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Non-Governmental Organisation Alternative Report Right to be free from discrimination - New Zealand Women and Girls

Comments and recommendations to the UN Human Rights Council Pre-session Working Group for the review of the New Zealand Government's third Universal Periodic Report, 2018

Pacific Women's Watch (New Zealand) (PWW(NZ)) was founded in 2001 to be a link to the Asia Pacific Women's Watch, the umbrella Watch which monitors, reviews and reports on the status of women in the Asia-Pacific Region. PWW(NZ) achieved special consultative status with ECOSOC (United Nations Economic and Social Council) in 2010.

PWW(NZ) has the following objectives:

- To ensure women's voices from the sub-region and especially New Zealand are heard internationally
- To be a communication link between New Zealand non-governmental women, the sub-region and internationally
- To monitor the Beijing Platform for Action and any subsequent plans of action for the advancement of women
- To share strategies to measure and assess changes in women's status
- To recognise views and expectations of Tangata Whenua

PWW(NZ) welcomes the opportunity to comment on the state of Human Rights for women and girls in Aotearoa New Zealand through this submission to the United Nations Human Rights Council as part of New Zealand's third Universal Periodic Review.

PWW(NZ) is pleased to acknowledge the assistance of the Māori Women's Welfare League, Shakti Community Council Inc., Disabled Women and all other organisations and individuals who contributed material for this report.

Current Status:

1. 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 despite legislation.
2. Central to this Report are the principal areas of concern and recommendations raised in the PWW(NZ) NGO Alternative Report to the Committee on the Elimination of Discrimination against Women (CEDAW) brought to the New Zealand Government in preparation for the upcoming 70th session. The Alternative Report, prepared with input from PWW(NZ)'s broad membership of over 20 organisations, raised concerns around violence against women, women and employment, women in leadership, and intersecting discriminations facing Māori women, women with disabilities, and women from migrant and refugee backgrounds. Many of these issues were also themes in the CEDAW committee's concluding observations to the New Zealand Government in 2012 and the recommendations of New Zealand's second Universal Periodic Review in 2014.
3. The CEDAW Committee's Concluding Observations stressed the obligation of the New Zealand Government "to systematically and continuously implement" all the provisions of the Convention. Priority concerns included attention to violence against women; 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.
4. The major discriminations for women and girls highlighted in the second UPR reporting round intersected closely with the issues and challenges raised by the CEDAW Committee in July 2012 and continue to be the primary concerns for women and girls' human rights in Aotearoa New Zealand today. There can be no doubt that New Zealand women and girls continue to suffer significant discrimination. Many continue to be marginalized and impoverished, causing widespread family deprivation and stress. As long as New Zealand women and girls suffer structural and systemic inequality they do not have the right to enjoy freedom from discrimination.
5. PWW(NZ) is well qualified to bring this report because of its previous reports to the United Nations on CEDAW and the UPR. It sends representatives to the United Nations Commission on the Status of Women each year, who gain valuable experience in addressing discrimination against women. PWW(NZ) also regularly hosts seminars and workshops in the community in which issues for women and girls are raised. It conducts a survey every five years called 'How are We Doing – New Zealand Women Together' to provide a longitudinal measure of progress through reporting on women's daily lives which informs its reviews of the Beijing Declaration and Beijing Platform for Action.
6. PWW(NZ) calls on the Government to demonstrate its meaningful commitment to gender equality and the empowerment of all women and girls through policy, education and adequate funding.

7. Recommendations

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
- b. Establish a Parliamentary Select Committee on Human Rights to realise fully the issues associated with gender inequality
- c. Mandate the Ministry for Women to 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

Right to work and to just and favourable conditions of work

8. Women continue to face barriers to realising their full economic potential. The gender pay gap dropped to 9% in 2017,¹ but is more pronounced for Māori and Pacific women and varies depending on age. Women remain concentrated in lower paid occupations, such as caring, teaching, administration, and retail, which continue to be undervalued and poorly remunerated compared to predominantly male occupations where similar skills and responsibilities are required.
9. Many women, especially Māori, Pacific, migrant and refugee, transgender, and disabled women, experience limited work opportunities, due to institutional discrimination, impacting family outcomes and continuing a cycle of poverty. Disabled women are further disadvantaged by the Minimum Wage Exemption Act (1983) which allows pay below minimum rates for work restricted by impairments, as well as facing accessibility barriers.
10. Sexual harassment and a dominant "male culture" are prevalent across industries, disadvantaging women and impacting their career progression. In law, for example, one in three women lawyers surveyed by The New Zealand Law Society reported experiencing sexual harassment at work, and a quarter reported being bullied.² The extent of sexual harassment in other industries has not been investigated as New Zealand does not yet keep a national register of workplace sexual misconduct, although international research indicates workplace harassment is commonplace and affects mainly women.³

