

CEDAW Coalition of New Zealand NGOs

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This report has been prepared on behalf of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) Coalition of New Zealand NGOs. The coalition was formed after New Zealand's seventh periodic report on CEDAW when women's NGOs felt that there needed to be more effective monitoring of and stronger State party accountability for implementation of the convention and involvement in other treaty bodies and the Universal Periodic Review (UPR). It aims to raise the visibility and profile of the Convention and women's rights in New Zealand.

Pacific Women's Watch (New Zealand) is ECOSOC accredited through its own special consultative status as a national body, as has Presbyterian Women of Aotearoa New Zealand. A number of coalition members are ECOSOC accredited through their international organisation including The New Zealand Federation of Business and Professional Women, The New Zealand Federation of Graduate Women, and National Council of Women (Auckland Branch).

Executive Summary

This report has been prepared on behalf of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) Coalition of New Zealand NGOs which is Auckland-based. Though written in general terms, it relates particularly to the Auckland area where the CEDAW coalition is currently based. The members of the coalition represent the following organisations: The New Zealand Federation of Business and Professional Women (BPW), Bridgebuilders Trust, New Zealand Council of Trade Unions (NZCTU), Catholic Women's League Auckland Diocese, Methodist Women's Fellowship, National Collective of Independent Women's Refuges, Pacific Island Safety and Prevention Project (THE PROJECT), PACT Restorative Justice Group, Presbyterian Women Aotearoa New Zealand, New Zealand Federation of Graduate Women, National Council of Women Auckland Branch, New Zealand Prostitutes Collective, Pacific Women's Watch (New Zealand), Pan Pacific and South East Asia Women's Association, Rape Prevention Education, Shakti Community Council, To Ohaaki a Hine – National Network for Ending Sexual Violence Together, Tongan Methodist Women's Fellowship; Homeworks Trust; Women's International League for Peace and Freedom; Women's Health Action Trust, YWCA Auckland, Zonta, Coalition for the Safety of women and Children and the 11 groups under its umbrella.

Recommendation

The CEDAW Coalition of NGOs requests that the Universal Periodic Review strongly urges the State party, New Zealand, to develop with civil society involvement an Action Plan for New Zealand Women with authentic targets and strong accountabilities.

The plan must target violence against women, pay inequality and pay inequity, the status of Māori and Pacific women, and the importance of welfare and employment related reforms on the lives of women and their families. The status of disabled women must also be addressed.

1. Introduction

1.1 Women's rights and gender equality in New Zealand have stalled and in some cases regressed. This is despite the country's past international leadership in progressing gender equality across civil, political, economic, social and cultural rights. New Zealand is now a follower not a leader and is currently resisting positive legislative and policy interventions around violence against women, extending paid parental leave and equal pay. Two specific rationales, affordability given the impact of the global financial crisis and neo-liberal attachment to market forces, are being used to deny women's rights.

1.2 Progress has been made relating to aspects of gender equality in only a very few areas since the last Universal Periodic Review.

- The Government in April 2010 supported the United Nations Declaration on the Rights of Indigenous Peoples, including those of indigenous women, following international scrutiny of its position.
- The provisions contained in the Child and Family Protection Bill, currently before the House, would allow the last legislative amendments required for New Zealand to ratify to Optional Protocol relating to the sale of children, child prostitution and child pornography.
- New Zealand is still considering ratification of the Optional protocol to UNCROC (Sale of Children) and considering domestic legislation relating to the Convention for the Protection of All Persons from Enforced Disappearance (CED).
- Criminal justice changes to strengthen rights of victims
- Private sector organisations like the 25% Group are actively promoting more women on corporate boards
- The NZX has introduced a mandatory board diversity reporting requirement for women at governance level for those companies whose reporting period falls after December 2012.¹ Analysis of the effectiveness of this rule and levels of compliance should be undertaken.

¹ NZX "Diversity takes its place in listed company reporting" (30 October 2012) NZX Limited <<https://www.nzx.com/companies/NZX/announcements/229081>>

- A wealthy private individual has funded a commission of inquiry into family violence issues. Its goal is to develop an evidence-based solution-focused blueprint for addressing child abuse and domestic violence.²

2. Constitutional and Legislative Framework

2.1 The New Zealand Government has told the UPR that the NZ Bill of Rights Act requires that all legislation is reviewed for compliance with national and international human rights standards. Any inconsistency with the New Zealand Bill of Rights Act 1990 (NZBORA) is reported to the New Zealand Parliament. “Further, once enacted, legislation is required, so far as possible to be interpreted consistently with affirmed rights”³.

