

# Universal Periodic Review of New Zealand 18th session of the Working Group on the UPR, January 2014

## Joint NGO submission

### Abuse of disabled people in New Zealand



**Jointly submitted by:** Domestic Violence and Disability Working Group, Auckland Disability Law Incorporated, CCS Disability Action Northern Region, Peace Movement Aotearoa

**Supported by:** People First New Zealand – Nga Tangata Tuatahi, IHC Advocacy

**Information about the submitting and supporting organisations is attached in Annex A**

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#### **Background**

This report has been prepared on behalf of the Domestic Violence and Disability Working Group. The Auckland Domestic Violence and Disability (DVD) group is a group of disabled people and people working in the areas of disability and domestic violence committed to ending violence against disabled people.

## **1. Taking steps to end the abuse of disabled people in New Zealand**

1.1. The focus of the report is the elimination of abuse and violence against disabled people. We seek the assistance of the UN in ensuring that New Zealand meets its international obligations under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), with particular reference to Article 16: Freedom from exploitation, violence and abuse<sup>1</sup>.

### **1.2. Recommendation 1:**

***New Zealand should ratify the Optional Protocol to the UNCRPD to enable disabled people to take complaints to the Committee on the Rights of Persons with Disabilities.***

## **2. Abuse of disabled people in society**

2.1. Disabled women are more likely than non-disabled women to be abused as both children and adults. Unfortunately, most studies of violence against women have not asked about self-identified pre-existing disability, so do not enable us to quantify the abuse of disabled women. This lack of definitive evidence and invisibility creates the first barrier to recognition of this as an issue. However the consensus is that “violence against women with disabilities has been identified as not only more extensive than amongst the general population but also more diverse in nature than for women in general”<sup>2</sup>.

### **2.2. Recommendation 2:**

***New Zealand should improve the collection of disaggregated statistics relating to disabled people including statistics around abuse of disabled people to ensure that abuse of disabled people is properly recognised and addressed.***

## **3. Higher prevalence of abuse of disabled people, particularly those with intellectual disability.**

3.1. People with intellectual disability are at even more risk of abuse. High rates of sexual abuse have been identified<sup>3</sup> and also hate crimes<sup>4</sup> such as bullying, name-calling and physical assaults by members of the public, school pupils and caregivers. While rates of abuse are higher for women across all areas of disability<sup>5</sup> there is also evidence that intellectually disabled men are at significantly higher risk of abuse than other men<sup>6</sup>. This is difficult to quantify because (again) the studies are all methodologically different with different populations<sup>7</sup>. Disabled women experience the range of abusive behaviours common to all abusive relationships – physical, sexual, verbal, emotional and financial<sup>8</sup> including patterns of power and control<sup>9</sup>. There are forms of abuse that are more specific to disabled women.

3.2. These include:

- withholding food or medication or overmedicating
- keeping women short of money, making financial decisions for women or misusing their money
- never letting a disabled woman be alone with a health practitioner or other helping professional
- forcing a disabled woman to have an abortion or be sterilised
- withholding communication and mobility aids

3.3. Howe (2000) identifies other forms of violence - institutional violence, chemical restraint, drug use and medical exploitation. Abuse can be intentional: doing something to hurt, frighten or upset a disabled woman, or it can be caused by either intentional or unintentional neglect such as: forgetting to pick up or provide medication; not providing adequate care; leaving an immobile person alone for long periods of time; or not providing meals (Domestic Violence and Disability Working Group, 2010); or failing to provide support that is required. Perpetrators – both intimate partners and other carers use abusive power and control behaviours<sup>10</sup>. This includes isolating women and exploiting their dependency and vulnerability as carers “may have a huge amount of power over the woman they are caring for in isolated one-to-one situations” (ibid, p 29). Thiara, Hague, Bashall, Ellis, & Mullender<sup>11</sup> identify that not only are disabled women vulnerable to more forms of abuse but also face multiple barriers to leaving and accessing safety. This includes that sources of assistance available to non-disabled women not being accessible, plus specific barriers related to leaving an accessible house, having disability support tied to certain places or carers and being dependent on an abuser who is also her primary carer.

