



Human Rights  
Commission  
*Te Kāhui Tika Tangata*

# **New Zealand Human Rights Commission's Report to the Committee on the Elimination of Discrimination Against Women (CEDAW)**

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## **1. Executive summary**

New Zealand has made consistent progress in eliminating discrimination against women and in progressing equality across a broad range of civil, political, economic, social and cultural indicators. The State party, employers, trade unions, the human rights communities, civil society organisations and individual women 'influencers' would acknowledge that there is a growing system of legislation and institutional arrangements, policies and practices which would not have come about without an increased level of awareness and political and public acceptance of women's rights. That's the good news.

The not so good news is that there are enduring and pervasive barriers and inequalities that women in New Zealand, as mothers, grandmothers, carers, and workers, face every day.

Systemic inequalities are compounded by the serious challenge faced to the effective realisation of women's human rights, by the external economic and social context. As the ILO has recently noted, "this has been affected in some places seriously, both by adverse macroeconomic developments and by the effects of pervasive poverty and a lack of sustainable growth." The ILO warns that, "in a worst-case scenario, this could threaten the achievements of several decades."<sup>1</sup>

The New Zealand Human Rights Commission (NZHRC) has in the reporting period taken its monitoring of the State party's implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) seriously. This report for the NHRI participation in the Pre-Session for the 52<sup>nd</sup> Session in which New Zealand reports, includes:

- an overview of the New Zealand environment and the role of the NZHRC,
- an identification of positive aspects, achievements and best practice,
- and the identification of principal areas of concern.

The material is offered to the Committee as part of a constructive, pre-session dialogue and the Commission thanks the Committee for the opportunity to submit and attend to speak to the report.

The following recommendations are made to the Committee in good faith as issues that should be discussed with the State party, New Zealand, in relation to implementation of CEDAW.

The Commission believes it would be useful for the Committee to ask for up-to-date information on:

- The progress and effectiveness of non-legislative mechanisms to increase the rate of women's participation and representation in corporate governance, the judiciary, and as chief executives of public service departments

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<sup>1</sup> ILO: Equality at Work: The continuing challenge report, 2011

- The implementation of the response plans of public service departments to their individual pay and employment equity reviews undertaken with state funding between 2004-2009
- A timetable for the implementation of recommendations from the Report of the Taskforce for Action on Sexual Violence
- Details of specific and actual improvements in disaggregated data collection by gender in which progress by, and for, disabled women, Māori and Pacific women and migrant women is being measured and monitored
- Any targets and benchmarks set by the Ministry of Women's Affairs, as opposed to indicators for others, set since the completion of the Action Plan for New Zealand Women, including how goals and priorities for women are to be measured
- How the Convention has been publicised to the general public, over and above its availability on government websites and its limited distribution to women's NGOs.

The global recession and economically adverse times domestically can create space for discrimination in general and progressing women's equality in particular. New Zealanders must maintain a shared will to the implementation of CEDAW and to advancing women's rights through legislation, policy and practice. We also need to better track, monitor and evaluate what really does make a practical difference in the every day lives of New Zealand women, and to particularly vulnerable groups such as disabled women, Māori and Pacific women, rural women, older and younger women and migrant women as well as those with caring responsibilities. Only then can we legitimately celebrate a leadership role in gender equality.



Dr Judy McGregor  
Equal Employment Opportunities Commissioner  
New Zealand Human Rights Commission

## 2. Introduction

The New Zealand Human Rights Commission welcomes the opportunity to provide country-specific information on issues relevant to the implementation of CEDAW by the State party, New Zealand. The New Zealand Human Rights Act 1993 aims to “provide better protection of human rights in New Zealand in general accordance with United Nations Covenants or Conventions on Human Rights.”

The New Zealand Human Rights Commission is an independent national human rights institution with “A” status accreditation. It derives its statutory mandate from the Human Rights Act 1993.

It has developed in the past few years a strong evidential basis for monitoring the progress of implementation of CEDAW and the rights of women in New Zealand which is linked to the following streams of activity. The Commission took notice of the recommendation in the Concluding comments of the Committee on the Elimination of Discrimination against Women when it considered the sixth periodic report of New Zealand. It said (par 15), *The Committee urges that the State party 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 Commission notes later in this paper that the Action Plan for New Zealand Women has now ended, and the Commission is currently negotiating with the Government about a new action plan for human rights. However, the Commission has increased its activities relating to the promotion and protection of women’s rights in the reporting period. These include:

- In 2010 the Commission published its second comprehensive baseline review of the status of human rights in New Zealand<sup>2</sup>. The rights of women were specifically identified and two areas were included within priority areas of action; timetabling pay and employment equity implementation and reducing sexual and family violence through target-setting and a national programme of action.
- The Commission produces and publishes a biennial census of women’s participation in governance, management, political, professional and public life that is recognised both domestically and internationally as a high-profile monitoring tool that benchmarks women’s progress.
- The Commission has recently published a major new framework to progress equality at work, *Tracking Equality at Work*, which for the first time establishes an objective method of benchmarking equal employment opportunities through 20 indicators disaggregated by gender, disability, age and ethnicity.

