuals', families' and communities' well-being. Effective SV prevention requires engagement by community leaders with approaches that promote protective factors and reduces risk factors at individual, interpersonal, community and societal levels. Many Ministries must be part of preventing sexual violence.

40. Prevention operates across: the *primary* spectrum, preventing the incidences of abuse; the *secondary* spectrum, early intervention that prevents further abuse and the *tertiary spectrum*, rehabilitation or incarceration that prevents offending.

### 41. Recommendation

a) **Make expert, frontline, 24-hour early intervention services universally available; also intensive wrap-around services for sexual violence victims / survivors including specialist Maori and Pacific services for SV prevention and intervention - for vulnerable children and young people who have experienced sexual violence and for children displaying worrying sexualised behaviours**

b) **Develop and sustain cross-government party partnerships to ensure relevant government agencies work in collaboration with specialist sexual violence community service providers to develop/improve service systems and practices – Government agencies mandated to collaborate at all levels.**

## Violence against ethnic immigrant women

42. Traditional and religious practices that sanction oppression and violence against women continue to prevail. Many of the practices present serious violations against basic human rights and international treaties. In New Zealand, dowry abuse, forced and underage marriages are beginning to receive growing recognition as serious problems, however, there are inadequate formal mechanisms in place to prevent them.

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<sup>30</sup> Ministry of Justice. (2009). Report of the Taskforce for Action on Sexual Violence, Te Toiora Mata Tauherenga, Incorporating the Views of Te Ohaakii a Hine National Network Ending Sexual Violence Together. Wellington.

<sup>31</sup> Ministry of Women's Affairs. (2009). Responding to Sexual Violence: Attrition in the New Zealand criminal justice system. Wellington: Triggs, S., Mossman, E., Jordan, J., and Kingi, V, pp. 82-83.

43. New Zealand should be proactive with regards to abuse and violence occurring in the guise of culture and religion within the ethnic immigrant communities. Violations should be dealt with through drafting and implementation of relevant laws, and running appropriate intervention and prevention campaigns.

#### *Forced/underage marriage*

44. Under New Zealand law it is permissible to marry at the age of 16 years with parental consent. This qualification has allowed forced underage marriage to occur, disguising parental coercion. Often victims of forced and underage marriage are deprived of their rights to education, employment, choice of partner and reproductive rights. This issue was addressed in the CEDAW Concluding observations, 2012. The specific recommendations included raising the age of marriage to 18 years, in line with international standards. Despite growing recognition of the issue, there continues to be a lack of state action in response.

45. Moreover, such weddings are often conducted by religious celebrants, who are mostly 'non-residents' and are not required by law to obtain registration prior to practice. This contributes to the clandestine nature of most forced and underage marriages, making them difficult to detect and account for.

46. Progress since a PWW(NZ) petition was presented to Parliament, 2009 is slow: A private Member of Parliament's Bill proposes to make it illegal for anyone under 18 to marry without formalising their consent in person before the Family Court. Unfortunately, this bill is still in the ballot. A Letter of Agreement has been signed by the NZ Police, Child Youth and Family, and the Ministries of Social Development, Education and Immigration- it outlines their coordinated response to victims of the practice and is in response to the recommendations made by the CEDAW committee. However, there is not yet any substantial follow up from the agreement.

#### **47. Recommendation**

**Follow the recommendation made by the CEDAW Committee, 2012 and**

- a) raise the age of marriage to 18 years;**
- b) require religious celebrants of all faiths to be registered in New Zealand in order to conduct marriages legally recognised by law;**
- c) promote widespread awareness and intervention measures for the issue of forced underage marriage and**
- d) increase collaboration between government agencies and specialised organisations within civil society, including funding half-way homes for such abused young women and subsequent rehabilitation programmes.**

#### *Dowry abuse*

48. A growing number of women of ethnic backgrounds are being brought into New Zealand to marry, but are consequently subjected to severe abuse and even death due to their inability to meet exorbitant dowry demands made by their husbands and in-laws. Despite this outdated practice being largely illegal in countries of origin, the practice and subsequent abuse is allowed to happen in New Zealand due to the current legislative system being unable to register and deal with the complex issue.