3.4. Domestic violence can result in short and long term disability including: acquired brain injury; mental health problems including alcohol and drug problems; depression; anxiety; post traumatic stress disorder; increased risk of suicide and suicide ideation; blindness; hearing loss; muscular skeletal injuries; and physical illness. Deliberate neglect and abuse can cause chronic illness and loss of function (mental and physical), which can result in long-term disability (Domestic Violence and Disability Working Group, 2010). Sexual violence is linked to increased risk of mental health problems, increased suicide ideation and attempts and can result in sexual health complications, unwanted pregnancy, social ostracisation<sup>12</sup> physical disability and brain injury as a result of physical attacks associated with the sexual violence<sup>13</sup>. An example of the marginalisation and dehumanisation of disabled women is the belief that disabled women, especially those with intellectual disability, experience less harm as a result of sexual and domestic violence and hate crimes than non-disabled women. This assumption has been disproved by a number of studies. Walter-Brice et. al.<sup>14</sup> report that for women with intellectual disabilities, their concerns are frequently associated with the women’s disability, and their individual responses and needs are ignored. This ignoring of harm may result in increased marginalisation, low self-esteem and feelings of powerlessness.

### **3.5. Recommendation 3:**

***New Zealand must develop and fund effective violence prevention, early intervention, and refuge services that are appropriate and accessible to disabled people including children and adults, with particular focus on people with intellectual impairment.***

## **4. Awareness of abuse**

4.1. Recent cases exposed by the media in New Zealand have highlighted the issue that campaigners have been attempting to bring to the attention of the government for some time: that disabled people in New Zealand experience significant and

widespread abuse. There are limited data to demonstrate the scale of the problem due to the paucity of statistics relating to disability collected by the New Zealand government. However, recent reports suggest that disabled women and men are more likely to be abused than their non-disabled peers and are abused in a range of additional ways as outlined in Gisborne research:

“No New Zealand specific research-related literature pertaining to the abuse of disabled people residing in the community was identified. However, while no in-depth research has been conducted in New Zealand, there is a growing awareness of abuse against people who, due to old age or physical and cognitive impairments, can no longer manage their own affairs.”<sup>15</sup>

4.2. Stories recently brought to public attention include cases of significant abuse, neglect, and even deaths of disabled people in the care of services contracted by the Ministry of Health including: a young man left to eat grass at a residential facility<sup>16</sup>; another young disabled man who burned to death when he was unable to escape after being left unattended and locked into a house by a paid caregiver<sup>17</sup>.

4.3. The public are not only concerned that such abuses can occur, but also that the current reporting processes to deal with abuse appear inadequate, and that even when abuse is proved, disabled people and their families do not have effective remedy, or receive appropriate support, as exemplified in the second case cited above, where no criminal charges are to be laid.

#### **4.4. Recommendation 4:**

***New Zealand should launch a Royal Commission Inquiry<sup>18</sup> into abuse and violence against disabled people.***

### **5. Lack of effective mechanisms to report or respond to abuse**

5.1. New Zealand does not have in place the following:

- Sufficient systems to protect disabled people from abuse
- Effective mechanisms to monitor abuse
- Sufficient resources to enable disabled people to escape from abusive situations and to receive appropriate assistance if they do
- Sufficient training and education for staff, disabled people, families, caregivers to recognise and know how to deal with abuse
- Sufficient training for police to respond appropriately to allegations and to deal with disabled people as witnesses
- Remedy for disabled people and their families when they have been subjected to abuse or violence

5.2. Existing family violence service providers and violence prevention workers report difficulties in supporting disabled people who report abuse because of the barriers in accessing support services, sometimes as a result of communication difficulties, or limited access to or knowledge of services available. Disabled people and disability organisations report similar barriers to accessing support and difficulties in supporting people experiencing abuse because of the lack of tailored services.