11. Recommendations

- a. That the Government introduce legislation and appropriate policy measures to address pay inequality across all sectors
- b. That the Minimum Wage Exemption Act 1983 be abolished and government undertake comprehensive reform of employment strategies including effective monitoring and implementation of the law
- c. That the Government initiate and fund programmes raising awareness of discrimination, particularly unconscious bias within the workplace
- d. That the Government promote a culturally diverse workforce with ongoing monitoring and analysis, with sufficient funding to the Ministry for Women to collect new disaggregated data with respect to the many and varied challenges faced by all women and girls

Participation in public and political life

12. The CEDAW Committee in 2012 urged New Zealand to take measures to increase the number of women in decision-making positions at all levels in political and public life.⁴ Efforts to achieve this recommendation have had mixed results.
13. Following the 2017 elections, the percentage of women parliamentarians increased to a record 38% and the country appointed its third woman Prime Minister. Women also make up 45.3% of board members on government appointed statutory bodies.⁵ However, diversity continues to be a challenge with migrant and refugee women and women with disabilities experiencing barriers to participating in public leadership.
14. Meanwhile, women's leadership participation in the private sector has made very modest gains. The latest research shows that the percentage of female directors of the top 100 companies by market capitalisation listed on the New Zealand Stock Exchange is 22.17%.⁶ This represents a rise of less than two percentage points since 2016 and a 7.42 percentage point gain in five years. The number of corporate board female chairs has remained the same over the past five years at seven of the 100 companies and the number of female Chief Executive Officers has not moved beyond three. The number of Māori, Pacific and other women of ethnic minorities who are board members of top 100 companies is negligible reflecting a wider gender and diversity problem.
15. Despite decades of political, business and public concern about women's representation in the private sector, extensive publicity of the problem, and voluntary reporting measures by the Stock Exchange, a quarter of the top 100 companies still have no women on their boards.
16. **Recommendations**
 - a. That the Government establish measurable strategies and goals promoting women in leadership in business, government and community, promoting the Ministry for Women nominations service to publicly listed and private companies
 - b. That the Ministry for Women prioritise proactive awareness raising, advocacy and monitoring of the private sector

Social security and adequate standard of living

17. Housing is a primary determinant of an adequate standard of living. The lack of decent, affordable housing is one of the most significant barriers to an adequate standard of living. The cost to buy or rent houses has increased dramatically compared to average income, particularly in Auckland but now extending throughout the country. Lack of robust protections for tenants enable landlords to rent out unhealthy, cold, damp houses and/or charge high rents. The results are: overcrowding, the spread of preventable chronic illness and disease, transience that interrupts children's education, and homelessness.
18. New Zealand's benefit laws discriminate against women with the Ministry of Social Development taking a punitive approach to women on sole parent support. In order for

single mothers to obtain benefit support, they must not be “in a relationship in the nature of marriage” under the Social Security Act. The test for this is very complicated and has been misapplied by the Ministry of Social Development in many cases, particularly in situations of domestic violence, where women have no control over when their abusive partners come and go. The Ministry of Social Development takes an extremely punitive approach to mothers on sole parent support. They continue to be prosecuted and, even after serving prison terms, are pursued for the rest of their lives for debts they can never hope to repay. This is in marked contrast to the lenient approach adopted to tax evasion, tax avoidance, non-payment of child support, and non-payment of fines and reparation.

19. As a signatory of the Convention on the Rights of Persons with Disabilities (CRPD), the New Zealand Government is responsible for taking appropriate measures to allow people with disabilities to “live independently and participate fully in all aspects of life”, which includes making buildings, infrastructure, transport and communications accessible. However, the existing human rights laws are too vague and unenforceable.⁷ Furthermore, New Zealand has not adequately collected and disaggregated data on disability which would paint a more accurate picture of women’s experiences of living with disabilities and their needs, to inform policy and service development, though the 2018 Census did include new questions on disability.