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<sup>2</sup> New Zealand Human Rights Commission, *Human Rights in New Zealand 2010*, Nga Tika Tangata o Aotearoa, 2010

- The Commission monitors and reports on human rights enquiries and complaints relating to sex discrimination, discrimination on the grounds of marital status, age discrimination, and disability, among other grounds of discrimination, on an on-going basis.
- The Equal Employment Opportunities Commissioner has a statutory mandate to advocate for equal employment opportunities including pay equity.
- The Commission has consistently reported to the United Nations treaties bodies on the status of women's rights in New Zealand. It has recently raised issues when New Zealand has engaged in the Universal Periodic Review and when it reported on the International Covenant on Civil and Political Rights.

This work and the relationships the Commission has developed with civil society organisations actively working on women's rights enable it to offer the Committee an informed and constructive perspective about positive changes in the reporting period. It also allows identification of the areas and issues where the Commission believes improvement is required to sustain the momentum of implementation of CEDAW.

### **3. The New Zealand environment**

New Zealand women fare relatively well on several authoritative international measures. The Global Gender Gap Index, produced by the World Economic Forum, calculates gender equality in terms of economic participation and opportunity; educational attainment; health and survival; and political empowerment. New Zealand was placed fifth, behind the Nordic countries, for the fourth year in a row in 2010.

The Human Development Reports from the United Nations Development Programme include two measures of gender equality. The Gender Empowerment Measure (GEM) combines indices such as: the participation of women in economic and political life; the representation of women in parliament, as senior officials and management, and as professional and technical workers; and the gender disparity in earned income. In 2009, New Zealand was ranked tenth out of 109 countries. The Human Development Index (HDI) is a composite measure of three dimensions of human development: life expectancy; education; and standard of living. The Gender Development Index (GDI) captures inequalities between men and women on these indicators. In terms of the ratio of the GDI to the HDI, New Zealand ranks 69<sup>th</sup> out of 155 countries.

New Zealand was the first nation to grant women the right to vote in 1893. Since then women have made huge gains in participation in many fields, such as education, the labour market and politics. Despite positive economic and social progress, equality between men and women has not yet been achieved, and progress on many key indicators is either painfully slow or static.

New Zealand ratified CEDAW in 1985. In 2007 it withdrew its reservation to Article 11(2)(b), after the implementation of paid parental leave. The last reservation, on women's participation in the armed forces, has also been withdrawn. In 2000 New Zealand signed and ratified the Optional Protocol to CEDAW, which provides a complaint mechanism once all domestic remedies are exhausted.

Domestic legislation includes the Human Rights Act 1993 (HRA) and the Bill of Rights Act 1990 (BoRA). The HRA includes the following prohibited grounds of discrimination: sex, which includes pregnancy and childbirth; marital status, which includes being single, married, in a civil union, or in a de facto relationship, as well as being the surviving or separated spouse or partner of any one of those relationships, or a party to one of those relationships which has ended; and family status, which includes having responsibility for children or not, being a relative of a person or being in a marriage, de facto relationship or civil union with a particular person.

In 2001 the HRA was amended to include an Equal Employment Opportunities Commissioner. The mandate of the EEO Commissioner includes responsibility for providing leadership, advice and guidance on equal employment opportunities, including pay equity (equal pay for work of equal value).

The HRA and the BoRA both protect the right to freedom from discrimination. The BoRA applies to the public sector, the legislature, the executive, and the judiciary. The HRA applies to both public and private sectors. A publicly funded, free dispute resolution service is available for complaints of discrimination in the public and private sectors and public-sector employers are required to meet the same non-discrimination standards as private-sector employers.

Special measures are permissible in both the HRA and the BoRA. Although the wordings of section 73 (1) of the HRA and section 19 (2) of the BoRA differ, both are designed to ensure equal outcomes by addressing disadvantage that is the result of unlawful discrimination. There are limits to introducing special measures. The measure must be tailored to reduce the actual disadvantage of the group it is aimed at; the impact of the measure on those to whom it does not apply should be considered; the measure should be proportional to the degree of disadvantage; and measures to ensure equality should be temporary, that is, until the disadvantage is resolved.<sup>3</sup>

### ***Women's economic empowerment***

Personal income is one indicator of poverty, which can have profound effects economically and in terms of social isolation. "Poverty leaves women more exposed

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<sup>3</sup> Human Rights Commission 2007, *Guidelines on Measures to Ensure Equality* (Auckland: HRC). Accessible online at [http://www.hrc.co.nz/hrc\\_new/hrc/cms/files/documents/18-Mar-2007\\_18-54-53\\_Special\\_Measures\\_A4\\_Final\\_PDF.pdf](http://www.hrc.co.nz/hrc_new/hrc/cms/files/documents/18-Mar-2007_18-54-53_Special_Measures_A4_Final_PDF.pdf)

to violence, less able to escape it. It severely restricts women's ability to organise and fight for change."<sup>4</sup>

In the 2006 Census, the median annual income from all sources for people aged over 15 was \$31,500 for men and \$19,100 for women, a gap of 39 percent.<sup>5</sup> This is attributed to differences in employment, "among other factors". Men are more likely than women to be in paid work, working full-time, and working longer hours. The median income for Māori women was \$17,800 and for Pacific women it was \$17,400.<sup>6</sup> The cost of disability and ensuing poverty is an issue requiring more detailed research.