### **5.3. Recommendation 5:**

***New Zealand should establish an independent Disability Commission as a single point of contact for all disability complaints and as a mechanism for promoting the rights of disabled people, promoting implementation of the UNCRPD and supporting DPOS and disability NGOs to monitor implementation of the UNCRPD.***

## **6. Barriers to reporting**

6.1. One of the major barriers to effective monitoring, reporting and remedy is the lack of a single agency to deal with concerns raised by disabled people. Of particular concern is the lack of a single agency to support and advocate for an individual or family through the process of reporting and escaping abuse. In the course of trying to have a complaint taken seriously, it is not unusual for a disabled person or their family to attempt to deal with many of the following agencies: the individual caregiver; the service provider; the needs assessment service coordination agency; the Health and Disability Advocacy service; the Health and Disability Commissioner's office; the Human Rights Commission; the police, the Ministry of Health; and the coroner. People often find that their problem is beyond the remit of the different agencies they contact, and are referred on to another agency with no single organisation taking responsibility for resolving the issue.

6.2. Disabled people report that they are not listened to or taken seriously when they report abuse and are not treated as credible witnesses by the police. Disabled people additionally report difficulties communicating with lawyers and judges – a problem echoed by judges in recent research.

### **6.3. Recommendation 6:**

***New Zealand should take immediate steps towards full implementation of UNCRPD Article 13, including access to justice through proper resourcing of disability training for police, lawyers, judges, and provision of specialist disability legal services throughout New Zealand.***

### **6.4. Disability Hate Crime Legislation**

6.5. New Zealand currently does not have disability hate crime legislation. The government's 2011 UNCRPD report says that disability is recognized as an aggravating factor in other crimes. However, this means that attacks and harassment of disabled people in public are not in themselves recognised as crimes, which means that there is no particular remedy for disabled people attempting to report abuse or repeated abuse of this nature.

### **6.6. Recommendation 7:**

***New Zealand must consult with disabled people to develop disability hate crime legislation that properly recognises the effect of repeated abuse and harassment***

### **6.7. Confidential Listening and Assistance Service - limitations**

6.8. The Confidential Listening and Assistance Service<sup>19</sup> that was established to listen to the stories of disabled people who had been abused in State care prior to 1992 is

about to come to an end. It is also only available for abuse prior to 1992, and the website states that this date was set because: “it reflects the time by which these sectors had modernised their standards and improved mechanisms to manage complaints.” This is clearly not true, as complaints continue to emerge.

#### **6.9. Recommendation 8:**

***New Zealand should extend the provision of the Confidential Listening and Assistance Service to support all those who have experienced abuse using Ministry of Health services and to provide effective remedy to those people who have such experience of abuse.***

### **7. Additional barriers to disabled people attempting to escape from abuse**

7.1. Any woman or abused person will experience difficulties in escaping that abuse.

7.2. However, there are some particular factors in New Zealand at present that create additional barriers to disabled people which prevent them from escaping to safety:

#### **7.3. Lack of accessible housing**

7.4. New Zealand has a chronic housing shortage, particularly in cities such as Auckland and Christchurch, as demonstrated by the hundreds of people on the waiting list for housing<sup>20</sup>. This means that disabled people attempting to escape abuse will find it almost impossible to access state housing.

#### **7.5. Recommendation 9:**

***New Zealand must take urgent steps to increase the availability of affordable and accessible state housing, and ensure that all disabled people requiring re-housing when escaping abuse can have access to state housing.***

#### **7.6. Lack of equal employment opportunities**

7.7. New Zealand has a Ministerial Committee on Disability issues<sup>21</sup> that has put in place an action plan for disability, including developing employment opportunities for disabled people as one of their three priorities. However, disabled people continue to experience and report discrimination in the workplace, including a lack of effective programmes to reduce psychological, emotional and verbal abuse from employers and colleagues that are specific to disability including: comments, assumptions and actions that reflect patronising attitudes towards disabled people<sup>22</sup>. There is no public record of the Ministerial committee having met since September 2012. One of the key initiatives: the Mainstream programme, which provides subsidies designed to assist disabled people into open employment<sup>23</sup> was unilaterally suspended by Government in 2012 with no indication of when it will be re-opened for new applicants.