#### **49. Recommendation**

- a) Bring 'dowry' into the scope of New Zealand legislation and introduce additional criteria and lines of inquiry tailored to detect exchange of dowry for those wishing to utilise the cultural marriage visa;**
- b) Adopt a clear definition of trafficking to include the rights of 'trafficked' women as defined under UN conventions.**

#### *Trafficking*

50. In 2002 New Zealand became party to the United Nations Convention against Transnational Organised Crime and the related Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children but there is a lack of consensus on what constitutes 'trafficking' and

the nature of trafficking in New Zealand.<sup>32</sup> Many incidences of 'trafficking' have been of women who have entered New Zealand of their free will for the purpose of employment or marriage only to be trapped in the sex industry, on farms, etc once they are here - forced into situations to which they have not consented. This lack of recognition and acknowledgment by the New Zealand government of 'trafficking' in its broadest sense has inadvertently deprived 'trafficked' women in the labour market (including the sex industry) from exercising their rights including accessing healthcare, legal and other support services, and keeps them vulnerable on account of their immigration status.

#### *Access to housing*

**51.** Domestic violence survivors, particularly women from migrant and refugee backgrounds, are often without stable income. This means they are disadvantaged and discriminated against in accessing quality housing while current severe housing shortages result in high rentals.

#### *Access to legal services*

**52.** Existing legal services overlook cultural factors and practices of migrant and refugee women (eg dowry, forced marriage) that exacerbate domestic violence. The justice system including police and the courts fail to recognise factors that culturally privilege males. The types of abuse subtly ingrained within 'cultural rights' under the broader framework of human rights, therefore remain unchallenged.

**53.** Recent legal aid<sup>33</sup> changes inadvertently impact on migrant and refugee women's access to justice, especially survivors of violence. The fees framework has been changed from hourly charge to fixed fee failing to account for the complexity of certain types of cases or the additional needs of those who require language assistance. A specific example: under the Domestic Violence Act 1995: the allocated fixed fee/grant is \$600, time required to apply for a protection order is estimated as four hours, which does not account for additional time it may take to obtain the appropriate interpreter and the translation of highly technical legal language and minute details required for a comprehensive affidavit.

**54.** The new fees framework can support junior providers only which has grave impact on the quality of legal services received by people of lower socio-economic status, particularly migrants and refugees. The situation is further exacerbated for refugee survivors of domestic violence as many have been isolated through forced economic dependence on their abuser. They usually do not have the resources necessary to hire lawyers without financial assistance.

#### **55. Recommendation**

**a) Initiate awareness and training for police and judiciary (including migrants employed within) in cultural oppression and gender analysis in the context of domestic / family violence so that women do not feel constrained in accessing and trusting the justice system.**

**b) Increase legal aid subsidies, particularly for domestic violence victims who require additional assistance when they need to attend the Court urgently, either to press charges or to apply for necessary safety orders.**

### **The right to health**

**56.** Access to health care remains unequal amongst women. Women who are also members of other marginalised groups suffer from multiple disadvantages. Access and quality of health must be improved for these disadvantaged groups eg including women with disabilities, women of ethnic and minority communities, rural women and migrant women. More research is necessary to determine the needs of specific groups such as Pacific and Asian women.<sup>34</sup>

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<sup>32</sup> See Ministry of Business, Innovation and Employment. *Plan of Action to Prevent People Trafficking: Prevention*. <http://www.dol.govt.nz/publications/research/people-trafficking/protection.asp>. While New Zealand has adopted a transnational definition of people trafficking which is given legislative effect in Section 98D of the Crimes Act 1961, there is no targeted anti-trafficking legislation.

<sup>33</sup> See Ministry of Justice. *Legal Aid*. <http://www.justice.govt.nz/services/legal-help/legal-aid>

<sup>34</sup> There are large disparities in all areas of sexual health, with over-representation of Maori and Pacific youth in STI rates (Stats: from NZ Parliamentarians' Group on Population and Development NZPPD report "Youth Sexual Health: Our Health, Our Issue". CEDAW 2012 ... "remains concerned about inequalities in access to health care by minority women. In particular, the Committee is concerned about the high rates of teenage pregnancy among Māori women and the lack of access to effective age-appropriate education on sexual and reproductive health and rights." Paragraph 33.