Women head 83 percent of one-parent households.<sup>7</sup> For couples with children, median income from all sources is \$75,600; for families of one parent with children, it is \$27,400.<sup>8</sup> International experience shows that the global recession is impacting negatively on women: families who have to rely on a female breadwinner's income are exposed to a greater risk of poverty, because of women's lower gross hourly wages.<sup>9</sup>

Progressive improvements to the minimum wage have increased the income of women earning at or near that level. Over the last decade, the minimum wage increased from \$7.55 (March 2000) to \$13.00 (April 1, 2011).

As a result of lower lifetime earnings, due partly to a combination of fewer hours worked because of broken and part-time employment, most often because of caring commitments, as well as lower income while working, women in general are less able to save for retirement than men. In addition, an annuity bought with savings is likely to provide less annual income, because of the longer life expectancy of women. However, New Zealand Superannuation, which is "effectively a Universal Basic Income for the over 65s",<sup>10</sup> ensures that poverty levels are low and living standards comparatively high among the older population. It is estimated that some 55 percent of women and 38 percent of men have no other income in retirement.

New Zealand women are not a homogenous grouping, and indigenous women, migrant women, rural women, older women and disabled women often face multiple barriers to full and equal participation. Income inequality is a significant issue facing many New Zealand women.

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<sup>4</sup> Irene Khan (2009), Amnesty International, *Flame: Amnesty International Aotearoa New Zealand's Supporters Magazine*, Summer, p5

<sup>5</sup> QuickStats About Incomes 2006 Census Statistics New Zealand  
<http://www.stats.govt.nz/census/2006censushomepage/quickstats/quickstats-about-a-subject/incomes.aspx>

<sup>6</sup> QuickStats 2006 Census Statistics New Zealand, as above

<sup>7</sup> Calculated from Ministry of Social Development (2009), *The Social Report* (Wellington: MSD), p 16

<sup>8</sup> QuickStats About Incomes 2006 Census Statistics New Zealand, as above

<sup>9</sup> Committee on the Status of Women (2010), Country report Germany, New York, 1-12 March,

<sup>10</sup> Prue Hyman (2007), "Retirement Income –Issues for Women", background paper prepared for the 2007 Review of Retirement Income Policies (Wellington: Retirement Commissioner) p.9.

New Zealand women are better educated than ever before and they are attending university in ever increasing numbers and achieving better degree results than men. However, despite the increasing feminisation of law firms, accountancy profession and media industries, they do not necessarily reach the top and earn high incomes. While women make progress in some sectors, progress regularly stalls or even reverses in others. There is not a picture of constant improvement but of peaks and hollows and considerable variability.

#### **4. Positive aspects, achievements and best practices**

##### **4.1 Ministerial leadership- Article 7**

The Minister of Women's Affairs, Hon. Hekia Parata, is an engaging, intelligent and committed minister who is working to encourage public sector agencies to increase women's representation in government appointments to a wide range of statutory bodies, and with the corporate sector to break down women's invisibility in New Zealand in corporate governance.

For example, the Minister has encouraged the New Zealand Exchange to commit to a rule review relating to gender objective setting in annual reports of listed companies and the disclosure of the proportion of women on their boards and in senior management. This development in Australia has seen a significant increase in the number of women appointed to corporate boards up to 13% from 10%, with 26% of all new appointments in 2011.<sup>11</sup> The New Zealand Exchange was previously unenthusiastic about interventions to improve women's boardroom representation. Hon. Hekia Parata has also encouraged the Prime Minister, Rt Hon John Key, to publicly advocate to business leaders for gender diversity in corporate governance, senior management and public life.

These strong messages from New Zealand's political leaders about the value of gender diversity in the corporate sector positively influence attitudes and behaviours, particularly when they are accompanied by the Ministry of Women's Affairs initiatives to address the significant gaps which include a credible nominations service and promotion of the business case for increased gender diversity in governance and management.

In the Commission's view the State party deserves recognition for its commitment to non-legislative mechanisms to addressing the low number of women on private sector boards, and its continuing activities to ensure gender equality in public sector board appointments. However, momentum needs to be sustained if non-legislative mechanisms are demonstrated to have no impact on the rate, and pace, of female participation and representation.

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<sup>11</sup> Australian Institute of Company Directors, Appointments to ASX 200 Boards  
<http://www.companydirectors.com.au/Director-Resource-Centre/Governance-and-Director-Issues/Board-Diversity/Statistics>

## **4.2 Flexible work — Article 11**

During the reporting period legislation for flexible work took effect (July 2008). It has specifically improved women's statutory right to request flexible working opportunities and has helped change the culture of business and the way in which many women, carers and families can plan their working days. The Employment Relations (Flexible Working Arrangements) Amendment Act 2007 aimed to foster dialogue and better relationships in the workplace, to increase carers' participation in employment by offering flexible working opportunities, and to assist carers to balance family and working life. Eligible employees now have the statutory right to make a request for flexible working arrangements if they have the care of another person.

The ageing demographic in New Zealand means an increasing number of women in the "sandwich" generation likely to have both younger and older dependants to care for at the same time as they balance work arrangements. It is therefore essential that the 2011 review of flexible work is tabled in the House of Representatives in a timely manner and that it recommends the legislative extension of flexible work provisions to all employees.