2.2 Compare that pronouncement to the constitutional outrage of the New Zealand Public Health and Disability Amendment Act (No 2), that disproportionately affects women as both family members providing carer and as disabled family members. In the *Family Carers* case (*Atkinson and Others v Ministry of Health*), The Human Rights Review Tribunal declared that the Ministry of Health’s policy of not paying family carers involves unjustified discrimination on the ground of family status under (NZBORA). The declaration was subsequently upheld by the High Court and the Court of Appeal.

2.3 In the 2013 Budget the Government rushed through legislation relating to “family care policy” determining who will and will not be paid. It reaffirms that people will not generally be paid to provide health services or disability support services to their family members, and that District Health Boards can operate family carer policies allowing payment in certain limited circumstances, set at around the minimum wage for 40 hours only.

2.4 However, the Regulatory Impact Statement that must be provided to the House when the Bill is introduced and which explains the legal risks associated with the legislation was redacted. Neither Members of Parliament who debated the bill and voted on it, nor members of the public knew the legal risks for the Government. If that was not serious enough, the legislation also contains an “ouster clause” indicating that when the legislation took effect “no complaint based in whole or in part on a specified allegation (that the policy unlawfully discriminates) may be made to the Human Rights Commission, and no proceedings based in whole or in part on a specified allegation (that the policy unlawfully discriminates) may be commenced or continued in any tribunal.” The Human Rights Commission with its mandatory functions under the New Zealand Human Rights Act 1993, the Office of Human Rights Proceedings, the Human Rights Tribunal and the judiciary in general have been nullified. The Legislation Advisory Committee has said that ouster clauses such as the one introduced are objectionable because they interfere with the court’s constitutional role as interpreters and expounders of the law and that, in general, legal obligations are enforceable by the courts. Women as carers and as disabled people continue to suffer systemic discrimination, expressed here in a fundamental abrogation of New Zealand’s constitutional arrangements. The legislation makes a mockery of New Zealand’s previous international leadership in helping frame the Convention on the Rights of Persons with Disabilities.

3. Human Rights Policy Measures

3.1 Absence of an Action Plan for New Zealand Women

3.1.1 There is currently no national machinery in place for an Action Plan for New Zealand Women or a New Zealand Action Plan for Human Rights that includes women. The last Action Plan for New Zealand Women, a five year whole of government approach ended in 2009, and since then the Ministry of Women’s Affairs have set three priorities only with weak target setting and inadequate accountabilities for implementation⁴. These are greater economic independence, women in leadership and violence against women. As an example of “low bar” target- setting the Ministry states its indicator measures for women’s representation include 10% female representation in corporate governance by 2015. Given that it is currently

² The Glenn Family Foundation “What is the Glenn Inquiry?” (2012) The Glenn Inquiry <<https://glenninquiry.org.nz/what-is-the-glenn-inquiry>>

³ Response of the Government of New Zealand to Recommendations in the Report of 11 May 2009 of the Working group on the Universal periodic Review (A/HRC/12/8).

⁴ Ministry of Women’s Affairs, Statement of Intent 2012-2015.

at 14.75%⁵, the Government's target is embarrassingly low and insults women's capabilities by affirming male dominance of 90% representation of boards of directors. The indicator set for greater economic independence is equally soft as "the percentage in the lowest two income quintiles who are women will reduce from 59%" No actor is identified as responsible and presumably any slight improvement, say to 58%, means the indicator will have been met. The New Zealand Action Plan for Human Rights which the Government claims has been handed to government departments for action⁶ has not been implemented, monitored or audited and did not have a specific section for women's rights. The Coalition believes there is an urgent need to develop with civil society involvement an Action Plan for New Zealand Women with authentic targets and strong accountabilities. This call echoes the concluding observations of the Committee on the Elimination of Discrimination against Women in 2012.

3.2 Publication and Promotion of UPR and Treaty Body Reports.

3.2.1 When the Working Group on the Universal Periodic Review reports on New Zealand, there will be no formal reporting to Parliament, scant media coverage and limited public awareness of either the UPR or the Government's response. This is typical of the treatment of all UN treaty body recommendations and reports including those of the special procedures despite almost every treaty body report (such as Concluding Comments from the CEDAW committee in 2012) recommending "wide dissemination". The Coalition believes that the UPR and other international treaty bodies have very poor visibility and profile within New Zealand and risk being of decreasing influence to younger New Zealand women. Mere availability on government websites cannot be considered active promotion.