#### **7.8. Recommendation 10:**

***New Zealand must increase resources available to assist disabled people into open employment including a campaign to reduce workplace bullying and immediate reinstatement of the Mainstream programme<sup>24</sup>***

### **7.9. Disabled people earning well below the statutory minimum wage**

7.10. Disabled people have expressed concern about the Minimum Wage Exemption Permit. Some disabled people are paid less than 10% of the statutory minimum wage and hundreds are paid less than a quarter of the minimum wage. This locks disabled people into low paying jobs, often tied to disability service providers, with no financial independence to enable them to escape from abusive situations.

#### **7.11. Recommendation 11:**

***New Zealand must end the provision of Minimum Wage Exemption Permits<sup>25</sup> and put in place alternative measures to ensure that all disabled people in paid work are paid at least the statutory minimum wage available to non-disabled people, with employers supported appropriately to encourage the employment of disabled workers.***

#### **7.12. Lack of access to services and public buildings and spaces**

7.13. There are significant concerns that current lack of access to public spaces will be exacerbated because of proposals to remove the requirement to improve disability access when modifying buildings. The Ministerial Disability Committee<sup>26</sup> had included in its action plan that the Christchurch rebuild would be inclusive of disabled people. However, a recent consultation document proposed removing the requirement to improve disability access when upgrading buildings as part of earthquake strengthening work. This is in breach of UNCRPD Article 9 Accessibility<sup>27</sup> and would further limit the ability of disabled people to participate in public life and access essential services.

#### **7.14. Recommendation 12:**

***New Zealand must not legislate to remove the link between building modifications and improved accessibility.***

#### **7.15. Disabled people's reliance on welfare benefits and link to partner benefits**

7.16. The relative poverty of disabled people in New Zealand is well documented. Recent changes to welfare benefits link disabled people's access to social security benefits to the actions of their partner. Where the disabled person's partner does not fulfil all the requirements set out by Work and Income NZ, the disabled person will face benefit sanctions<sup>28</sup>. For many disabled people, this will lead to further hardship and risk creating situations where disabled people do not have independent means to escape abusive situations. Disabled people have also experienced increased difficulty securing funds in times of extreme hardship, as demonstrated in a case where a disabled man was driven to take violent action against his local Work and Income office in desperation to change their policies<sup>29</sup>

#### **7.17. Recommendation 13:**

***New Zealand must ensure that disabled beneficiaries have access to independent income and can access emergency funds so they are not penalised or sanctioned***

*for the actions of partners or family members, or reliant on others for providing the necessities of life.*

**7.18. Limited access to transport and lack of safety using public transport.**

7.19. Disabled people who do not have independent transport are extremely limited in their ability to escape abusive situations due to the prohibitive cost<sup>30</sup>, lack of accessible taxis, and lack of accessible public transport or safety issues when using public transport.<sup>31</sup>

**7.20. Recommendation 14:**

***New Zealand should extend the provision of affordable and accessible public transport and monitor the safety of transport***

**8. Need for substantive equality and proactive disability legislation**

8.1. Current New Zealand legislation relating to disability discrimination: Human Rights Act (1993) and NZ BORA are reactive. Following ratification of the UNCRPD, disabled people called for disability provisions in domestic legislation to be proactive and bring about substantive equality not just redress once discrimination has occurred.

**8.2. Recommendation 15:**

***New Zealand must engage in urgent consultation with disability community towards developing domestic legislation to assist in the implementation of UNCRPD by promoting substantive equality for disabled people.***

**9. Additional factors affecting disabled people**

**9.1. Domestic Violence legislation does not cover all situations that disabled people live in**

9.2. Current legal definitions relating to domestic violence do not cover all of the situations that disabled people find themselves in and the relationships they have with caregivers or other people who they interact with or who live in their homes.