## **4.3 Disabled women's leadership — Articles 7 and 8**

Strong leadership by the Minister for Disability Issues, Hon Tariana Turia, and the advocacy and activities of disabled women themselves have led to higher visibility for disabled women in New Zealand. Disabled women hold key positions in the independent mechanism established by New Zealand to fulfil Article 33(2) of the Convention on the Rights of Persons with Disabilities (CRPD). The Disability Convention Coalition, along with the New Zealand Human Rights Commission and the Office of Ombudsmen, are three partner organisations designated by the State party through the Minister to be the independent mechanism to promote, protect and monitor the implementation of the CRPD and periodically report to the United Nations on progress. The Disability Convention Coalition comprises six national disabled people's organisations (DPOs) represented primarily by women and is chaired by a disabled woman.<sup>12</sup>

## **4.4 Recognition of support workers in the disability sector who "sleep over" — Article 11**

The majority of the 30,000 plus carers in New Zealand are women, often Māori, Pacific and migrant women, who receive low pay and work in precarious and casual arrangements. A sub-set of carers, those who service vulnerable disabled people by staying with them at night, have been involved since 2007 in a protracted dispute in the Court of Appeal and the Employment Court over the issue of payment of wages to employees who are employed to sleep overnight at their workplace whilst on duty.

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<sup>12</sup> The six DPOs are The Association of Blind Citizens of New Zealand Inc; Deaf Aotearoa New Zealand, DPA-Disabled Persons Assembly-(NZ) Inc.; Nga Hau E Wha; Ngati Kapo o Aotearoa; People First New Zealand Inc.

Approximately 70% of these workers are women who previously received only \$3.77 cents an hour while they were “sleeping over”.

In July 2009 the Employment Court ruled that sleep constituted work, and that the minimum wage should be applied for each and every hour of work. The Court of Appeal upheld the decision in 2011.

The Sleepover Wages (Settlement) Act was passed on the last day of the 2011 Parliament, and represents a victory for negotiated settlement between the Government, employers and the trade union movement through the Service and Food Workers Union (SFWU) and the Public Service Association (PSA). The settlement agreement includes the payment of back-pay for certain sleepovers, and the staged progression of payments for sleepovers towards the hourly minimum rate of \$13 under the Minimum Wage Act 1983. This means that thousands of low paid women, estimated to be anything up to 8000, will receive between \$7,000 and \$10,000 in back-pay for sleepover work carried out in the last five years.

The trade union movement, led by the SFWU and the PSA, consistently pressured the Government to negotiate a settlement instead of continuing to appeal lower court decisions. The Government eventually negotiated in good faith, committing \$27.5 million to assist Crown-funded employers in the health and disability sector to settle valid back-wage claims and up to \$90 million over three years to support employers to phase in the minimum wage.

The sleepover case validates the use of judicial intervention as a first step to raise the wages of the lowest paid. This was followed by the pragmatic use of negotiating in good faith between the tripartite partners (Government, employers and trade unions) for a more effective, efficient and ethical approach to inequality that will positively impact on women’s economic empowerment.

## **5 Principal areas of concern**

### **5.1 Pay equity implementation, specifically in the public sector- Article 11(1)(d)**

The latest statistical data shows that New Zealand has the smallest increase in median hourly earnings in the past 11 years, demonstrating sluggish growth and a jobless recovery. The gender pay gap has narrowed to 9.6 % with the ratio of female to male median hourly earnings in the June 2011 quarter at 90.4% up from 89.4% in the June 2010 quarter, the highest level since 1997. The ratio of female to male hourly wage and salary earnings for those in full-time employment also recorded its highest level since the survey began, at 95.8% in the June 2011 quarter<sup>13</sup>.

At an aggregate level the gender pay gap appears in times of slow growth to be tracking downwards, which may be a positive movement for some women. However, caution is required for several reasons. Statistics New Zealand warns that changes

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<sup>13</sup> Statistics New Zealand, New Zealand Income Survey, June 2011. Released on 6 October 2011.

in income may be influenced by one-off events such as the change in the adult minimum wage by 25 cents an hour from April 2011, given that more women are on the minimum wage than men. Also, the overall gender pay gap figures in the past have disguised considerable variation by ethnicity and across the public sector. For example, analysis by the Commission in 2010 showed that 24 of 34 public service departments had a gender pay gap more than the gap in the total labour force.

Twelve departments, some with significant numbers of staff, had gender pay gaps of more than 20%.<sup>14</sup> A number of departments reported the dollar amount of the gap. For example, a 23.2% pay gap at the Ministry of Economic Development amounted to an average dollar amount of \$19,636.51 difference in annual pay.<sup>15</sup>

Pay and employment equity reviews across the public service and the public health and public education sectors, as well as two local councils and three Crown entities were carried out in 2004-2009. The reviews found gender pay gaps for all but one of the public service departments of between 3-35%. Common findings included unequal starting salaries for the same job; female dominated jobs being paid lower than male dominated jobs; gender disparities in pay progression and performance pay; women dominating the lowest paid staff and few in the best paid jobs; women having a smaller share of additional rewards and significant gender differences in participation opportunities at all levels.

