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## **Committee on the Elimination of Discrimination against Women**

### **Concluding observations on the eighth periodic report of New Zealand\***

1. The Committee considered the eighth periodic report of New Zealand (CEDAW/C/NZL/8) at its 1616th and 1617th meetings (see CEDAW/C/SR.1616 and 1617), held on 12 July 2018. The Committee's list of issues and questions is contained in CEDAW/C/NZL/Q/8 and the responses of New Zealand are contained in CEDAW/C/NZL/Q/8/Add.1.

#### **A. Introduction**

2. The Committee appreciates the submission by the State party of its eighth periodic report. It also appreciates the State party's follow-up report (CEDAW/C/NZL/CO/7/Add.1) and its written replies to the list of issues and questions raised by the pre-sessional working group, as well as the oral presentation by the delegation and the further clarifications provided in response to the questions posed orally by the Committee during the dialogue.

3. The Committee commends the State party on its high-level delegation, which was headed by Ms Jan Logie, Under-Secretary for Justice, and also included representatives of the Ministry for Women, Ministry of Justice, 'Te Puni Kōkiri, the Ministry of Māori Development' and of the Permanent Mission of New Zealand to the United Nations Office and other international organizations in Geneva.

#### **B. Positive aspects**

4. The Committee notes the progress achieved since the consideration in 2012 of the State party's seventh periodic report (CEDAW/C/NZL/7) in undertaking legislative reforms, in particular the adoption of:

(a) The Harmful Digital Communications Act of 2015, which aims at preventing and mitigating harm caused to women by digital communications and provide victims of harmful digital communications with means of redress;

(b) The Vulnerable Children Act 2014, which enhanced protection for the well-being of vulnerable children and their mothers.

5. The Committee welcomes the State party's efforts to improve its institutional and policy framework aimed at accelerating the elimination of discrimination against women and promoting gender equality, including the adoption or establishment of the following:

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\* Adopted by the Committee at its seventieth session (2-20 July 2018).

(a) The creation of Parliamentary Under Secretary to the Minister of Justice position in 2017, which will work on designing an integrated and responsive family violence system;

(b) The National Pasifika Disability Plan (Faiva Ora) 2014-2016, which ensures Pasifika women and girls with disabilities and their family members are provided with enhanced effective support;

(c) The Marriage (Definition of Marriage) Amendment Act 2013, which allows same-sex couples to legally marry;

(d) The Māori Education Strategy, Ka Hikitia: Accelerating Success 2013-2017, which aims at achieving equity and excellence in education for Māori;

(e) The second national plan of action on human rights, for the period 2015-2019;

(f) The launching of a new Integrated Safety Response (ISR), which aims at ensuring immediate safety for women and children victims of domestic violence.

6. The Committee welcomes the fact that, in the period since the consideration of the previous report, the State party has acceded to the Optional Protocol to the Convention on the Rights of Persons with Disabilities.

### **Sustainable Development Goals**

7. The Committee welcomes the international support for the Sustainable Development Goals and calls for the realization of de jure and de facto (substantive) gender equality, in accordance with the provisions of the Convention, throughout the process of implementation of the 2030 Agenda. The Committee recalls the importance of goal 5 and the mainstreaming of the principles of equality and non-discrimination throughout all 17 Sustainable Development Goals. It urges the State party to recognize women as the driving force of the sustainable development of their country and to adopt relevant policies and strategies to that effect.

## **C. Parliament**

8. **The Committee stresses the crucial role of the legislative power in ensuring the full implementation of the Convention (see the statement by the Committee on its relationship with parliamentarians; annex VI to A/65/38). It invites the Parliament, in line with its mandate, to take the necessary steps regarding the implementation of the present concluding observations between now and the submission of the next periodic report under the Convention.**

## **D. Principal areas of concern and recommendations**

### **Visibility of the Convention**

9. The Committee notes that the Ministry for Women (MfW), the Ministry of Justice (MOJ) and the Ministry of Foreign Affairs and Trade (MFAT) have information on the Convention available on their websites, including the State party's periodic reports and the Committee's concluding observations thereon. The Committee further notes that both the Institute of Judicial Studies and the New Zealand Law Society have provided training on domestic human rights legislation and international human rights instruments to the judiciary and lawyers. However, the Committee notes that the Convention and the Optional Protocol have not been given the necessary visibility in the State party, as reflected by the absence of judgements directly referring to the Convention as well as the absence of cases brought to the Committee under the Optional Protocol. The Committee is also concerned about the apparent lack of awareness among women about their rights under the Convention. It is further concerned about the insufficient level of support provided to civil society organizations engaging with the Committee and the decrease in on-going engagement by the State party with women's civil society organizations.