**57.** The continued prevalence and increasing levels of gender-based violence against women, particularly Māori, Pacific and minority women, carries with it significant health implications.

**58.** Abortion laws remain convoluted and a major concern. Abortion is a crime unless strict criteria are met, including the requirement for women to get certification from two certified consultants before an abortion can be performed. The abortion law must be decriminalised in order to prevent women from having to resort to unsafe abortions.<sup>35</sup>

#### *Barriers to reproductive and sexual health rights*

**59.** Treaty bodies and Special Procedures have repeatedly elaborated the concept of sexual and reproductive health as requiring the freedom to decide if and when to reproduce, or not to reproduce; the right to information and informed consent and to have access to safe, effective, affordable and acceptable methods of family planning of choice and appropriate health-care services; and the removal of punitive measures.<sup>36</sup>

**60.** The majority of New Zealanders enjoy a high standard of sexual and reproductive health. However, current actions by the State party and Judiciary are undermining rights to sexual and reproductive health, particularly for those who are already marginalised as a result of ethnicity and socio-economic status. Concerns include:

- Government policy intended to influence the contraceptive choices of women receiving welfare assistance through the offer of subsidised health care for women who elect to have a long-acting reversible contraceptive.
- Punitive measures related to sexual and reproductive health impedes access to health-care, infringing the right to health of those experiencing pregnancy. Where there is a fear of criminal prosecution or punitive measures, they may be deterred from accessing health services and care, as well as pregnancy-related information.
- Reforms of the Domestic Purposes Benefit (DPB) have introduced sanctions on women's welfare entitlements if they have a subsequent child while receiving welfare assistance. This is resulting in an economically coercive environment for women's reproductive decision-making when they are receiving welfare assistance.<sup>37</sup>

**61.** Current actions are discriminatory as their approach to one sector of the population is based on gender and work status and uses financial disincentive to manipulate choices regarding child bearing and contraception which is in direct conflict with the concept of 'freely chosen' family planning.

**62.** Child welfare and protection legislation and policies are being extended to include the pre-natal period resulting in punitive measures in relation to women's conduct during pregnancy. For example the Ministry of Health's Child Protection Alert System within Health has defined 'child' as including the foetus resulting in the initiation of child protection proceedings during the prenatal period. A pregnant woman has recently been incarcerated in the interests of protecting her foetus from harm posed by her alcohol use.

**63.** New Zealand's rates of teen pregnancy and sexually transmitted infections, especially amongst youth, remain high by OECD standards<sup>38</sup> However there is a lack of strategic and coordinated action by the State party to improve sexual and reproductive health.

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<sup>35</sup> The current status of abortion in New Zealand law is a predominant contributing factor in women's access to abortion outside the main centres, (see Silva, M., & McNeil, R. (2008). Geographical access to termination of pregnancy services in New Zealand. *Australian and New Zealand Journal of Public Health*, 32(6), 519 – 521); delays in women accessing abortion (see Silva, M., McNeil, R., & Ashton, T. (2010) Ladies in waiting: the timeliness of first trimester pregnancy termination services in New Zealand. *Reproductive Health*, 7(19), doi:10.1186/1742-4755-7-19); lack of choice of method of abortion in some regions; workforce shortages in providers of abortion, perpetuation of stigma relating to abortion (see Kumar, A., Hessini, L., & Mitchell, E. (2009) Conceptualising abortion stigma. *Culture, Health & Sexuality*, 11(6), 625-639.

<sup>36</sup> Grover, A. (2011). *Interim report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*. Human Rights Council.

<sup>37</sup> New Zealand House of Representatives. *Social Security (Youth Support and Work Focus) Amendment Act 2012*. Retrieved from <http://www.legislation.govt.nz/act/public/2012/0050/latest/DLM4360211.html>

<sup>38</sup> Statistics New Zealand. 2003; The Institute of Environmental Science and Research Ltd. (2012). *Sexually Transmitted Infections in New Zealand* (Annual Surveillance Report 2012). Wellington.

**64.** While New Zealand has a comprehensive sexuality education curriculum, a 2007 Education Review Office (ERO) review of the teaching of sexuality education found widespread failings and inconsistencies.<sup>39</sup> Recommendations for improvement are yet to be fully implemented.