These reviews and response plans were driven by the work of the Pay and Employment Equity Unit within the Department of Labour which was closed in 2009 after five years and the closure was accompanied by the Government's cancellation of two ongoing pay investigations for 24,000 school support staff and for social workers.

Following these cancellations, the union, the Public Service Association (PSA), complained to the Human Rights Commission of sex discrimination under the Human Rights Act 1993 on behalf of social workers, a largely female workforce earning 9.5% less than their male colleagues. The complaint was against the Government and the Chief Executive of the Ministry of Social Development as the employer. The Commission notified the parties to the complaint and under the Human Rights Act mediation through dispute resolution began. The parties have now agreed to take the matter outside the Commission, continue to talk and negotiate the issue.

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<sup>14</sup> Human Rights Commission, *New Zealand Census of Women's Participation 2010*, <http://www.neon.org.nz/census2010/>

<sup>15</sup> Ibid

The following table demonstrates the difference in median hourly rates by ethnicity in 2011.

### Median Hourly Rates by Age and Ethnicity

| Ethnicity      | Male (NZ\$)  | Female (NZ\$) |
|----------------|--------------|---------------|
| European       | 22.80        | 20.00         |
| Māori          | 18.80        | 17.33         |
| Pacific People | 18.00        | 16.30         |
| Asian          | 19.70        | 18.00         |
| MELAA          | 20.00        | 19.18         |
| Other          | 22.00        | 17.34         |
| <b>TOTAL</b>   | <b>21.58</b> | <b>19.50</b>  |

The gender gap between the highest hourly rate (European men) and the lowest (Pacific women) is 28.5% and has widened from 2010.

The Committee urged New Zealand in its recommendations on its last periodic report to “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.” New Zealand’s Equal Pay Act of 1972, and the Human Rights Act 1993 which provides for anti-discrimination protection both provide a legislative framework for equal pay but are considered ineffective in pay equity cases largely because they have not placed a positive obligation on employers in relation to equal pay and pay equity and because they largely focus on individual complainants.

The Commission has developed and promoted a Pay Equality Bill that promotes transparency of wages, makes confidentiality of pay illegal and provides for a positive duty on employers.<sup>16</sup> The proposed legislation which is available for the Government, other political parties or a private member to sponsor, has generated significant publicity along with another private member’s bill aimed at reforming the current Equal Pay Act. The Commission believes there is a need for overall legislative change and concerted and specific action by the State party to insist that public service departments urgently address the issues identified in their individual pay and employment equity response plans.

### 5.2 Women’s representation and participation-Article 7

The brief period of time recently when New Zealand women held high political, constitutional and judicial positions (Prime Minister, Attorney-General, Governor-General, Chief Justice) has disguised the structural non-participation and representation of women in top positions in significant sectors. It has also bred some complacency and even revisionism about women’s participation. The Commission’s

<sup>16</sup> Human Rights Commission, Pay Equality Bill, In *Tracking Equality at Work*, 2011 <http://www.neon.org.nz/trackingequalityatwork/>

biennial analysis shows that New Zealand has a very poor record in corporate governance and an international comparison of similar, developed countries puts New Zealand last in the percentage of companies with female directors. For example, 57 companies in the New Zealand Stock Exchange top 100 companies by market capitalisation have not a single woman on their boards and New Zealand has yet to reach 10% (9.32%) of women as directors of top 100 companies.<sup>17</sup> While there has been a flurry of initiatives since 2008 to advance women in corporate governance including cross-company mentoring programmes, an accelerator programme in agri-business, more discussion of the business case, and promotion of the issue by Global Women, these non-legislative initiatives have yet to be reflected in increased numbers of women on corporate sector boards.

Other areas of concern about women's participation and representation are local government where women have yet to reach the Commonwealth target of 30% representation (28.3%) and where there is slight slippage, the judiciary which remains static at around 26.3% women's representation despite the Committee's repeated urgings to the State party, and national politics at 32% down from 33% previously<sup>18</sup>. The initial gains in diversity of a changed electoral system from First Past the Post to Mixed Member Proportional have not translated into continuing progress for women. A particularly worrying trend in women's representation is that despite women making up 59% of all public servants, only 17.6% are chief executives of public service departments and 37.8% of senior management is female<sup>19</sup>. The figure for chief executives is expected to fall further with pending retirements.

### **5.3 Violence against women — embraced in many Articles such as Article 1, 2 (c), 3, 5 and 1 of 12 critical areas of concern in the Beijing Platform for Action**

Violence against women in New Zealand is pervasive and as Kofi Annan has noted, perhaps the most shameful human rights violation.<sup>20</sup> The Commission advocates for a reduction in sexual and family violence through target setting and fully resourcing a national programme of action. It also wants to see the 2009 Report of the Taskforce for Action on Sexual Violence recommendations implemented.

The New Zealand situation has been summarised as: *Despite a plethora of reports, a strong legislative framework, significant government funding and the efforts of*

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<sup>17</sup> Human Rights Commission, New Zealand Census of Women's Participation 2010, <http://www.neon.org.nz/census2010/>

<sup>18</sup> Ibid

<sup>19</sup> Ibid

<sup>20</sup> Kofi Annan (1999\0, quoted in "Violence Against Women in Aotearopa New Zealand 2009", Herbert,R, Hill,A and DicksonS. Published online at <http://.roundtablevaw.org.nz/Integrated.pdf>

*many dedicated groups and individuals, real improvements in both the family violence and sexual violence in New Zealand remains elusive*<sup>21</sup>.