3.3 Human Rights Select Committee

3.3.1 In addition there is no formal mechanism that currently allows UPR and other treaty body reporting or concluding to be reported back to the New Zealand Parliament and debated. The Coalition believes there needs to be established a specific Human Rights Select Committee that enhances systematic Parliamentary oversight and strengthens accountability on human rights matters, particularly gender equality. The Justice and Electoral Committee currently deals with human rights but human rights considerations, for example, in relation to women's education, employment and health, are not confined to justice and electoral matters.

4. Violence against women

4.1 Domestic and sexual violence are at endemic levels in New Zealand. One in three women is battered by her partner in her lifetime and one in five women is sexually assaulted in their lifetime. (Fanslow, J. & Robinson, E. 2004). Women's NGOs have consistently raised with the government serious concerns about protection and prevention of violence against women. These include inadequate legislation, the absence of strategic and national policy, a lack of policy agency leadership, underfunding in the community and poor and variable data collection.

4.2 Studies quoted by the Ministry of Women's Affairs show the gender of victims of sexual violence as being between 92 and 95 percent female.⁷ The groups most at risk of sexual violence are young women, Māori women, women who have been victimised before and people with disabilities.⁸ Young women between the ages of 16 and 30 comprise 66-70 percent of victims of sexual violence. Just under half of all victims are New Zealand European, just under one third are Māori, and just over one tenth are Pacific. Sexual violence has been correlated with almost every indicator of deprivation and poor health, lifelong low socio economics status and other 'social problems' including increased smoking, drug and alcohol overuse, relationship breakdowns, truancy, teenage pregnancy, the ability to parent well and suicide (Ministry of Women's Affairs, 2012)

⁵ New Zealand Human Rights Commission (2012) New Zealand Census of Women's Participation, Wellington.

⁶ Response of the New Zealand Government to Recommendations in the Report of 11 May 2009 of the Working Group on the Universal periodic Review (A/ HRC/12/8).

⁷ Restoring Soul (2009), Ministry of Women's Affairs. (Wellington New Zealand) p84

⁸ V Kingi and J Jordan 2009 and S Triggs et al 2009 quoted in Restoring Soul (2009) Ministry of Women's Affairs (Wellington New Zealand) p12

<http://www.mwa.govt.nz/news-and-pubs/publications/restoring-soul-pdf>

4.3 The government has no strategic plan for addressing violence against women. The last strategic plan was Te Rito, was implemented in 2002 and the recommendations of the 2009 Report of the Taskforce for

4.4 Action on Sexual Violence have not been implemented. There is a Taskforce for Action on Family Violence, which is supposed to act at a Ministerial Committee level but membership this has been downgraded from CEO status in these agencies signalling less commitment.

4.5 The Committee of the Elimination of Discrimination against Women called upon the government to ensure that there is systematic collection and publication of data, disaggregated by sex, ethnicity, type of violence and by the relationship of the perpetrator to the victim. They also suggested the collection of data on the number of women killed by partners or ex-partners. The data could then be used to motivate legislation, policy and practice in relation to all forms of violence against women and girls.

4.6 In their annual release of crime statistics earlier this year, police held back figures relating to family violence on the basis that work was underway to bring them into line with internal best practice. However, figures obtained by the media under the Official Information Act showed police investigated 86 722 cases of domestic violence, over 2000 more than in 2009. Of those, 40,024 were for actual offences and the rest were calculated as non-offence investigations.

4.7 The police say statistics in this area are complex because there is no offence of "family violence". Women's refuge expressed concern that police were attending more family violence call outs than ever but the number of actual offences recorded had dropped and asked how "low-level" offending is defined. In his final speech before stepping down, Retiring Principal, Family Court Judge Boshier J expressed a need for domestic violence to be made a criminal offence in its own right in the hope that it would create opportunities to gather more accurate information about domestic violence and would brand the crime in the same way that drink-driving is acknowledged.⁹

4.8 The prevention of violence against women, as opposed to early or late intervention, is hopelessly underfunded. Recently the government has removed funding for health promotion services. These services had been doing the sort of health promotion work with young people that involved the prevention of dating, sexual and domestic violence and they are no longer accessible for this work. Research funding in this sector is also almost non-existent so that research work is accidentally of relevance rather than part of a prevention plan.