**9.3. Recommendation 16:**

***New Zealand take immediate action to ensure domestic violence legislation covers disabled people in the domestic situations they encounter, including relationships with other resident service users, paid caregivers, and other support staff.***

**9.4. Supported decision making**

9.5. The current legal provisions for substituted decision making for disabled people in the Protection of Personal and Property Rights Act (1998) do not reflect the aspirations of disabled people and do not safeguard disabled people from abuse.

**9.6. Recommendation 17:**



***New Zealand amends Protection of Personal and Property Rights Act (1988) to reflect the aspirations of disabled people to be supported to make their own decisions, as required in Article 12 of UNCRPD<sup>32</sup>***

#### **9.7. Access to health services**

9.8. The health status of disabled people, and in particular people with intellectual impairment is of significant concern. Despite the government claiming it would address this issue at the last UPR, the Ministry of Health figures show that people with intellectual impairment have a life expectancy of around 20 years less than their non-disabled peers<sup>33</sup>

#### **9.9. Recommendation 18:**

***New Zealand takes immediate action to improve the life expectancy of people with intellectual impairment and develop accessible health information and services to meet the needs of the disabled population.***

### **10. Constitutional and Legislative Framework – family carers and NZ BORA**

10.1. New Zealand told the UPR in 2009 that all international human rights obligations should be appropriately implemented in domestic policy. 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”<sup>34</sup>.

10.2. Disabled people have significant concerns that this review process is insufficient to safeguard their rights. This was recently demonstrated by the passing of legislation despite its clear inconsistency with the NZ Bill of Rights Act and UNCRPD. The New Zealand Public Health and Disability Amendment Act (No 2) was passed under urgency following the 2013 budget, without the opportunity for select committee discussion or submissions from the public.

10.3. The background to the legislation was 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.

10.4. In May 2013 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 family carers can only be paid in certain limited circumstances, set at around the minimum wage, which is lower than non-family members are paid for the same work. Some family members will continue to be prevented from being paid, including spouses, and family members of children under 18.

10.5. The policy raises specific concerns relating to the ability of disabled people to report and be effectively protected from abuse. The policy provides for family members to be paid only through a direct payment to the disabled person who will then employ the family member. It specifically excludes payment in any other way, such as employment through an external agency, on the grounds of cost. This means that the usual checks on standards of care, training, and reporting mechanisms will not be available to the disabled person. The Regulatory Impact Statement<sup>35</sup> that accompanied the legislation suggests that the services will be subject to the same audit and complaints mechanisms as other provision. However, no budget provision has been indicated that would cover the additional audits required (somewhere in the order of 1600), and it is not clear how the current Code of Health and Disability Rights will apply when the disabled person will be the employer, and thus at least theoretically, the provider. Many of the disabled people likely to be eligible to employ family members are also likely to have significant impairments that might prevent them from being able to communicate independently. Therefore, the policy fails to include the necessary safeguards to protect the wellbeing of the disabled person.

10.6. The passage of the Act through Parliament was highly unusual. 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, preventing Members of Parliament who debated the bill and voted on it, and members of the public from knowing what it said. There was no consultation or opportunity for input by disability civil society groups or disabled individuals because the legislation was introduced and enacted in a single day.

10.7. 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.

10.8. This ouster clause prevents disabled people and their families from having legal recourse to challenge discrimination perpetuated by government legislation, policy and practice. Carers and disabled people continue to experience systemic discrimination as a result.

10.9. **Recommendation 19:**  
***New Zealand must repeal the Health and Disability Amendment Act (No 2) and engage in constructive dialogue with the disability community to find a solution to the issue of paying family carers that does not perpetuate discrimination in breach of NZBORA or risk putting disabled people into situations where they might be unable to escape from abusive carers.***

10.10. **Recommendation 20:**

***New Zealand must refrain from passing legislation under urgency unless the matter can genuinely be demonstrated to be urgent and has bi-partisan support.***

**10.11. Recommendation 21:**

***New Zealand must not pass unconstitutional “ouster clauses” that interfere with the legal mandate of the courts.***

**11. Forced sterilisation**

11.1. Forced sterilisation of disabled women and children is still legal in New Zealand, despite New Zealand being a signatory to International treaties that recognise that forced sterilisation is against international law.