It has been asserted that “there is consensus that New Zealand has sound legislation on domestic violence”, yet has a “serious problem eliminating violence against women”.<sup>22</sup> The Leitner Centre<sup>23</sup> identified a number of factors inhibiting progress. These included: difficulties experienced by both victims and perpetrators of violence in accessing programmes; difficulties experienced by victims in accessing legal aid (not just the funding for legal aid, but also the availability of appropriate legal aid); and lack of training in domestic violence for key groups, such as judges, police, lawyers and benefits officers. Domestic violence organisations have also identified the disadvantage experienced by women who leave an abuser, including economic disadvantage.<sup>24</sup>

Other barriers identified are:

- a paucity of data collection to properly evaluate policies
- problems of implementing legislation
- the objectification of women by the advertising and pornography industry.

In late 2009, the Report of the Taskforce for Action on Sexual Violence<sup>25</sup> was released by the Minister of Justice, Hon Simon Power. Its key recommendations include:

- Sustainable funding for specialist programmes on primary prevention of sexual violence
- Specific work on child sexual abuse and adult rape within the It's not OK campaign
- Funding shortfalls evaluated for the provision of community treatment for offenders
- A pilot programme for the treatment of non-mandated perpetrators of sexual violence
- Legislative amendments (consent, reasonable belief and the rape shield) progressed
- Enhancing of the rights of victims in the criminal justice system
- Piloting a specialist court support role for victims of sexual violence
- Delivering specialist training to relevant criminal justice personnel on sexual violence and Te Ao Māori
- Ongoing involvement and resourcing of TOAH-NNEST<sup>26</sup> in sexual violence work

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<sup>21</sup> “Pulling it all together: Family violence and sexual violence in New Zealand”, Ruth Herbert (2010) Powerpoint presentation supplied by author.

<sup>22</sup> It's Not OK: New Zealand's Efforts to Eliminate Violence Against Women (2008) Leitner Center for International Law and Justice Fordham Law School NY <http://www.leitnercenter.org/files/doc-17866.pdf>

<sup>23</sup> *ibid*

<sup>24</sup> Submission from ISNO (It's Still Not OK) 2010 to the Human Rights Commission

<sup>25</sup> Report of the Taskforce for Action on Sexual Violence 2009 <http://www.justice.govt.nz/policy-and-consultation/taskforce-for-action-on-sexual-violence>

<sup>26</sup> Te Ohaakii a Hine National Network Ending Sexual Violence Together

- Monitoring of progress on the report's recommendations

The 2006 Crime and Safety Survey found that approximately 29 percent of women and 9 percent of men had experienced unwanted and distressing sexual contact over their lifetime.<sup>27</sup> Studies quoted by the Ministry of Women's Affairs show the gender of victims of sexual violence as being between 92 and 95 percent female.<sup>28</sup> In 2008, New Zealand women were three times more likely than men to feel unsafe or very unsafe when walking alone in their neighbourhood at night.<sup>29</sup>

The groups most at risk of sexual violence are young women, Māori women, women who have been victimised before and people with disabilities.<sup>30</sup> Young women between the ages of 16 and 30 comprise 66-70 percent of victims of sexual violence. Just under half of all victims are New Zealand European, just under one third are Māori, and just over one tenth are Pacific.

Globally, persons with disabilities are up to three times more likely to be victims of physical and sexual abuse and rape, and have less access to physical, psychological and judicial interventions.<sup>31</sup> In New Zealand, disabled women are one of the groups most at risk of sexual violence, although the proportion of disabled victims changes depending on whether disability is self-identified (31 percent of victims) or determined by a doctor (15 percent).<sup>32</sup>

Despite sexual offences being the fifth most common offence reported in the Crime Survey, and the "most costly crime per incident" by Treasury estimates, only 10 percent of sexual offences are reported to the police. Of those, only 8 percent "result in a perpetrator being convicted".<sup>33</sup> This means that for every 1,000 incidents of sexual violence, only 100 are reported and only eight perpetrators are convicted.

The principal providers of services to survivors of sexual violence are specialist sexual violence agencies, which provide two main services: crisis support and ongoing support designed to assist recovery. Specialist services are typically funded fully or partly by government agencies under contract. Ongoing funding is not guaranteed, and some funding sources are contestable.<sup>34</sup> The availability of culturally appropriate services and services for diverse population groups (including Māori, Pacific people, ethnic communities, including refugees, people with

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<sup>27</sup> Family Violence statistics report (2009) Research Report No 4 /09 Families Commission Wellington New Zealand p155

<sup>28</sup> Restoring Soul (2009) Ministry of Women's Affairs (Wellington New Zealand) p84

<sup>29</sup> New Zealand General Social Survey:2008 Statistics New Zealand (Wellington New Zealand) accessible on-line at <http://www.stats.govt.nz/nzgss/>

<sup>30</sup> V Kingi and J Jordan 2009 and S Triggs et al 2009 quoted in Restoring Soul (2009) Ministry of Women's Affairs(Wellington New Zealand) p12  
<http://www.mwa.govt.nz/news-and-pubs/publications/restoring-soul-pdf>

<sup>31</sup> Promoting Sexual and Reproductive Health for Persons with Disabilities 2009 WHO/UNFPA

<sup>32</sup> *ibid*

<sup>33</sup> Report of the Taskforce for Action on Sexual Violence 2009 Ministry of Justice (Wellington New Zealand)

<sup>34</sup> Restoring Soul (2009) Ministry of Women's Affairs (Wellington New Zealand)

disabilities, men and young people) is uneven and has been identified as a gap in services.