20. **Recommendations**

- a. That urgent action is taken to ensure access to adequate housing for all including disabled women
- b. Introduce an Accessibility for New Zealanders Act to improve accessibility in all areas of life within a determined timeframe, clear guidance and enforceable standards
- c. That the Government commit to consistently collecting statistics on disability

Right to life, liberty and security of the person

21. Domestic violence continues to be a major concern with one in three women experiencing intimate partner violence in their lifetime. Responding to family violence accounts for 41 percent of police time.⁸ Despite domestic violence being prevalent across New Zealand society, there is a lack of appropriate services for women with disabilities (for example accessible refuges) and women from migrant and refugee backgrounds. Furthermore, NGOs working in the domestic violence sector continue to face funding pressures while demand on their services increases, and very little government funding is directed towards prevention.⁹
22. Māori women are over-represented in domestic violence statistics, which has been attributed to colonisation and the normalisation of racial discrimination, and shows the government is neglecting its responsibilities as encompassed in the Treaty of Waitangi and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).
23. Bullying and violence is a significant concern for LGBTI+ communities. PWW(NZ) believes comprehensive sex and sexuality education in schools is instrumental to ending discrimination against LGTBTI+ communities, however, the quality and

comprehensiveness of sex education is questionable and parents have the right to opt their children out of it.¹⁰

24. PWW(NZ) is also concerned that Police Safety Orders are increasingly being used in lieu of Protection Orders, however Police Safety Orders do not provide women with the same level of safety or protection against abusers. The number of Police Safety Orders have more than doubled to 15,994 in the six years from 2011 - 2016, compared to the number of Protection Orders, which increased by 23% in the same period.¹¹ Furthermore, police responses to breaches of Protection Orders are inconsistent, indicative of a failure to fully understand domestic violence. Breaches should be understood as a pattern of intimidation and should result in an automatic conviction, regardless of how minor the infraction is.

25. Recommendations

- a. That culturally appropriate support services are adequately resourced to overcome the growing problem of domestic violence
- b. That the government support and fund services such as halfway houses for all women and specifically for disabled women and women from ethnic minorities
- c. That the Government commit to making sex education mandatory, comprehensive and inclusive, encompassing sex, sexuality and gender diversity
- d. That appropriate resources are allocated to police and courts to introduce mandatory arrests and convictions for breaches of Protection Orders

Sexual violence in Aotearoa New Zealand

26. Sexual abuse is prevalent in New Zealand, with 24% of women reporting sexual violence within their lifetime and 6% of men.¹² Young women, Māori women and women with disabilities report higher incidents of sexual violence.¹³ Perpetrators of sexual violence are overwhelmingly men (99%) and known to the victim.¹⁴ However, sexual violence remains chronically under-reported with only an estimated 9% of incidents of sexual abuse reported to police,¹⁵ and conviction rates low.¹⁶

27. Sexual violence is both a cause and a product of gender inequality which has multiple, negative and long lasting consequences for people's mental and physical wellbeing. Efforts to prevent sexual violence must address broader cultural norms and attitudes towards gender and sexuality which feed gender inequality and rape culture. In addition, services for survivors need to be adequately supported and funded, with offenders appropriately dealt with through incarceration and rehabilitation.

Violence against ethnic immigrant women

28. More needs to be done to support women from ethnic and migrant communities against practices such as forced marriage, female genital mutilation and honour-based violence, which are not accepted under New Zealand law and are often illegal within their own home countries. Dowry abuse continues to be an issue as some migrant women brought into New Zealand for culturally arranged marriages are made to give large amounts in cash and kind. New Zealand needs to improve legislation against such inhumane practices and ensure individuals and communities are appropriately punished. Further, migrant women brought to New Zealand for marriage are in a vulnerable position as their status is listed as "dependent" on their partner's visa and the threat of deportation is used against them as a form of power and control.

29. Reports of migrant women undertaking sex work contravening their visa restrictions – a law designed to prevent trafficking – raise concerns that they may be susceptible to exploitation and mistreatment as they are unlikely to complain for fear of deportation.