4.9 The degendering of violence against women as family violence allows changes in services, reporting and the legislation and practice and turns women who are victims into perpetrators

4.10 Proposed new legislation, the Family Court Proceedings Reform Bill, downgrades the current law's emphasis placed on the safety of women and children. Clause 14 of the bill would replace sections 58 to 62 of the present Care of Children Act 2004, which contain protections for children in cases involving violence.

4.11 The bill also contains a new clause 4, which would allow the court to take account of the conduct of a person who "is obstructive towards any person who has, or who is seeking to have, a role in the upbringing of the child". This appears to be based directly on the myth that vindictive mothers make up false allegations of domestic violence to keep fathers from seeing their children. There is no evidence to support this (Catriona MacLennan: "Court changes still a threat to kids," NZ Herald, Thursday Apr 4, 2013; Law Commission, 2003)

4.12 The New Zealand situation has been summarised as: "Despite a plethora of reports, a strong legislative framework, significant government funding and the efforts of many dedicated groups and individuals, real improvements in both the family violence and sexual violence in New Zealand remains

⁹ Radio New Zealand "Judge wants domestic violence made criminal offence" (1 November 2012) Radio New Zealand News <<http://www.radionz.co.nz/news/national/119670/judge-wants-domestic-violence-made-criminal-offence>>

elusive.”¹⁰ It has been asserted that “there is consensus that New Zealand has sound legislation on domestic violence”, yet has a “serious problem eliminating violence against women”.¹¹

6. Right to work

6.1 Pay equality and pay equity

6.1.1 Pay inequality and inequity is a fundamental breach of human rights in New Zealand (UDHR, ICESCR, ICCPR, CEDAW and ILO Convention 100). All treaty body committees consistently raise concerns with the government about the inadequacy of Equal Pay Act 1972, the absence of convention compliant interpretation, and the lack of complaints because of the ineffective legislation. There is no policy machinery to deliver equal pay in health (aged care), education or the public and private sectors where large numbers of women work. The anti-discrimination provisions of the Human Rights Act 1993, based on individual cases, have not delivered equal pay outcomes across sectors.

6.1.2 In New Zealand, pay equity has typically stagnated around 10-12% less for women than men. According to Statistics New Zealand figures, women now earn an average \$3.91 an hour less than men across all industries.¹² The overall gender pay gap figures in the past have disguised considerable variation by ethnicity and across the public sector. For example, analysis by the Human Rights Commission in 2012 showed that 22 government departments have gender pay gaps bigger than the average pay gap in the labour market with 9 having more than a 20% gender pay gap¹³.

6.1.3 The gender pay gap in part reflects vertical and horizontal occupational segregation resulting in a large number of low paid workers in aged care (around 40,000 women) education and cleaning jobs. Significant differences exist by gender in start-up pay for graduates and professional women, and persistent disparities are evident for women in management across industry sectors.

6.1.4 Reviews and response plans on these issues had been driven by the work of the Pay and Employment Equity Unit within the Department of Labour which was closed in 2009 after five years. The closure was accompanied by the government’s cancellation of two on going pay investigations for 24 000 school support staff and for social workers. Following these cancellations, the union, the Public Service Association (PSA) complained to the Human Rights Commission of sex discrimination under the Human Rights Act 1993. The commission notified the parties to the complaint and, under the Human Rights Act, mediation through dispute resolution began. The parties have now agreed to take the matter outside the commission and continue to talk and negotiate the issue. The Ministry of Women’s affairs in its latest statement of intent has no specific indicators relating to closing the gender pay gap or implementing pay equity, a critical element in women’s economic independence and in advancing gender equality.

6.1.5 This gender pay divide is the result of the absence of effective legislation and other policy mechanisms to address these issues. No successful cases have ever been progressed under New Zealand’s Equal Pay Act 1972 and there is no legislation in New Zealand that relates to pay equity and to work of equal value. The Equal Pay Act 1972 and the Human Rights Act 1993 provide for protection against sex discrimination but are widely regarded as ineffective in pay equity cases largely because no positive obligations are placed on employers in relation to equal pay and pay equity. The legislation also anticipates individual complainants rather than groups of women which limits attempts to reduce structural discrimination.

6.1.6 The Ministry of Women’s affairs has conducted a large amount of research into the status of pay equity and equality. However, it is the view of the coalition that the focus needs to move from one-off

¹⁰ “Pulling it all together: Family violence and sexual violence in New Zealand”, Ruth Herbert (2010) PowerPoint presentation supplied by author.