10. **The Committee recommends that the State party:**

(a) **Continue raising awareness among women about their rights under the Convention and on the procedures under the Optional Protocol to the Convention, with particular emphasis on the concept of substantive equality;**

(b) **Ensure that the Convention, the Committee's jurisprudence under the Optional Protocol, as well as its general recommendations, form part of mandatory training of the judiciary, law enforcement personnel, lawyers, social workers, medical personnel and other relevant professional groups;**

(c) **Strengthen cooperation and partnerships by, inter alia, providing financial and other forms of support to civil society organizations assisting women.**

**Definition of equality and non-discrimination**

11. The Committee notes that the New Zealand Bill of Rights Act 1990 (section 19(1)), the Human Rights Act 1993 (section 21(1)(a)) prohibit sex-based discrimination in the public and private spheres, including indirect discrimination. However, the Committee is concerned that the State party's legislation on discrimination against women is not fully in line with articles 1 and 2 of the Convention. The Committee is also concerned:

(a) About the lack of specific prohibition of discrimination on the grounds of gender identity, gender expression, and sex characteristics;

(b) That only policy papers submitted to the Cabinet Social Wellbeing Committee must include a gender implications statement, and that disclosure statements are not mandatory for all Government Bills and substantive Supplementary Order Papers;

(c) That legislations adopted in the State Party are generally gender-neutral, which may result in loss of the specificity of gender based discrimination, inadequate protection of women against direct and indirect discrimination and impede the achievement of substantive equality of women and men.

12. **Recalling its general recommendation No. 28 (2010) on the core obligations of States parties under article 2 of the Convention and drawing the attention of the State party to target 5.1 of the Sustainable Development Goals, to end all forms of discrimination against all women and girls everywhere, the Committee recommends:**

(a) **Amend section 21(1)(a) of the Human Rights Act with a view to including specific prohibition of discrimination on the grounds of gender identity, gender expression, and sex characteristics;**

(b) **Enact the Legislation Bill to ensure that disclosure statements become binding legal obligation for all Government bills and instruments and ensure their compliance with international human rights standards;**

(c) **The Committee further recommends that the State Party include a gender-specific rather than gender-neutral approach in its legislation, policies and programmes, in line with paragraph 5 of the Committee's general recommendation No. 28.**

**Access to justice**

13. The Committee remains concerned about the persistence of multiple barriers impeding women and girls from obtaining access to justice and effective remedies to claim violations of their rights, in particular for rural women, Māori, Pacific, Asian, migrant and refugee women, women with disabilities, as well as lesbian, bisexual, transgender and intersex persons. In particular, it notes with concern:

(a) The decrease in availability of legal aid, as the numbers of legal aid lawyers has declined steadily since 2011;

(b) Women's limited legal literacy and access to information on available remedies, particularly among rural women and migrant women;

(c) Lack of gender sensitivity within the judiciary, particularly within the family courts, including negative attitudes among judges and law enforcement officials towards women claiming violations of their rights.

14. **Recalling its general recommendation No. 33 (2015) on women's access to justice, the Committee recommends that the State party:**

(a) **Increase availability of legal aid for women, particularly Māori, Ethnic and migrant women, including in civil and family courts;**

(b) **Disseminate information, in particular in rural and remote areas, about the legal remedies available to women regarding violations of their rights;**

(c) **Strengthen gender responsiveness and gender sensitivity within the judiciary, including by increasing the number of women judges and strengthening systematic capacity-building for judges, prosecutors, lawyers, police officers and other law enforcement officials on the Convention.**

#### **Women and Peace and Security**

15. The Committee welcomes the State party's launch in 2015 of its New Zealand national action plan for the Implementation of United Nations Security Council Resolution 1325, on Women, Peace & Security for the period 2015–2019. The Committee further welcomes that both the New Zealand Police and the New Zealand Defence Force have active programmes in place to increase the recruitment, retention and senior-level promotion of women, which will ultimately lead to more women being available for peacekeeping missions. Nevertheless, the Committee expresses concerns at lack of consultations with women's human rights organizations in the process of drafting the national action plan and a lack of sufficient resources allocated to the national action plan.

16. **The Committee recommends that the State party:**

(a) **Maintain its dedication to ensuring the effective implementation of Security Council resolution 1325 (2000) on women, peace and security and subsequent resolutions in countries affected by conflict, including through ensuring that its national action plan contributes to significantly increasing the participation of women in peace processes;**

(b) **Allocate sufficient resources for the implementation of the national action plan and enhance the consultation with the women's human rights organizations to ensure promoting the meaningful involvement of women at all stages in the women, peace and security agenda.**

#### **National machinery for the advancement of women**

17. The Committee is concerned about the absence of a national action plan or strategy for the advancement of women, not having renewed the previous one since 2009, and the complete lack of gender budgeting in the State party.