Relative to other OECD countries, the New Zealand homicide rate is “considerably higher” for women (1.2 per 100,000) than men (0.7 per 100,000).<sup>35</sup> New Zealand Police statistics collected in the period 2000 to 2004 stated that 45 women were murdered by their male partner or ex-partner, and three men were murdered by their female partner or ex-partner.<sup>36</sup> Family violence statistics collected by the police in 2006 recorded that 81 percent of victims were women and 81 percent of offenders were male.<sup>37</sup> In 2009, 14 women were murdered by their male partner or ex-partner.<sup>38</sup>

Māori women are at three times higher risk of partner violence than women overall. Beneficiaries and those in sole parent households were also at much higher risk than women overall.<sup>39</sup>

In 2006, 13,091 women and 5,549 children used refuge services.<sup>40</sup> The National Collective of Independent Women’s Refuges report an increase between 2002 to 2006 of 55 percent in services and programmes delivered. Services include advocacy and support services and the provision of safe house accommodation. As with services for victims of sexual violence, culturally appropriate services and services for groups such as disabled women and women from different ethnic backgrounds are not readily available in many areas. Shakti Community Council, which provides support services for New Zealand migrant and refugee communities, has established four ethnic women’s refuges in Auckland, Christchurch and Tauranga.

Difficulties understanding and acting on legislative provisions addressing emotional abuse have also been identified. Access to protection for migrant women and for disabled women is hampered by language and cultural barriers, and by the limited availability of appropriate safe places of refuge.

Rural Women New Zealand have noted that, “For rural women, there are additional inherent risk factors for the occurrence of domestic violence, as well as additional risk factors in choosing to take action to deal with violence.”<sup>41</sup> Implementation of the Domestic Violence Act is particularly problematic for rural women. The difficulties noted include: “accessing information and support services for victims, delivery and

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<sup>35</sup> The Social Report 2009 Ministry of Social Development (Wellington New Zealand) quoting OECD homicide death rates for the period 2003 -2007

<sup>36</sup> New Zealand Family Violence Statistics Fact Sheet 2009 Family Violence Clearinghouse <http://www.nzfvc.org.nz/StatisticsFactSheet.aspx>

<sup>37</sup> Family Violence Statistics Report 2009 Families Commission (Wellington New Zealand) quoting the Police Family Violence Database.

<sup>38</sup> Police Statistics on Culpable Deaths in New Zealand, 2010 Police National Headquarters Wellington New Zealand

<sup>39</sup> Family Violence Statistics Report 2009 Families Commission (Wellington New Zealand)

<sup>40</sup> Family Violence Statistics Report 2009 Families Commission (Wellington New Zealand)

<sup>41</sup> Submission of the Domestic Violence (Enhancing Safety) Bill by Rural Women New Zealand 2009

access of programmes for offenders, and ensuring safety for both women and children with respect to the process of obtaining and enforcing protection orders”.<sup>42</sup>

#### **5.4 Disabled women in New Zealand — all Articles**

Disaggregated data about disabled women is difficult to access and the Household Disability Survey is only conducted with New Zealand’s official census every five years, with the last one in 2006. Because of the disruption posed by earthquakes in Christchurch, the census has been delayed until 2013 and therefore the Household Disability Survey will not be conducted again until then. This means that the figures of women aged 15 years and over who report having a disability at 18% of women (332,600)<sup>43</sup> are likely to be conservative, particularly because of the confluence of disability and an increasingly ageing population.

However, by virtue of their gender and their disability, disabled women are doubly disadvantaged because they disproportionately lack qualifications, do not work and live on low incomes.<sup>44</sup> Detachment from education and employment means that more disabled women experience poorer social and economic outcomes across their life. Disabled women are particularly vulnerable in violence against women. A Ministry of Women’s Affairs study, albeit with a low sample rate, found 33 per cent of victims of sexual violence interviewed indicated they had a disability or impairment.<sup>45</sup> However, the research did not establish whether the disability was the result of sexual violence.

The Taskforce for Action on Violence within Families includes a commitment to working to reduce the impact of violence against disabled women (Article 16) but women’s refuges, which provide a safe haven for women, are not always accessible for disabled women. The Committee recommended to the State party in its last report that the data collection relating to CEDAW needed to be strengthened in order to enhance its knowledge base about the actual situation of different groups of women and to track trends over time. Nowhere is this more relevant than accessing the impact of measures taken for disabled women.

#### **5.5 Young women’s unemployment rate — Article 11**

The employment of women has been seriously affected in several countries including in New Zealand by the impact of the global financial crisis. Earlier downturns have had a similar impact on the employment and income of women as many have been pushed into informal employment.<sup>46</sup>

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<sup>42</sup> *ibid*

<sup>43</sup> Maskill, C, Hodges I. *Indicators from the 1996, 2001 and 2006 New Zealand Disability Surveys for monitoring progress on outcomes for disabled people*. Wellington: Office of Disability Issues 2011 (report prepared by HealthSearch Ltd). <http://www.odi.govt.nz/resources/research/outcomes-for-disabled-people/index.html>.