11.2. The UN Special Rapporteur on Torture has recently reiterated that the law should never distinguish between individuals on the basis of capacity or disability in order to permit sterilisation specifically of people (girls and women) with disabilities<sup>36</sup>.

11.3. Forced sterilisation denies disabled people the right to be free from cruel and inhuman treatment and torture<sup>37</sup>. The right to be free from torture is one of the few absolute and non-derogable human rights, a matter of jus cogens<sup>38</sup> a peremptory norm of customary international law, and as such is binding on all States, irrespective of whether they have ratified specific treaties<sup>39</sup>. A State cannot justify its non-compliance with the absolute prohibition of torture, under any circumstances.

11.4. The UN Special Rapporteur on Torture has recently clarified that forced interventions (including involuntary sterilisation), justified by theories of incapacity and therapeutic necessity, are inconsistent with the Convention on the Rights of Persons with Disabilities Article 24 Respect for Home and the Family<sup>40</sup>. Forced sterilisation inflicts severe pain and suffering, and violates the absolute prohibition of torture and cruel, inhuman and degrading treatment<sup>41</sup>.

**11.5. Recommendation 22.**

***New Zealand government must bring all domestic laws that enable involuntary sterilisation, in line with their international commitments. These legislative reforms need to: a) include legislation that eliminates substitute decision-making with supported decision-making for disabled people, and b) be written in words that make no distinction between disabled and non-disabled people.***

**11.6. Recommendation 23.**

***New Zealand makes the establishment and funding of disabled peoples agencies, that focus on the issues of eliminating forced sterilisation and other issues of violence against disabled people, a priority.***

## Endnotes

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<sup>1</sup> <http://www.un.org/disabilities/default.asp?id=276>

<sup>2</sup> Howe, K. (2000). Violence against women with disabilities: An overview of the literature. Australia, Women with Disabilities. Retrieved from [www.wwda.org.au/keran.htm](http://www.wwda.org.au/keran.htm) 8th October 2012

<sup>3</sup> Turk & Brown, 1993, cited in Bruder, C., & Kroese, B. S. (2005). The efficacy of interventions designed to protect people with intellectual disabilities from sexual abuse: A review of the literature. *The Journal of Adult Protection*, 7, 2: ProQuest 13

<sup>4</sup> People First in Partnership. (2012). 'Keeping safe feeling safe' project: Disability related hate crime – People First focus groups (2012) findings. Auckland, People First in Partnership.

<sup>5</sup> Zealand Family Violence Unit & Hager, D. (2013). Evidence brief: Issues and opportunities for addressing family violence within the disability sector. Prepared for the Taskforce on Family Violence. Wellington, NZ Family Violence Unit, Ministry of Social Development.,

<sup>6</sup> Powers, L. E., & Oschwald, M. (2004). Violence and abuse against people with disabilities: Experiences, barriers and prevention strategies. Center on Self-Determination, Oregon Institute on Disability and Development, Oregon Health & Science University. Retrieved from <https://phinational.org/sites/phinational.org/files/clearinghouse/AbuseandViolenceBrief%203-7-04.pdf> 16th May 2013

<sup>7</sup> McCarthy & Thompson, 1996, cited in Bruder, C., & Kroese, B. S. (2005). The efficacy of interventions designed to protect people with intellectual disabilities from sexual abuse: A review of the literature. *The Journal of Adult Protection*, 7, 2: ProQuest 13

<sup>8</sup> Powers, L. E., & Oschwald, M. (2004). Violence and abuse against people with disabilities: Experiences, barriers and prevention strategies. Center on Self-Determination, Oregon Institute on Disability and Development, Oregon Health & Science University. Retrieved from <https://phinational.org/sites/phinational.org/files/clearinghouse/AbuseandViolenceBrief%203-7-04.pdf> 16th May 2013

<sup>9</sup> Walter-Brice, A., Cox, R., Priest, H., & Thompson, F. (2012). What do women with learning disabilities say about their experiences of domestic abuse within the context of their intimate partner relationships? *Disability and Society* 27: 4, 503 – 517

<sup>10</sup> Thiara, R. K., Hague, G., Bashall, R., Ellis, B., & Mullender, A. (2012). *Disabled women and domestic violence: Responding to the experiences of survivors*. London, Jessica Kingsley.