18. **The Committee recommends that the State party:**

(a) **Adopt and adequately fund the implementation of a National Action Plan for the advancement of women, and strengthen the role, efficiency and effectiveness of the Ministry for Women by allocating sufficient human, technical and financial resources to enable the Ministry to carry out its mandate to promote and protect women's rights;**

(b) **Introduce gender budgeting so as to ensure that gender implications are taken into account during legislation and policy development throughout all government agencies.**

#### **National human rights institution**

19. The Committee notes the important work undertaken by the New Zealand Human Rights Commission (NZHRC). It is concerned, however, that the Commission has suffered over the past years a constant decrease in both financial, technical and human resources and

that its mandate is currently limited by section 392 of the Immigration Act, which is preventing the NZHRC from accepting complaints from migrants.

20. **The Committee reiterates its recommendation (see CEDAW/C/NZL/CO/7, para. 16 (c)) that the State party provide the New Zealand Human Rights Commission (NZHRC) with sufficient human, technical and financial resources to carry out its mandate to promote and protect women's rights. It further recommends that the State party repeal Section 392 of the Immigration Act 2009 with a view to ensure that the New Zealand Human Rights Commission is mandated with the power to receive and process complaints from migrants, in line with the GANHRI recommendations of 2016.**

#### **Temporary special measures**

21. The Committee welcomes the State party's progress in reaching its goal to achieve gender parity on State Sector Boards and Committees, as well as the State party's delegation willingness to consider affirmative action as a tool to accelerate the realization of substantive equality of women and men, including in the private sector.

22. **The Committee recalls its previous concluding observations (CEDAW/C/NZL/CO/7, paras. 20-21) and recommends that the State party consider the use of temporary special measures, in line with article 4 (1) of the Convention and its general recommendation No. 25 (2004) on temporary special measures. It also recommends that the State party adopt and implement such temporary special measures, including quotas, in all areas where women are underrepresented or disadvantaged, including in political life, in the labour market as well as in the private sector, with specific increased efforts to achieve 50% women on Public Sector Boards and a set goal of achieving gender parity on Private Sector Boards. The Committee further recommends that the State party raise public awareness about the non-discriminatory nature and importance of temporary special measures for the achievement of substantive equality of women and men.**

#### **Discriminatory stereotypes and harmful practices**

23. While noting the efforts made by the State party to eliminate negative stereotypes affecting women, the Committee expresses concerns at:

(a) The high persistence of cyberbullying in high-schools disproportionately affecting women and girls with disability as well as lesbian, bisexual, transgender and intersex students;

(b) The persistence and lack of reliable information of entrenched harmful cultural norms and practices, including female genital mutilation (FGM), early and forced marriages, crimes in the name of so-called honour, dowry and polygamy;

(c) The conduct of medically unnecessary procedures on intersex infants and children before they reach an age when they are able to provide their free, prior and informed consent, and at inadequate support and counselling for families with intersex children and remedies for victims.

24. **The Committee recommends that the State party adopt a comprehensive strategy to eliminate discriminatory stereotypes regarding the roles and responsibilities of women and men in the family and society, in cooperation with civil society organizations, in particular women's groups, community leaders, teachers and the media, in order to create an enabling environment that is supportive of gender equality. It further recommends the State party to:**

(a) Systematically collect data on harmful practices, including cyberbullying targeting teenage girls, and to implement measures, such as awareness campaigns in schools, to prevent such practices;

(b) Continue to combat harmful practices, in particular female genital mutilation (FGM), early and forced marriages, crimes in the name of so-called

**honour, dowry and polygamy, and systematically collect disaggregated data on those harmful practices;**

**(c) Adopt clear legislative provisions explicitly prohibiting the performance of unnecessary surgical or other medical treatment on intersex children before they reach the legal age of consent, provide families with intersex children with adequate counselling and support, and provide redress to intersex persons having undergone medical treatment.**

#### **Gender-based violence against women**

25. The Committee notes that a Family and Whānau Violence Legislation Bill is currently before Parliament, and that the Bill on Workplace Protection for Victims is about to be adopted. It welcomes the establishment of the new position of Parliamentary Undersecretary to the Minister of Justice (Domestic and Sexual Violence) and of an advisory board on investment in family violence prevention with a mandate also to review existing programmes, as well as the recently increased funding for frontline services. However, the Committee is concerned about the absence of a national action plan or comprehensive strategy for the prevention and elimination of gender-based violence, which is aggravated by the lack of continuity in governmental policies over time. It also remains concerned about:

(a) The alarmingly high level of gender-based violence against women in the State party, with one in three women being subjected to physical or psychological violence by an intimate partner during the course of their lifetime, especially domestic and sexual violence, including rape, which disproportionately affects Māori and ethnic minority women, as well as transgender women and women with disabilities, who are more likely to be re-traumatised by the State party's current system;

(b) The very low levels of reporting and the high recidivism rate, particularly within the Māori community, with only 20% of family violence and only 9% of sexual violence reported to the police;

(c) The growing usage of gender-blinding terminology of "family harm" which obscures the women' rights violation aspect as well as minimizing the severity of gender-based nature of domestic violence by the police as well as welfare personnel and the judiciary;

(d) The allocation of resources mostly to treatment and rehabilitation with little emphasis on prevention programs;

(e) The absence of systematic specialized capacity-building programmes on the strict application of law provisions on gender-based violence and on gender-sensitive investigation methods for judges, and law enforcement officials and welfare personnel;

(f) The lack of a single-integrated data source and the lack of sufficient funding for data collecting agencies including non-government agencies, encompassing all data regarding domestic violence, disaggregated by sex, ethnicity, type of violence, and the relationship of the perpetrator to the victim, including data on femicide;

(g) The inadequacy of a culturally sensitive approach, leading to cultural and linguistic barriers, and distrust in the public authorities, which prevents Māori and ethnic minority women and girls from seeking protection from domestic and sexual violence as well as redress;

(h) The lack of connection and coordination between Police Safety Orders and Courts Protection Orders;

(i) That despite a reported decrease in "no crime" files, a lack of a subsequent increase in court cases has been observed;

(j) The heightened vulnerability of women with disabilities to care-giver violence.

**26. Taking into account its general recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19, and recalling**

target 5.2 of the Sustainable Development Goals, on the elimination of all forms of violence against all women and girls in the public and private spheres, the Committee recommends that the State party strengthen its efforts to eliminate gender-based violence against women and its underlying causes and that it:

(a) Adopt a comprehensive and cross-party strategy on combatting gender based violence against women in accordance with general recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19 and ensure its consistent implementation, including by strictly applying the Family and Whānau Violence Legislation Bill and by, inter alia, including measures that specifically protect women with disabilities that are confronting abusive care-givers;

(b) Conduct public awareness-raising programmes in collaboration with teachers and the media, including social media, to promote understanding of the criminal nature of gender-based violence against women and encourage victims and witnesses to report violence;

(c) Strengthen capacity-building and awareness-raising campaigns as well as training for judges, law enforcement officials and welfare personnel on all forms of gender-based violence and abuse and the specific protection needs of migrant women, with a view to ensuring that victims are under no circumstances forced or put under pressure to accept mediation and alternative dispute resolution methods in lieu of criminal proceedings against perpetrators;

(d) Allocate resources aimed at developing a comprehensive prevention strategy for gender-based violence against women;

(e) Adopt criteria and guidelines for the provision of victim-oriented and culturally appropriate legal, psychosocial and economic assistance, that recognizes the special needs of Māori and ethnic minority women and girls, while ensuring that cultural sensitivity does not disregard the State party's obligations under the Convention;

(f) Collect and report to the Committee disaggregated data on the number of cases of violence against women that have been investigated and that have led to prosecutions, including information on the sanctions imposed on perpetrators; Women victims of violence who have been provided with legal assistance and relevant support services; Women victims of violence who have been compensated;

(g) Adopt criteria and guidelines for the provision of victim-oriented and culturally appropriate legal, psychosocial and economic assistance, that recognizes the special needs of Māori and ethnic minority women and girls, while ensuring that cultural sensitivity does not disregard the State party's obligations under the Convention;

(h) Ensure effective coordination and collaboration among the entities responsible for combating gender-based violence;

(i) Consider renewing its invitation to the United Nations Special Rapporteur on violence against women its causes and consequences;

(j) Ensure that the Family and Whānau Violence Legislation Bill protects women with disabilities from care-giver violence.