¹¹ It’s Not OK: New Zealand’s Efforts to Eliminate Violence Against Women (2008). Leitner Center for International Law and Justice Fordham Law School NY <http://www.leitnercenter.org/files/doc-17866.pdf>

¹² Statistics New Zealand “Quarterly Employment Survey: March 2013 quarter” (March 2013) Statistics New Zealand <http://www.stats.govt.nz/browse_for_stats/income-and-work/employment_and_unemployment/QuarterlyEmploymentSurvey_HOTPMar13qtr/Tables.aspx>

¹³ New Zealand Human Rights Commission(2012)*New Zealand Census of Women’s Participation*, Wellington.

research projects to effective interventions, new legislation and policy relating to pay equity mechanisms to close the gender pay gap.

6.2 Disabled women's status

6.2.1 Because of the disruption posed by earthquakes in Christchurch, the national census of statistics has been delayed until July 2013.¹⁴ This means that the figure of women aged 15 years and over who report having a disability at 18% of women (332,600) is likely to be conservative, particularly because of the confluence of disability and an increasingly ageing population. Even when data exists, it is seldom used in policy development, and disabled women's issues remain invisible. Disabled women in Christchurch are especially vulnerable in terms of housing, public transport and access to employment.

6.2.2 However, by virtue of their gender and their disability, disabled women are doubly disadvantaged because they disproportionately lack qualifications, do not work and live on low incomes.¹⁵ Detachment from education and employment means that more disabled women experience poorer social and economic outcomes across their lives. Disabled women are particularly vulnerable in violence against women. A Ministry of Women's Affairs study, albeit with a low sample rate, found 33% of victims of sexual violence interviewed indicated they had a disability or impairment.¹⁶ However, the research did not establish whether the disability was the result of sexual violence.

6.3 Young women, Māori and Pacific women and unemployment

6.3.1 Young women and men have been disproportionately affected since the onset of the financial crisis and many believe it could take up to 11 years for youth employment to return to pre-recession levels.¹⁷ Some unemployed young people encountering the crisis have lost hope of obtaining employment and have detached themselves from the labour market altogether, leaving a legacy of a "lost generation".¹⁸

6.3.2 In New Zealand, young Māori and Pacific women experience the double disadvantage of gender and ethnicity. Unemployment rates for young Māori and young Pacific women under 25 years are twice that of European women. More than one in four Māori and one in four Pacific youth in the labour market are unemployed. The numbers of young Maori and Pacific women who are classified as NEET (not in employment, education and training) are staggering with nearly 21% of all Maori and Pacific young people aged between 15 -24 years. The figures for young women are higher than for young men because of caring responsibilities at home.

6.3.3 Māori comprise almost 15 percent of New Zealand's female population and Pacific women, 6.8 percent. Maori Pacific women and girls and those from ethnic minorities suffer from multiple forms of discrimination. For example, female participation in the New Zealand labour market by ethnicity shows that European women under 25 years have a participation rate of 65.7 percent compared to Māori women at 50.9 percent and Pacific women at 43 percent. These figures and others, such as the variance in the gender pay gap by ethnicity, in education rates, in health statistics, reveal systemic and structural inequalities. For young Māori and Pacific Island women who face longer term unemployment in the delayed labour market recovery, the outlook is particularly bleak and there is a risk of rising discouragement.

6.4 Legislative change

6.4.1 Current and proposed welfare reforms

The Human Rights Commission, the New Zealand Council of Trade Unions, and a number of Coalition groups have consistently raised concerns domestically and to treaty bodies (CESCR and CEDAW in 2012) that proposed welfare reforms are regressive and possibly discriminatory, particularly for women. The CESCR Committee urged the State Party to meet its obligations to ensure that welfare reforms, including those aimed at reducing long-term welfare dependency, protect the right to social security and to an adequate standard of living in respect of disadvantaged and marginalised individuals and groups.

¹⁴ Statistics New Zealand "Disabilities" (27 May 2013)
<http://www.stats.govt.nz/browse_for_stats/health/disabilities.aspx>

¹⁵ 2006 Household Disability Survey.

¹⁶ Kingi and Jordan, *Responding to sexual violence: Pathways to recovery*, Ministry of Women's Affairs, 2009.

¹⁷ ILS: World of work report 2010, op.cit., p.2.