**65.** Sexual and reproductive health service infrastructure: legislation, policy, service provision, funding and programmes, are largely set up to support those who are cisgendered,<sup>40</sup> cissexed<sup>41</sup> and heterosexual. This process is underpinned by dominant binary conceptions of gender, sex and sexual orientation. This results in a lower quality of care for people of diverse sexual orientation and gender identity and for intersex persons and is a barrier to access for these populations.

**66. Recommendation**

**Draw to the attention of the NZ government the need for strategic and coordinated action to improve sexual and reproductive health by:**

**a) Ensuring the availability and accessibility of a full range of contraceptive methods and abortion services, free of discrimination arising from coercive policies.**

**b) Suspending sanctions on women who have subsequent children while in receipt of welfare and other coercive legislation/policies intended to influence reproductive decision making.**

*Access to quality and appropriate health services for people of diverse sexual orientation and gender identity (SOGI)*

**67.** Treaty bodies and Special Procedures have repeatedly affirmed the right to the highest attainable standard of physical and mental health, without discrimination on the basis of sexual orientation or gender identity (SOGI) Yogyakarta Principles, 2007. Lesbian, Gay, Bisexual, Transgender, Intersex and Queer (LGBTIQ) populations in Aotearoa New Zealand have very few specific health services and access to general health services continues to be a problem as a result of discrimination, homo/transphobia, heterosexism and unwelcoming, inappropriate, unsupportive, and unresponsive care. Accessing information about LGBTIQ health in Aotearoa New Zealand is also problematic primarily because few New Zealand services request information about SOGI and insufficient research has been undertaken on best practice to improve health outcomes for LGBTIQ populations.<sup>42</sup>

**68.** Consequently the development of appropriate programmes and policies for LGBTIQ populations and the training of healthcare professionals have been slow and studies have found significant gaps in health service provision<sup>43</sup>. Overseas research and what little research that has been undertaken in New Zealand reflects that: discrimination and stigma remain a problem resulting in poorer general health status for LGBTIQ, lower utilisation of healthcare facilities and a decreased quality of health services<sup>44</sup>; and a lack of provision for specific LGBTIQ healthcare needs in general services<sup>45</sup>. As this population ages the needs of older LGBTIQ populations also require investigation which along with eliminating health disparities in the care of LGBTIQ is important.<sup>46</sup>

**69. Recommendation**

**Take steps to improve data collection on SOGI in health services and to develop practice standards to improve public health service delivery for LGBTIQ individuals and populations including SOGI diversity training for all New Zealand health care workers.**

[Word count: 5239]

<sup>39</sup> Education Review Office. (2007). *The teaching of sexuality education in years 7 to 13*.

<sup>40</sup> Describes a person whose gender identity (and often gender expression) "matches" their assigned gender. This does not necessarily mean that a person has to be comfortable with their society's determined gender roles.

<sup>41</sup> Describes a person whose physical body (i.e. genitals, reproductive organs, secondary sex characteristics), as far as they know, aligns with their assigned sex

<sup>42</sup> Garcia, T. C. (2003). Primary care of the lesbian/gay/bisexual/transgendered woman patient. *Int J Fertil Womens Med*, 48(6), 246-251.

<sup>43</sup> Adams, J., Dickinson, P., & Asiasiga, L. (2012). *Mental health promotion and prevention services to gay, lesbian, bisexual, transgender and intersex populations in New Zealand: Needs assessment report*. Wellington: Te Pou o Te Whakaaro Nui.

<sup>44</sup> Coker, T. R., Austin, S. B., & Schuster, M. A. (2010). The health and health care of lesbian, gay, and bisexual adolescents. *Annu Rev Public Health*, 31, 457-477. doi: 10.1146/annurev.publhealth.012809.103636

<sup>45</sup> Harrison, A. E., & Silenzio, V. M. (1996). Comprehensive care of lesbian and gay patients and families. *Prim Care*, 23(1), 31-46.

<sup>46</sup> Lim, F. A., & Bernstein, I. (2012). Promoting awareness of LGBT issues in aging in a baccalaureate nursing program. *Nurs Educ Perspect*, 33(3), 170-175.