#### **Trafficking and exploitation of prostitution**

27. The Committee commends the State party for the adoption of the Organised Crime and Anti-Corruption Act in 2015 and the amendment to the Crimes Act of 1961 to include a broader definition of trafficking, including internal trafficking and trafficking for purposes of forced labour. It further notes the establishment of an Inter-Agency Working Group to combat trafficking and develop joint strategies. However, the Committee notes with concern:

(a) That Section 19 of the Prostitution Reform Act may have a negative impact on migrant women;

(b) That migrant women engaged in prostitution may be exposed to exploitation and are at risk of trafficking due to the prohibition on migrants to engage in prostitution which prevents them from reporting abuse fearing deportation;

(c) The minimal level of prosecutions and convictions and the sentences imposed on traffickers, possibly stemming from a high threshold of proof and demanding proceedings;

(d) The absence, despite the statement made by delegation of a project to “refresh” the 2009 National Plan of Action on the Prevention of Trafficking in Persons, of a national action plan on trafficking and the lack of coordination among relevant State agencies;

(e) That the Crimes Amendment Act (2015) does not make an exception to the requirement of one or more acts of coercion or deception in the situation of trafficking in children;

(f) Gaps in the early identification of victims of trafficking and their referral to the appropriate services and lack of specialized shelters in the State party, in particular in rural areas.

**28. The Committee recommends that the State party:**

(a) **The Committee recommends that the State party amend Section 19 of the Prostitution Reform Act with a view to reducing its negative impact on migrant women;**

(b) **Revise migration laws, remove the possibility of a fine only as punishment for trafficking and adopt measures aimed at preventing discrimination against women in prostitution in the State party and the factors that render migrant women vulnerable to trafficking, with a view to addressing those factors and structures;**

(c) **Strengthen mechanisms to identify, protect and assist victims of trafficking and sexual exploitation, provide them with legal support and systematically collect comprehensive data about victims of trafficking and report them to the Committee in its next periodic report;**

(d) **Speedily adopt a new national action plan to combat human trafficking, in line with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;**

(e) **Revise the Crimes Amendment Act (2015) to criminalize trafficking in children even when no coercion, deception or other means of abuse of power are involved;**

(f) **Ensure that victims of trafficking are provided with adequate protection and support, including by establishing separate, well-equipped shelters with trained staff to address their specific needs and concerns and strengthen long-term reintegration measures for victims of trafficking.**

**Participation in political and public life**

29. The Committee notes the increase in the representation of women in Parliament, as well as the appointment of the third female Prime Minister of the State party, in 2017. It also notes that following the 2017 general election, women account for 38% of Members in Parliament, with representation of Māori and ethnic minority women. Nevertheless, the Committee is concerned at the low levels of women representation in leadership roles in other levels and sectors: only 19% of directors of companies listed on the New Zealand Stock Exchange Main Board were female, and 56% of businesses have no women in senior roles.



30. **The Committee recommends that the State party adopt and implement temporary special measures, including time-bound goals, quotas or preferential treatment, to accelerate women's equal representation in decision-making positions in all areas of decision-making positions, both in the public and the private sectors.**

#### **Education**

31. The Committee commends the State party for its efforts aimed at increasing opportunities for women in the STEM (science, technology, engineering and mathematics) and ICT (Information and Communication Technology) industries. Particularly, it commends that STEM education and careers have been promoted among secondary school students, in particular among Pacific Islanders, and that in 2014 the State party allocated \$28.6 million over four years for an ICT Graduate School programme aiming at increasing diversity among ICT students. Furthermore, the state party is concerned about:

(a) Limited access to secondary and tertiary education for many rural girls and women;

(b) The lack of inclusion in school curriculum of comprehensive, culturally sensitive and age-appropriate sexuality education or education on harmful practices and gender-based violence against women and girls, which further exacerbates the high rates of sexual violence and early pregnancy and that specifically address the needs of Māori young people and communities;

(c) The increasing rate of girls who drop out of school, including as a result of teenage pregnancy;

(d) The lack of data, disaggregated by sex, ethnicity and disability, on enrolment at all levels, in particular in higher education, and on dropout rates and the reasons for them;

(e) The concentration of women and girls in traditionally female-dominated fields of study and underrepresented in science and technology;

(f) Increasing impediments to the education of rural girls on account of growing transportation costs, the closing of rural schools, the reduction of governmental financing of community education services, as well as the information-barrier regarding the obligation to pay 'voluntary donations' to schools.

32. **Recalling its general recommendation No. 36 (2017) on the right of girls and women to education, the Committee recommends that the State party take the legislative and policy action necessary and allocate adequate resources, in order to:**

(a) **Take all necessary measures, including through increased resources, to facilitate access to secondary and tertiary education for rural girls and women;**

(b) **Ensure the inclusion in school curricula of mandatory, culturally sensitive and age-appropriate education on sexual and reproductive health and rights and responsible sexual behaviour, focusing on the prevention and the consequences of early pregnancy and sexually transmitted infections;**

(c) **Provide girls with a safe educational environment free from discrimination and sexual violence and include education on non-violence in the curricula;**

