



CEDAW PROJECT 2010

NGO CONSULTATION DOCUMENT FOR REPORTING ON CEDAW 2011

Module 4: Discrimination in law and the application of it

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Seeking Your Views

The National Council of Women of New Zealand invites you to respond to the issues and questions outlined in this discussion document.

New Zealand ratified the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in January 1985. Every four years the New Zealand Government reports to the CEDAW Monitoring Committee and at the same time, NGOs are also encouraged to write the Alternate Report. This reporting process provides a way for New Zealand women to tell the government and the international community if and how they are discriminated against. The 2010 - 2011 Report will be presented in 2012.

Contributing to the consultations on CEDAW is your opportunity as a group representative, or an individual woman, to oppose the gender-based barriers women and girls face in this country. This work helps to keep the New Zealand Government honest. But more than that, your participation can reach beyond these shores by influencing the UN Monitoring Committee on how it critiques the performance of other countries.

The National Council of Women of New Zealand (NCWNZ) is facilitating the nationwide consultation process to produce the Alternate NGO CEDAW Report 2010 - 2011. To find out more about attending a Consultation Meeting and taking part in a group response please contact ncwnz@ihug.co.nz or go to <http://ncwnz.org.nz/cedaw-2010-get-involved/>.

Submissions can be written from the perspective of the individual or groups. We encourage you to complete a census form which should accompany your submission. Before you send in any response please fill out the appropriate census form (if you are responding on behalf of an organisation please only use the 'organisation' census form). Only one form needs to be filled out if you are part of an organisation. If you cannot attend a meeting please respond on an individual basis.

The deadline for submission for this module is Friday 20 June 2011. There will be no extensions offered.

Responses should be emailed in either Microsoft Word format or Adobe PDF to ncwnz@ncwnz.org.nz or mailed to The National Council of Women of New Zealand, PO Box 25 498, Wellington 6146.

Notes

* Denotes questions which will directly respond to the CEDAW Committee Concluding Comments and Recommendations



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Individual CEDAW Census Form

Age Group

1. Which age group do you belong to? (Please Circle)

Before 1925

Born between 1925 - 1945

Born between 1946 - 1962

Born between 1963 - 1978

Born between 1979 – 1999

Geographic Location

2. Where do you live? (Please Circle)

City

Town

Rural

Ethnicity

3. Which ethnic group(s) do you identify yourself with? (Please Circle)

New Zealand European

Maori

Samoan

Cook Island Maori

Tongan

Niuean

Chinese
Ethnicity continued

Indian

Other

4. Where were you born? _____

5. How long have you lived in NZ? _____

Sexual Orientation

6. What is your sexual orientation? (Please Circle)

Gay/lesbian

Heterosexual

Other

Employment

7. Are you in paid employment? (Please Circle)

Yes

No *(If no, go to question 9)*

8. How many paid hours do you work a week?

9. Are you on a benefit? If yes, which benefit?

Unemployment Benefit

Domestic Purposes Benefit

Widows Benefit

Invalid or Sickness Benefit

NZ Superannuation

Other _____

Income

10. What is your gross personal income per annum? (Please Circle)

\$0 - \$19,999 per annum

\$20,000 – 39,999 per annum

\$40,000 – 69,999 per annum

\$70,000 per annum and over

Educational Background

11. What qualifications do you have? (Please Circle)

None

School Certificate

University Entrance

Degree

Masters or PhD

Other (E.g. DipTchg)

Housing

12. Do you rent or own the house you live in? (Please Circle)

Rent

Own

Other

Disability

13. Do you have a disability?

Yes/No

If yes, what is your disability? _____



Organisation CEDAW Census Form

Organisation

Name of Organisation: _____

1. How many people does your organisation/group represent? (Please Circle – you may circle more than one)

0 – 100
101 – 200
201 – 300
301 – 500
500 and over

2. What is the main focus of your organisation? E.g. the Elderly, Solo Parents, Refugees, Victims of Domestic Violence and Abuse, Sexual Orientation.