30. Recommendations

- a. That immigration legislation permitting women to come to New Zealand for marriage (declared on their visa) include rigorous monitoring until the marriage is registered and the woman is granted residency in her own right
- b. That the anti-trafficking law be reviewed to protect women choosing to work as a sex worker but currently forbidden to do so

Access to Justice

31. Māori women continue to be disproportionately harmed by persistent institutional racism within the justice system. Despite making up about 15 per cent of the total population in New Zealand, almost 57 per cent of women prisoners sentenced are Māori.¹⁷ This has long reaching and inter-generational impacts for the children, families and whanau, and communities of women prisoners.

32. Changes to legal aid, including how lawyers can charge for their work, the expansion of the Public Defence Service, and the raised eligibility criteria is concerning to PWW(NZ) as more people, who do not meet the eligibility for legal aid, yet do not have sufficient funds for a lawyer, turn to self-representation, including in Family Court cases where victims may have to defend themselves against their abuser.

33. PWW(NZ) is also concerned that unconscious bias and institutional sexism disadvantage women in the Family Court and that fathers' access to children is being prioritised over women's legitimate concerns for safety in cases of conflict and domestic violence. The Family Court in New Zealand applies the concepts of Parental Alienation Syndrome and Situational Violence, both of which minimise and discount domestic violence. Further, there is no independent oversight of the Family Court.

34. Recommendations

- a. Prioritise efforts to reduce Māori offending and recidivism with a specific Māori strategy, with measurable targets and a dedicated budget
- b. Provide regular and ongoing training on gender issues to judges, psychologists, counsellors, lawyers, police and other legal professionals. Issues covered should include: gender stereotyping, coercive control, and psychological abuse

The right to health

35. Housing is a key determinant of health. Unaffordable housing, especially in Auckland, leading to overcrowded substandard conditions and homelessness is a major contributor to poor health for New Zealand women and children. High incidence of respiratory and infectious diseases stress families, underpinning increasing mental health issues. Māori and Pacific women are overrepresented in homeless statistics.

36. Mental health services continue to be underfunded. Women, especially younger women, disabled women and women from ethnic minorities experience difficulties and

discrimination in accessing culturally appropriate services. Suicide rates among the LGBTI+ population is significantly higher than the broader population, due to social exclusion and discrimination, yet the government's draft 'Strategy to prevent suicide in New Zealand' does not specifically address risk factors for this population.¹⁸ In addition, New Zealand does not collect data on sex, gender and sexuality in the census or the New Zealand Health Survey, invisibilising the LGBTI+ population, and neglecting to collect valuable information to guide policy on health and education. Mental Health, particularly the very high rate of suicide, requires commitment to innovative action and adequate funding.

37. PWW(NZ) is concerned about the ongoing marginalisation of immigrant women's health. Structural, cultural and economic barriers limit access to health services for many migrants. Hidden costs such as ambulance charges, and distance add to barriers. Residential status is also a concern as non-permanent residents (eg students) are not eligible for government subsidised health care, including maternity care, cancer screening, and mental and sexual health.
38. Abortion in New Zealand is illegal unless women meet criteria that the pregnancy will seriously harm her physical or mental health agreed by two certifying consultants. While most women can access safe abortion services, access may be limited for women outside the main centres. Other difficulties are shortage of service providers, delays in accessing abortion and perpetuation of stigma relating to abortion. Abortion should be decriminalised and as available as any other recognised health service.
39. Disabled women are more exposed to poverty, abuse and poorer health as they face tougher challenges in daily living than those not coping with disabilities. Disabled women are also exposed to additional hurtful and demeaning treatment, such as enforced and coerced sterilisation and contraception, justified as being in the "best interests" of the disabled person. Disability continues to be tied to health. Disabled women ask that disability is not seen as a health problem but rather an impairment that is a physical or mental difference.
40. **Recommendations**
 - a. That current mental health programmes are reviewed and revised with particular focus on related high suicide rates
 - b. That the Government recognise the rainbow population as a priority for suicide prevention, and provide more support by "addressing discrimination, creating safer school environments and ensuring health and social services are welcoming"¹⁹
 - c. That the Government collect statistics on sex, gender, and sexual orientation
 - d. That the Government remove abortion as a criminal offence under the 1978 "Contraception, Sterilisation and Abortion Act" and implement an informed consent model for termination of pregnancy
 - e. That eligibility criteria to subsidised family planning services and contraception costs be expanded
 - f. That legislation be expanded to ensure enforced sterilisation, contraception and hormone treatment of disabled women and girls are illegal

- g. That the Government collaborates with and supports culturally appropriate initiatives assisting migrant women to access healthcare including screening programmes.

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