(d) **Strengthen the efforts aimed at ensuring that no pressure is placed on pregnant teenage girls to leave school or change courses and establish a reintegration policy for teenage mothers while safeguarding against perceiving teen pregnancy and motherhood as a norm;**

(e) **Continue eliminating stereotypes and structural barriers that may deter girls from enrolling in traditionally male-dominated fields of study, provide girls with career counselling, scholarships and other incentives to orient them to science and technology subjects, including meteorological studies, disaster risk reduction and**

climate change, and ensure that the teacher-training curriculum addresses stereotypes;

(f) **Address all impediments to the education of rural girls, including financial and transportation obstacles for rural girls.**

### **Employment**

33. The Committee welcomes the adoption by the State party of the Gender Pay Principles. It further commends the State party on the \$2 billion pay equity settlement for the 55,000 care and support workers in New Zealand's aged and disability residential care, home and community support services and for reconvening the Joint Working Group on Pay Equity Principles. However, the Committee notes with concern:

(a) The persistent discrimination against Māori, Pasifika and women with disabilities in the labour market;

(b) The high unemployment rate among women under 25 years of age;

(c) The persistent gender pay gap, which disproportionately affects women in low-income jobs, including those from Māori, Pasifika and other ethnic and cultural minority groups;

(d) Occupational segregation with concomitant wage differentials and women's concentration in unpaid work or in lower-paid jobs in the informal economy;

(e) Decreased funding for childcare facilities and services, which impedes on the ability of women to participate equally in the workforce and also leads to loss of jobs for women.

34. **The Committee recommends that the State party adopt and implement policies, with time-bound targets and indicators, to increase employment opportunities for women in the formal sector, eliminate occupational segregation and achieve substantive equality of women and men in the labour market. It also recommends that the State party:**

(a) **Urgently addresses the working conditions of Māori, Pasifika, women with disabilities and young women in all areas of employment including through data collection and analysis;**

(b) **Consider adopting a new law based on the recommendations of the reconvened joint working group on pay equity principles, with a view to applying it to both the public and private sectors;**

(c) **Adopt and enforce the principle of equal pay for work of equal value in a revised employment relations legislation covering both public and private workplaces, including through analytical job classification and evaluation methods and regular pay surveys, and regularly review wages in sectors in which women are concentrated;**

(d) **Adopt temporary special measures to address occupational segregation and ensure that women and men have equal promotion opportunities;**

(e) **Ensure adequate funding for childcare facilities and services.**

### **Sexual harassment in the workplace**

35. The Committee is concerned about sexual harassment and other forms of sexual assault in the workplace and the severe underreporting of such incidents. It notes with concern the high number of sexual harassment and bullying cases in the workplace, particularly within the police, the defence force, the legal professions and the health sector. In this regard, the Committee notes that in the course 2017, the New Zealand Human Rights Commission received 1577 complaints alleging unlawful discrimination, of which 123 alleged sexual harassment, showing a 43% increase in sexual harassment complaints over the previous 10 years.

36. **The Committee draws the State party's attention to the fact that sexual harassment in the work place is a criminal offense and has a discriminatory impact, often affecting the victim in terms of wages, promotion or dismissal and creating a hostile work environment, which in turn obstructs the victim's fulfilment of her professional potential. It recommends that the State party:**

(a) **Examine the organizational culture in workplaces in order to address the root causes of sexual harassment and assault;**

(b) **Ensure that all work places have a sexual harassment policy and clear process in place for victims;**

(c) **Disseminate information on available reporting procedures and ensure that complaints about sexual harassment and bullying in the workplace are investigated and perpetrators brought to justice.**

#### **Economic and social benefits and economic empowerment of women**

37. The Committee notes with concern provisions in the Social Security Act, which entails a gender-neutral approach, may expose women to discrimination. It is also concerned about the lack of measures taken by the State party to fulfil its extraterritorial obligations with regard to tax avoidance, tax abuse and exploitation of weak economies in third developing countries, which further reduces the resources available in those countries to advance women's rights and gender equality.

38. **The Committee recommends that the State party:**

(a) **Amend the Social Security Act to fully align it with its obligations under the Convention;**

(b) **Increase tax collection and improve revenue administration, with a view to increasing social expenditure;**

(c) **Take measures to reduce poverty and improve the economic empowerment of women, in particular rural women, Māori, Pacific, Asian, immigrant, migrant and refugee women, and women with disabilities;**

(d) **In line with the Committee's general recommendation No. 28 (2010) on the core obligations of States parties under article 2 of the Convention, undertake independent, participatory and periodic impact assessments of the extraterritorial effects of its financial and corporate tax policies on women's rights and substantive equality, ensuring that those assessments are conducted impartially, with public disclosure of the methodology used and the findings.**