Age Group

3. Please rank from highest majority to lowest majority (1 = highest, 5 = lowest) which age group(s) your 'organisation' represents? (please circle)

Born between 1925 – 1945	1	2	3	4	5
Born between 1946 – 1962	1	2	3	4	5
Born between 1963 – 1978	1	2	3	4	5
Born between 1979 – 1999	1	2	3	4	5

Geographic Location

4. Where do the people your 'organisation' represents mainly live? (Please Circle)

City

Town

Rural

All of the above

Specific City in NZ _____

Ethnicity

5. Please rank majority to lowest majority (1 = highest, 5 = lowest) which ethnic group(s) do the people your organisation represents mainly identify themselves with? (Please Circle)

New Zealand European	1	2	3	4	5
Maori	1	2	3	4	5
Samoan	1	2	3	4	5
Cook Island Maori	1	2	3	4	5
Tongan	1	2	3	4	5
Niuean	1	2	3	4	5
Chinese	1	2	3	4	5
Indian	1	2	3	4	5
Other _____					

Other

6. Is there anything else specific we need to know about your organisation? E.g. are the people you represent beneficiaries, of a certain religion or faith?

Article 2 – Elimination of Discrimination

Background information

- CEDAW Article Two calls for:

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

- a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realisation of this principle;*
- b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;*
- c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;*
- d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;*
- e) To take all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise;*
- f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;*
- g) To repeal all national penal provisions which constitute discrimination against women.*

- CEDAW Monitoring Committee, following the completion of reporting in 2007, made the following comments and recommendations:

(Context) 14. While the Committee welcomes the Human Rights Commission's appointment of an Equal Opportunity Commissioner to focus on gender equality concerns, the Committee is concerned that the Human Rights Commission, which plays a central role in the promotion and protection of human rights in New Zealand, has not fully integrated and mainstreamed gender perspectives and women's human rights into its action plans and activities. The Committee is further concerned that existing human rights monitoring and implementation mechanisms do not adequately or regularly integrate gender equality analyses. The Committee is also concerned that while all policy papers submitted to the Cabinet and Cabinet committees must include a statement regarding compliance with the Human Rights Act and the New Zealand Bill of Rights, gender impact statements are only required for papers submitted to the Cabinet Social Development Committee.

(Action) 15. *The Committee urges the State party to put in place an effective strategy for mainstreaming gender perspectives into all national plans and institutions and to strengthen the linkages between the New Zealand Action Plan for Human Rights and the Action Plan for New Zealand Women, with a view to ensuring that the promotion and protection of*

women's human rights as enshrined in the Convention are integrated into all national human rights plans, programmes and actions. The Committee also recommends that the State party require gender impact statements for all policy papers submitted to the Cabinet and to all Cabinet committees.

(Context) 16. While noting with appreciation that the Action Plan for New Zealand Women of 2004 makes reference to the State party's international obligations under the Convention, the Committee is concerned that the Convention's objectives and substantive provisions are not fully taken into account or articulated in this Plan. It is also concerned that the Convention and the Optional Protocol are not widely known throughout the country and are not sufficiently utilized in policy known throughout the country and are not sufficiently utilized in policy development or in bringing cases related to discrimination against women.

(Action) 17. *The Committee urges the State party to utilize fully the objectives and provisions of the Convention as a normative basis in the development or updating of its action plans for women. It also calls upon the State party to further publicize the Convention to the general public, particularly women, and to enhance legal education and training for lawyers, judges and law enforcement officers on the Convention and the procedures under its Optional Protocol. It also encourages the State party to disseminate the Optional Protocol in order to ensure that women are aware of this means of redress and can claim their rights under the Convention and the Optional Protocol.*

(Context) 18. The Committee is concerned about gaps that remain in the protection of women against discrimination by private as well as public sector actors. In particular, the Committee is concerned about the lack of legal mechanisms to address discrimination against women by private actors in the area of employment in accordance with article 2 (e) of the Convention. The Committee expresses concern that while New Zealand law recognizes the principle of equal pay for work of equal value, the mechanisms for implementing this principle in the private sector, such as industry-wide job evaluations to ensure equal pay for women performing work of equal value, have been abolished and the Government lacks the authority to implement and enforce equal employment opportunity policies in the private sector.