<sup>11</sup> *ibid*

<sup>12</sup> Krug, E.G., Dahlberg, L.L., Mercy, J. A., Zwi, A. B., & Lozano, R. (Eds.) (2002). *World report on violence and health*. Geneva, World Health Organisation.

<sup>13</sup> Hager, D. (2001). *He drove me mad: The relationship between domestic violence and mental illness*. (Unpublished master's thesis). Auckland, University of Auckland

<sup>14</sup> Walter-Brice, A., Cox, R., Priest, H., & Thompson, F. (2012). What do women with learning disabilities say about their experiences of domestic abuse within the context of their intimate partner relationships? *Disability and Society* 27: 4, 503 – 517

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- <sup>15</sup> <https://eastcoast.familyworks.org.nz/>
- <sup>16</sup> <http://www.stuff.co.nz/national/health/8633676/Boy-left-to-eat-grass-at-horror-home>
- <sup>17</sup> [http://www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=10889303](http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10889303)
- <sup>18</sup> An independent public interest inquiry <http://www.royalcommission.govt.nz/>
- <sup>19</sup> [http://www.listening.govt.nz/web/RCCMS\\_cla.nsf/weblive/WGTN-7S35AP?OpenDocument](http://www.listening.govt.nz/web/RCCMS_cla.nsf/weblive/WGTN-7S35AP?OpenDocument)
- <sup>20</sup> <http://www.hnzc.co.nz/rent-buy-or-own/rent-from-housing-new-zealand/waiting-list-by-nu/#akl-es> shows hundreds of families on the waitlist for housing despite having been assessed as “**Priority Eligible A** - all applicants whose housing need is assessed as being "at risk" - households with a severe and persistent housing need that must be addressed immediately”.
- <sup>21</sup> <http://www.odi.govt.nz/what-we-do/ministerial-committee-on-disability-issues/index.html>
- <sup>22</sup> <http://www.thinkdifferently.org.nz/employer%20research>
- <sup>23</sup> <http://www.msd.govt.nz/what-we-can-do/disability-services/mainstream/news-and-events.html>
- <sup>24</sup> <http://www.msd.govt.nz/what-we-can-do/disability-services/mainstream/news-and-events.html>
- <sup>25</sup> <http://www.hrc.co.nz/wp-content/uploads/2011/07/Tracking-Equality-at-Work-for-disabled-people.pdf>
- <sup>26</sup> <http://www.odi.govt.nz/what-we-do/ministerial-committee-on-disability-issues/index.html>
- <sup>27</sup> <http://www.un.org/disabilities/default.asp?id=269>
- <sup>28</sup> [http://www.workandincome.govt.nz/manuals-and-procedures/income\\_support/main\\_benefits/invalids\\_benefit/invalids\\_benefit-107.htm](http://www.workandincome.govt.nz/manuals-and-procedures/income_support/main_benefits/invalids_benefit/invalids_benefit-107.htm)
- <sup>29</sup> <http://www.northernadvocate.co.nz/news/winz-smashing-protester-gets-best-outcome/1723482/>
- <sup>30</sup> [http://www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=10889254](http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10889254)
- <sup>31</sup> [http://www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=10872358](http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10872358)
- <sup>32</sup> <http://www.un.org/disabilities/default.asp?id=272>
- <sup>33</sup> <http://www.health.govt.nz/publication/health-indicators-new-zealanders-intellectual-disability>
- <sup>34</sup> 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).
- <sup>35</sup> <http://www.health.govt.nz/about-ministry/legislation-and-regulation/regulatory-impact-statements/government-response-family-carers-case>
- <sup>36</sup> Méndez, Juan. E, (2013) UN.Doc A/HRC/22/53, Op Cit.
- <sup>37</sup> See: Méndez, Juan. E, (2013) UN.Doc A/HRC/22/53, Op Cit., Nowak, M. (2008) UN Doc.A/HRC/7/3; Op Cit.,
- <sup>38</sup> Jus cogens, the literal meaning of which is "compelling law," is the technical term given to those norms of general international law that are argued as hierarchically superior. These are a set of rules, which are peremptory in nature and from which no derogation is allowed under any circumstances. The doctrine of international jus cogens was developed under a strong influence of natural law concepts, which maintain that states cannot be absolutely free in establishing their contractual relations. States were obliged to respect certain fundamental principles deeply rooted in the international community. The power of a state to make treaties is subdued when it confronts a super-customary norm of jus cogens. (cited [www.wvda.org.au/sterilise/2011.htm](http://www.wvda.org.au/sterilise/2011.htm))
- <sup>39</sup> Méndez, Juan. E, (2013) UN.Doc A/HRC/22/53, Op Cit., See also: Sifris, R. (2010) Conceptualising