#### **Health**

39. The Committee welcomes the Minister of Justice's request from the Law Commission to advice on necessary legislative changes needed to treat abortion as a health issue, and the Law Commission's upcoming Report regarding the decriminalization of abortion and its transfer to health care regulations. However, the Committee remains concerned:

(a) That currently, the Criminal Act provides restrictive legal grounds for abortion in which rape or sexual violence are not included, and that the Contraception, Sterilization and Abortion Act requires the approval of two certifying consultants prior to the administration of abortion, thus further impeding on accessibility of the service and creating unnecessary delays;

(b) That under the new child care alert system of the Ministry of Health, unborn fetuses are included in the definition of child, which has resulted in foetal protection measures, such as court decisions granting special protection to the foetus, and that this may undermine pregnant women's bodily autonomy and reproductive health rights;

(c) That the number of qualified midwives is decreasing, primarily in remote and rural areas;

(d) At inadequate services of mental health for women, including addiction treatments, targeting primarily Māori women and women with disabilities.

40. **The Committee recalls its statement on sexual and reproductive health and rights, adopted at its fifty-seventh session, and recommends that the State party:**

(a) **Remove abortion from the Crimes Act 1961 and amend the Contraception, Sterilisation and Abortion Act 1977 in order for abortion to be fully decriminalized and incorporated into health services legislation;**

(b) **Ensure that abortion is legalized at least in cases of rape, incest, threats to the life or health of the pregnant woman or severe foetal impairment, and ensure women's access to safe abortion and post-abortion care and services;**

(c) **Take the necessary steps to ensure sufficient numbers of midwives to provide appropriate health-care services to women during pregnancy, birth and the postnatal period and to their children, in particular in remote and rural areas;**

(d) **Take the necessary steps to improve the availability and quality of accessible mental health care services, including addiction treatments, targeting primarily Māori women and women with disabilities.**

#### **Rural women**

41. The Committee notes the steps taken by the State party to improve the condition of rural women, as well as the development of its National Climate Change Adaptation Plan. It notes with concern, however, that:

(a) Women living in rural areas, are exposed to high levels of poverty and gender-based violence;

(b) Rural women bear an unequal burden of family responsibilities and traditional attitudes compel them to perform unpaid work and provide food for their families;

(c) Inadequate broadband and internet services in rural areas, posing significant further barriers to information and services for women;

(d) The disproportionate impact of climate change on women in the State party, as well as the absence of information on women's participation in decision-making on rural development within related policies and programmes.

42. **The Committee refers to its general recommendation No. 34 (2016) on the rights of rural women and recommends that the State party:**

(a) **Take measures aimed at improving the living conditions of women in rural areas, including alleviating poverty and eliminating gender-based violence;**

(b) **Ensure that rural women are offered with alternatives to unpaid work;**

(c) **Ensure expanded use of modern technologies and adequate broadband internet services in rural areas;**

(d) **Further take into account the greater vulnerability of women in the face of natural disasters and climate change at all decision making levels of the process.**

#### **Women belonging to Māori and ethnic minority women**

43. The Committee notes with concern that Māori and ethnic minority women in the State party are exposed to intersecting forms of discrimination, particularly in accessing health services and protecting their right to land ownership. While noting measures taken by the State party to address the situation of Māori women, the Committee is concerned that Māori women continue to be disproportionately affected by incarceration and that 65 per cent of female inmates are Māori.

44. **The Committee recommends that the State party adopt all necessary legislation, including temporary special measures and awareness-raising measures, to**

**combat intersecting forms of discrimination against women, particularly in assessing health-care services and protecting their right to land ownership. The Committee further recommends the State party to implement the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) and provide alternatives to detention to reduce the high number of Māori women detainees.**

### **Migrant women**

45. The Committee is concerned about:

(a) The situation faced by migrant women with children not holding permanent visas who lose their partners' sponsorship as a consequence of separation or divorce. The Committee is further concerned that in some cases they are returned to their country of origin leaving their children behind with the abusive fathers;

(b) That women may remain in abusive relationships so as not to lose their visa status which is dependent on the status of the perpetrator;

(c) That women in such situations face particular obstacles in their access to justice for a variety of knowledge and language barriers as well as lack of legal aid.