(Action) 19. *The Committee recommends that the State party enact and implement comprehensive laws guaranteeing the substantive equality of women with men in both the public and private sectors, especially in regard to equal pay and equal opportunity in employment. It also recommends that the State party include adequate sanctions for such acts of discrimination against women and ensure that effective remedies are available to women whose rights have been violated.*

(Context) 22. The Committee voices its concern that, apparently, there has been a climate change and "backlash" against the recognition and promotion of women's human rights in the State party, despite the persistence of inequality between women and men. The Committee is concerned that women, especially minority women, continue to be portrayed in a negative, inferior and stereotypical manner in the media and society. The Committee

expresses concern that such attitudes and stereotypes present significant impediments to the implementation of the Convention and are a root cause of the disadvantaged position of women in a number of areas, including in the labour market and in political and public life.

(Action) 23. *The Committee calls upon the State party to implement a national campaign on the importance of equality between women and men in a democratic society, to increase understanding of the meaning and content of the substantive equality of women and to eliminate negative stereotypes associated with men's and women's traditional roles in the family and in society at large, in accordance with articles 2 (f) and 5 (a) of the Convention. The Committee also recommends that the State party encourage the media to project non-stereotypical and positive images of women, including minority women, and promote the value of gender equality for society as a whole, including through further measures to sensitize members of the press, television and other media on gender equality issues. The Committee requests that the State party report on measures taken and their impact in its next report.*

(Action) 44. *The Committee notes that the adherence of the State party to the seven major international human rights instruments enhances the enjoyment by women of their human rights and fundamental freedoms in all aspects of life.*

The Committee therefore encourages the Government of New Zealand to ratify the treaty to which it is not yet a party, namely, the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

(Action) 45. *The Committee requests the wide dissemination in New Zealand of the present concluding comments in order to make the people, including government officials, politicians and parliamentarians, and women's and human rights organizations aware of the steps that have been taken to ensure de jure and de facto equality of women and of the further steps that are required in that regard. The Committee requests the State party to continue to disseminate widely, in particular to women's and human rights organizations, the Convention, its Optional Protocol, the Committee's general recommendations, the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century".*

Progress since last report

- In 2007, we reported on progress since the 2002 report. For your reference, we stated that:

NGOs had identified the need for specific measures to address development and advancement issues for women, with particular emphasis on Maori and Pacific women, refugee and migrant women, and women with disabilities. The New Zealand Action Plan for Human Rights (2005) provided a broad assessment of the status of human rights in New

Zealand. However, the coverage of women's issues was limited, and few measures were provided to address those issues beyond a broad-context approach.

The Civil Union Act 2004, which provided a mechanism for different-sex and same-sex couples to formalise their relationship, was an example of anti-discrimination law that was firmly entrenched in human rights. The Act was viewed by many NGOs as a gain. There were, however, strong objections to the passing of the Act. A Marriage (Gender Clarification) Amendment Bill, which stated that "a person may not marry a person of the same gender", was tabled before Parliament in December 2005, but was soundly defeated at its first reading. The Attorney-General warned Parliament that the Bill was inconsistent with the Bill of Rights, and an unjustified breach of freedom from discrimination.

The Human Rights (Gender Identity) Amendment Bill, which would outlaw discrimination against transgendered New Zealanders, was put on hold. This was partly because there was no majority for the Bill in the new Parliament, given what the media called "the current climate of intolerance" on the issue. However, the Human Rights Commission has clarified its approach to the issue and handles complaints about such discrimination, thus achieving the underlying purpose of the Bill. Unless complainants have difficulty using the process, additional legislation was seen as unnecessary.

- In 2007, the main issues that we highlighted were:

Under the role of legislation, it was reported that some NGOs considered that protection from discrimination on the grounds of gender and ethnicity was adequately provided for in New Zealand law, and adequately monitored by organisations such as the Human Rights Commission.

Others viewed the introduction of legislation to eliminate remaining areas of discrimination as being comparatively easy, with the challenge, being the elimination discrimination that had become deeply entrenched through custom and tradition. Thus, broad measures would be needed to change a whole way of thinking.