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involuntary Sterilisation a' Severe Pain or Suffering for the Purposes of Torture Discourse. Netherlands Quarterly of Human Rights, Vol.28/4, pp.523-547.

<sup>40</sup> <http://www.un.org/disabilities/default.asp?id=283>

<sup>41</sup> Méndez, Juan. E, (2013) UN.Doc A/HRC/22/53, Op Cit.,

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## Annex A

Organisations submitting this report:

**The Auckland Domestic Violence and Disability (DVD) group** is a group of disabled people and people working in the areas of disability and domestic violence committed to ending violence against disabled people.

The working group involves members from a range of disability organisations including: People First Northern Region; CCS Disability Action and Auckland Disability Law; the Mental Health Foundation of New Zealand.

**Auckland Disability Law Incorporated** is a community law centre established to address the unmet legal needs of disabled people in the Auckland region. This submission has been developed as part of our ongoing commitment to provide law reform services to our community and to promote equal access to justice.

**CCS Disability Action Northern Region** is a branch of CCS Disability Action, a national organisation which provides support to thousands of disabled New Zealanders. Our aim is to provide support through information, advocacy and community development strategies. CCS Disability Action was founded in 1935 and has charitable trust status. Our vision is that every disabled person will be included in the life of their family/whanau and community.

**Peace Movement Aotearoa (PMA)** - is the national networking peace organisation in Aotearoa New Zealand, an NGO registered as an Incorporated Society in 1982. As the realisation of human rights is integral to the creation and maintenance of peaceful societies, promoting respect for them is a key aspect of our work. We have provided NGO reports to: the Special Rapporteur on Indigenous Peoples' Rights in 2005; the Committee on the Elimination of Racial Discrimination in 2007 and 2013; jointly with the Aotearoa Indigenous Rights Trust and others, to the Human Rights Council for New Zealand's Universal Periodic Review in 2008 and 2009; the Human Rights Committee in 2009 and 2010; the Committee on the Rights of the Child in 2010 and 2011; and the Committee on Economic, Social and Cultural Rights in 2011 and 2012.

**Organisations supporting this report:**

**People First New Zealand, Nga Tangata Tuatahi** is a Disabled Persons Organisation/ DPO that is lead and directed by people with learning/ intellectual disability.

People First is a membership organisation with over 30 local groups across the country where people with learning disability come together monthly to learn about human rights, speaking up and to connect with local communities. Nationally People First assists people with learning disability to speak up, be part of advisory groups for

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Councils and government, learn about the UN Convention on the Rights of Persons with Disabilities and most importantly govern the organisation.

People First is due to celebrate 10 years of being an independent organisation on the 16<sup>th</sup> October 2013.

**IHC New Zealand** is a national organisation that works for all people with an intellectual disability to provide services, advocacy, support and information. IHC will advocate for the rights, inclusion and welfare of all people with an intellectual disability and support them to live satisfying lives in the community.