¹⁸ ILO: Equality at Work: The continuing challenge report 2011, p.8

The Social Security (Youth Support and Work Focus) Act 2012 includes a more stringent work test applied to women who have a subsequent child while receiving the domestic purposes benefit. The coalition considers this to be a coercive measure undermining parents' right to freely decide on the number and spacing of their children as required under article 16(e) of the CEDAW. Nor can it be justified as in the best interests of the child.

As the Government's Cabinet papers noted, Youth Parent Provisions aimed at young sole parents will predominantly affect women, and more specifically, Māori women¹⁹. These provisions are therefore *prima facie* indirect discrimination on the basis of sex and race. The coalition has questioned how the proposed changes will ensure adequacy of core benefit levels and reduce the high incidence of child poverty amongst beneficiary families.²⁰

6.4.2 Paid parental leave (PPL)

New Zealand lags behind other developed countries in both the scope and coverage of paid parental leave. In 2012 an Opposition party bill was entered into Parliament with an aim to extend PPL from 14 to 26 weeks. The bill is currently before a Parliamentary Select Committee.²¹ The National government has chosen not to support the bill and has indicated that it would use its power to veto the bill if it were to pass as it would have a significant impact on the budget.²²

Women who are seasonal or contract workers such as carers, cleaners and agricultural workers whose workforce attachment is continuous but are covered by multiple employment arrangements during the year are not covered by PPL provisions. This has been criticised by the New Zealand Human Rights Commission, the Families Commission, NACEW and many women's NGOs as discrimination. Given that PPL has been progressively extended to teachers and to self-employed women over the past decade, it is a glaring anomaly that lower paid groups of contract and seasonal workers are not covered by PPL simply because they may have more than one employer during a year. Their exclusion is arbitrary and prejudices both women and their families many of whom are low paid, simply as a consequence of the nature of their employment relationships.

6.4.3 Proposed changes to collective bargaining

New Zealand women are more likely than men to be unionised (59.84 percent in 2010) so legislative changes that weaken employment and union rights have greater impact on women. The coalition along with the NZCTU's women's committee have expressed concern about changes to probationary periods of employment which reduce worker's right of redress, the changes to personal grievances and greater restrictions on union access and pay differentials for 16-18 year olds.

Proposed legislative changes in the Employment Relations Bill (on top of the changes enacted in 2010 restricting workers access to unions and removing personal grievance procedures) have been identified by NZCTU's Women's Council as having the potential to dilute collective bargaining and to disproportionately affect women. These include:

- The removal of the obligation of unions and employers to conclude collective agreements.
- The current duty of good faith in the Act is removed meaning that employers are able to "opt out" where they do not agree with collective bargaining.

¹⁹ Cabinet Paper, Policy Decisions on the Youth Package, para 69.

²⁰ A Youth Payment (YP) and Youth Parent Payment (YPP) will replace current benefits available for these groups. Higher benefit abatement rates mean new beneficiaries will retain less part-time earnings and lose eligibility for any benefit at a lower income threshold. Sixteen to 18 year olds on the YPP will be required to be in full-time education, training or work-based learning once their child is 1 year old, or is 6 months old if they are attending a school Teen Parent Unit. Otherwise sanctions will apply, with a maximum penalty amounting to losing half of the benefit payment.

²¹ Labour Party of New Zealand "PPLease extend paid parental leave" (27 May 2013) <<http://www.labour.org.nz/ppl>>

²² Hamish Rutherford "Parental leave extension bill 'too costly'" *Waikato Times* (New Zealand, 29 April 2013)

- Replacing of the rest breaks provisions with a general obligation to provide a “reasonable opportunity” for rest, refreshment etc.
- An exemption for employers with less than 20 employees
- The right to refuse to negotiate multi-employer or industry collective agreements. The majority of workers covered by these agreements are women.

7. Right to health

7.1 There is a lack of strategic and coordinated action by the state party to improve sexual and reproductive health. 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 (ERO, 2007). Recommendations for improvement are yet to be fully implemented. New Zealand’s rates of teen pregnancy and sexually transmitted infections, especially amongst youth, remain high by OECD standards (Statistics New Zealand, 2003; The Institute of Environmental Science and Research Ltd, 2012).