46. **The Committee recommends the State party to:**

(a) **Revise its immigration laws with a view to facilitating access to permanent residency permits for mothers of children who hold New Zealand nationality;**

(b) **Ensure the availability of shelters for migrant women who are victims of violence, including domestic violence, and provide them with free legal and psychological counselling, rehabilitation and other support services;**

(c) **Create adequate conditions for women migrant to bring complaints, including by ensuring that they are properly informed about their rights and available remedies to complain about violations of those rights, including in a language that they can understand.**

### **Marriage and family relations**

47. The Committee notes the enactment in 2013 of the Marriage Amendment Act which enables adult couples of any gender to marry, including same-sex and different sex couples. However, the Committee is concerned about the apparent crisis within the Family Courts system, reflected in mistreatment of women, particularly women victims of domestic violence. While welcoming the upcoming review of the Family Court announced by the Minister of Justice and Courts, the Committee is concerned that this review will be focused on the 2014 Family Court reforms alone, and will not examine the root causes of the systemic lack of trust and insensitivity to women victims of domestic violence apparently entrenched in the Family Court. In particular, the Committee is concerned that:

(a) Risk assessment is being performed in only few of the cases where violence is reported by the woman, as a result of the removal of the Bristol Clause during the 2014 reforms;

(b) Mandatory mediation and joint partner courses are implemented even in situations of domestic violence, including when protection orders are in place, thus exposing the female victim to heightened risk;

(c) There are no particular provisions to courts to consider domestic violence, whether directed at the mother or at the child, when deciding on child custody, and judges reportedly recommend shared physical custody even when fathers are abusive to them or to their mothers;

(d) Courts, lawyers for children and social workers are routinely resorting to the Parental Alienation Syndrome theory despite its being refuted internationally;

(e) Girls between 16 and 18 years of age can marry with parental consent.

48. The Committee reiterates its previous recommendations to:

(a) Establish a Royal Commission of Inquiry with independent mandate to engage in wide-ranging evaluation of the drawbacks and obstruction of justice and safety for women inherent in the Family Court system, and to recommend necessary legislative and structural changes necessary for making the Family Court safe and just for women and children, particularly in situations of domestic violence.

(b) Take all necessary measures, including through legislation and policy guidelines, in line with general recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19, to reinstate the Bristol Clause and to ensure that women victims of domestic violence are not forced to participate in out-of-court solutions such as mandated mediation.

(c) Take all necessary measures, including through legislation and policy guidelines, to ensure that domestic violence, whether directed at the child or at the mother, is properly considered in child custody disputes, particularly when shared physical custody is being contemplated, and investigate the outcomes for shared physical custody on children's development and welfare.

(d) Review the reliance on the Parental Alienation theory, with a view to limit its usage in child custody disputes.

(e) Expedite the adoption of the The Marriage (Court Consent to Marriage of Minors) Amendment Bill, 2017, so as to completely preclude the parental consent as a sufficient requirement to allow marriage below the age of 18, and to allow only court approval under exceptional circumstances for marriages between 16 and 18 years;

#### **Data collection and analysis**

49. The Committee is concerned about the deficiencies in compiling, analysing and processing reliable statistical data on the situation of women in all areas covered by the Convention, including intersections between women belonging to more than one group with specific characterization.

50. The Committee recommends that the State party set up a centralized system for the collection, analysis and dissemination of comprehensive data, disaggregated by sex, age, disability, ethnicity, location, gender identity and sexual orientation and socioeconomic status, and that it use measurable indicators to assess trends in the situation of women and progress towards the realization of substantive equality in all areas covered by the Convention, while maintaining confidentiality of women in these groups.

#### **Beijing Declaration and Platform for Action**

51. The Committee calls upon the State party to use the Beijing Declaration and Platform for Action in its efforts to implement the provisions of the Convention.

#### **Dissemination**

52. The Committee requests the State party to ensure the timely dissemination of the present concluding observations, in the official languages of the State party, to the relevant State institutions at all levels (national, regional and local), in particular to the Government, the ministries, Parliament and the judiciary, to enable their full implementation.

#### **Technical assistance**

53. The Committee recommends that the State party link the implementation of the Convention to its development efforts and that it avail itself of regional or international technical assistance in this respect.

**Ratification of other treaties**

54. The Committee notes that the adherence of the State party to the nine major international human rights instruments<sup>1</sup> would enhance the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. The Committee therefore encourages the State party to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearance, to which it is not yet a party.

**Follow-up to the concluding observations**

55. The Committee requests the State party to provide, within two years, written information on the steps taken to implement the recommendations contained in paragraphs 20, 26 (a), 40 (a) and 48 (a) above.

**Preparation of the next report**

56. The Committee requests the State party to submit its sixth periodic report in July 2022. The report should be submitted on time and, in case of delay, cover the entire period up to the time of its submission.

57. The Committee requests the State party to follow the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents (see HRI/GEN/2/Rev.6, chap. I).

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<sup>1</sup> The International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the International Convention for the Protection of All Persons from Enforced Disappearance; and the Convention on the Rights of Persons with Disabilities.