Two pieces of legislation were identified by NGOs as being "work in progress". The first called for legislation to allow women to breastfeed in any public place. The second, the absence of specific legislation on pay equity, was another major concern for many NGOs.

Some NGOs supported the introduction of a legislative right to equal pay for work of equal value. The New Zealand Council of Trade Unions believed this could be provided in various forms, including regulatory authority for pay reviews.

NGOs expressed concern that the system of national accounts focused on economic indicators such as GDP per capita, with no attempt to measure the things that were particularly important to women. In addition to measuring the unpaid work still done largely by women (especially in caring for dependants), there was an absence of measurement of

such things as absence of discrimination, social cohesion, social justice and environmental quality.

NGOs recommended that unpaid work done in the community, particularly by women, be recognised economically.

NGOs expressed concern about the invisibility of women within the New Zealand prison system, where they made up 5% of total inmates. There was limited information on women's experience of prison, and on the impact on their children. It was believed that the male-oriented prison system did not cater for the needs of women, and especially of those with children. The separation of women from their children caused a great deal of stress, pain and anguish, and that women were doubly punished - for their criminal offences and for failing as mothers.

NGOs emphasised that women who give birth while in prison needed their privacy, along with suitable medical care and nutrition and that new mothers should be allowed to keep their baby with them, so that breastfeeding and bonding could be established.

Questions for Article 2 – Elimination of Discrimination

Considering that we will measure and report progress since the 2007 report:

- 4.2.1** Are there any issues previously covered which you feel should now be omitted or de-emphasized?
- 4.2.2** Are there any issues you believe should be emphasized for this reporting period which have not previously been referenced (over the last two reporting periods)?

Main Issues

- *4.2.3** Identify legislation that has been introduced and/ or passed during the reporting period which you believe has disadvantaged women and in what manner has it done this.
- *4.2.4** Identify any policy or strategies that have been introduced and/or implemented during the reporting period which you believe have disadvantaged women and in what way has it done this.
- *4.2.5** In what areas do you believe gender disaggregated statistics need to be collected and how might they be used to benefit women?
- *4.2.6** Of the legislation introduced and/or passed during the reporting period which would have benefitted from undergoing a robust gender impact analysis?
- 4.2.7** What evidence have you seen of the Government and its agencies promoting awareness of the CEDAW and the Optional Protocol?
- *4.2.8** Other than the Ministry of Women's Affairs, what other Government agencies' Statement of Intent or Action Plans, or Strategic Objectives demonstrate that

they have included the CEDAW's objectives, i.e. to eliminate and prevent discrimination on the basis of gender?

- *4.2.9** How has the Government enacted and implemented comprehensive laws guaranteeing the substantive equality of women with men in both the public and private sectors, especially in regard to equal pay and equal opportunity in employment?

- *4.2.10** What steps has the Government taken towards the ratifying of the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families?

- *4.2.11** How widely disseminated were the CEDAW Committees Concluding Comments on NZ's Report in 2007?

- 4.2.12** What specific measures have been taken over the reporting period to address development and advancement issues for women, with particular emphasis on Maori and Pacific women, refugee and migrant women, and women with disabilities?

- 4.2.13** Two pieces of legislation were identified by NGOs as being "work in progress" in 2007. The first called for legislation to allow women to breastfeed in any public place. The second, the absence of specific legislation on pay equity, was another major concern for many NGOs. What, if any progress has been made since 2007 in these areas?

- 4.2.14** Has the system of national accounts undergone any change which better includes and takes account of unpaid work by women?

- 4.2.15** Have you seen evidence of measurement of such things as absence of discrimination, social cohesion, social justice and environmental quality?

4.2.16 Have there been any changes to the prison system for women which enable improve contact with their children, facilities for raising their newborn babies, or other improvements which better meet the needs of women in prison?

4.2.17 What gaps still exist for women in prison, or have recently left prison?

4.2.18 Please make any further comments or recommendations on the elimination of discrimination which have not been covered under the preceding questions.