7.2 Reforms of the Domestic Purposes Benefit (DPB) are resulting in an economically coercive environment for women’s reproductive decision-making, including choice of contraceptive, when they are in receipt of welfare assistance. Of particular concern is the offer of subsidized health care for women in receipt of welfare who elect to have a long-acting reversible contraceptive and sanctions on women’s welfare entitlements if they have a subsequent child while receiving welfare assistance (New Zealand House of Representatives, 2012).

7.3 Child welfare and protection legislation and polices 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 and is resulting in the initiation of child protection proceedings during the antenatal period. A pregnant woman has recently been incarcerated in the interests of protecting her foetus from harm posed by her alcohol use. Punitive measures related to sexual and reproductive health impedes access to health-care, infringing the right to health of pregnant women. Where women fear criminal prosecution or punitive measures, they may be deterred from accessing health services and care, as well as pregnancy-related information (Grover, 2011).

7.4 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 NZ 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 LGBTI health in Aotearoa NZ 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 (Garcia, 2003).

8. Indigenous women

8.1 Prison

8.1.1 In 2011 Māori represented 15% of New Zealand’s population and 51% of those imprisoned. In 2009 56% of female prisoners were Māori and this over-representation is now an unacceptable 60 %, according to the Department of Corrections. Māori women in prisons have high incidences of health needs, high rates of mental health, drug and alcohol problems and if they are parents have usually been single child care providers. The Department of Corrections claims that Māori over-representation is due to a complex array of factors such as lower socio-economic status, higher rates of unemployment, effects of urbanisation, exposure to gang culture. Bias in the criminal justice system, from arrest by police is seldom acknowledged despite limited work by policy agencies on the “drivers of crime” and research indicating that overt and covert racialization of crime is evident.

8.2 Health and Mortality

8.2.1 The annual Ministry of Health report ‘Cancer: New Registrations and Deaths’ shows Māori women continue to experience higher mortality rates from breast and gynaecological cancers compared to non- Māori

(MoH, 2009). For example in 2009, the latest available data, the breast cancer rate of death among Maori women was 42.71% higher than non-Māori women, while the mortality rate ovarian cancer was 37.29% higher among Māori women compared to non-Māori women (MoH, 2009). Despite recognition of ethnic inequalities in the burden of cancer and efforts to reduce inequalities and increase uptake of screening by Māori women, the overall disparity between Māori women and non-Māori women's cancer mortality rates has "remained relatively unchanged between 1999 and 2009" (MoH, 2009).

9. Equality and non-discrimination

9.1 Women's representation and participation

9.1.1 Representation of women at governance level in government appointed statutory bodies has slipped again slightly to 41.1%, down from 42% in 2008.²³ This follows New Zealand's commitment at Beijing in 1995 by former Prime Minister Jenny Shipley of a target of 50% women's representation by 2000. Because this was not achieved, the target for government appointments of women was then extended by the Government to 2010 and has now again been revised downwards to 45% by 2015 by the Ministry of Women's Affairs in its Statement of Intent 2012-2015.

9.1.2 Other areas of concern about women's participation and representation are the New Zealand Police Force and the New Zealand Defence Force where women's representation at the top has stalled, the judiciary which has had only a 1.65 percentage point increase in the number of women to 27.68% despite the treaty body committees' repeated urgings to the State Party, and national politics at 32 percent down from 33 percent previously²⁴. The initial gains in diversity of a changed electoral system from First Past the Post to Mixed Member Proportional have not translated into continuing progress for women. In the corporate sector despite a flurry of initiatives in specific sectors "low bar" soft target setting is the norm and two companies in the top 10 companies by market capitalisation on the New Zealand Exchange's (NZSX) have no women on the boards and a total of 45 out of the 100 have no female directors. Despite lagging behind other countries the new stock exchange gender diversity rule contains no requirement to have gender policies only report on what they have if they do have a gender policy, there are no statutory based quota or special measures aimed at improving women's representation.

10. Conclusion

10.1 Given the fragile state of many women's rights in New Zealand the Coalition makes one overarching recommendation to the Universal Periodic Review. It is:

The CEDAW Coalition of NGOs requests that the Universal Periodic Review strongly urges the State party, New Zealand, to develop with civil society involvement an Action Plan for New Zealand Women with authentic targets and strong accountabilities.

The plan must target violence against women, pay inequality and pay inequity, the status of Māori and Pacific women, and the importance of welfare and employment related reforms on the lives of women and their families. The status of disabled women must also be addressed.

²³ New Zealand Census of Women's Participation 2012 accessed from www.neon.org.nz

²⁴ Ibid