<sup>44</sup> 2006 Household Disability Survey.

<sup>45</sup> Kingi and Jordan, *Responding to sexual violence: Pathways to recovery*, Ministry of Women’s Affairs, 2009.

<sup>46</sup> ILO: Equality at work: The continuing challenge report 2011, Executive summary, p.ix

Young women and men have been disproportionately affected since the onset of the crisis similar to that experienced in past recessions. Many believe it could take up to 11 years for youth employment to return to pre-recession levels.<sup>47</sup> Some unemployed young people encountering the crisis have lost hope of obtaining employment and have detached themselves from the labour market altogether, leaving a legacy of a “lost generation”.<sup>48</sup>

In New Zealand, young Māori and Pacific women experience the double disadvantage of gender and ethnicity. Unemployment rates for young Māori and young Pacific women under 25 years are twice that of European women. More than one in four Māori and one in four Pacific youth in the labour market are unemployed.

### Female unemployment under 25 years by ethnicity<sup>49</sup>

| Under 25 yrs       |              |
|--------------------|--------------|
| European           | 14.4%        |
| Māori              | 27.7%        |
| Pacific peoples    | 32.7%        |
| Asian/MELAA/ Other | 17.3%        |
| <b>Total</b>       | <b>17.1%</b> |

The Commission has consistently urged the development of a national youth-to-work strategy that is responsive to the needs of young Māori and Pacific women and involves a “joined-up” approach in terms of Government services.

### 5.6 Māori and Pacific women — all Articles

Māori comprise almost 15% of New Zealand’s female population and Pacific women, 6.8%. But there is a gap in all almost all of the available indicators between European and Māori and Pacific women. For example, female participation in the New Zealand labour market by ethnicity shows that European women under 25 years have a participation rate of 65.7% compared to Māori women at 50.9% and Pacific women at 43%. The female unemployment rate shows that Māori women under 25 years have almost double the rate of European women at 27.7% and Pacific young women are at 32.7%.<sup>50</sup> These figures and others, such as the variance in the gender pay gap by ethnicity, in education rates, in health statistics, reveal systemic and structural inequalities. For young Māori and Pacific Island women who

<sup>47</sup> ILS: World of work report 2010, op.cit., p.2.

<sup>48</sup> ILO: Equality at Work: The continuing challenge report 2011, p.8

<sup>49</sup> Human Rights Commission, *Tracking Equality at Work*, 2011, p.13

<http://www.neon.org.nz/trackingequalityatwork/>

<sup>50</sup> Human Rights Commission, *Tracking Equality at Work*, 2011, p.12-13.

face longer term unemployment in the delayed labour market recovery, the outlook is particularly bleak and there is a risk of rising discouragement.

### **5.7 Absence of targets and benchmarks — see par 21 of Committee’s Concluding Comments 39<sup>th</sup> Session 2007**

New Zealand is justifiably proud of its long standing commitment to progressing women’s rights, from its status as the first nation state to grant women the vote through to its high league positioning on international ranking measures, such as 5<sup>th</sup> place in the World Economic Forum’s Global Gender Gap report, behind Scandinavian countries. However, there is evidence of weaker accountabilities by the State party in relation to implementing CEDAW and advancing the rights of women. For example, *the Action Plan for New Zealand Women*, (the Action Plan) which was a five-year-whole of government effort to improve outcomes for women in three priority areas: economic sustainability, work-life balance, and wellbeing, concluded in 2009. It set front-end measurable targets and benchmarks.

While the Government, through the Ministry of Women’s Affairs, has set new goals and priorities for New Zealand women, they are not accompanied by an action plan that creates expectations, sets measurable targets, and allows a platform for civil society advocacy. The language of the new priorities is rhetorical and descriptive. For example, Government’s overall goal is *A step change in New Zealand’s economic performance* and the Goal for women in New Zealand is *Women having real choices and using their strengths to maximise social and economic success*. The priorities as at 2010 are: *Women participating in leadership roles across the economy; the damaging impact of violence against women, in particular sexual violence, is reduced and all women can be fully engaged in the economy and contribute to the country’s economic growth*. While these are laudable goals and priorities in themselves, they are not time-bound and do not provide precise target dates for the attainment of specific results.

The Ministry of Women’s Affairs publishes an annual *Indicators for Change: tracking the progress of New Zealand women* which provides information on the current social and economic status of women to track progress for women and to identify where efforts should be best directed to meet the needs of women. While this report usefully signposts “dashboard” issues, it lacks widespread visibility, is not accompanied by quantifiable target setting, and it does not identify actions or accountable agencies. A higher level of accountability may have been anticipated by the CEDAW committee’s concluding comments on New Zealand’s sixth periodic report, which recommended that the New Zealand Government “consider using measures such as benchmarks, targets, recruitment and support programmes, incentives and quotas with regards to various articles of the Convention”.

In conclusion, the Commission thanks the Committee for the opportunity to provide this assessment of New Zealand’s progress towards implementing CEDAW.