

## **8. Fifth periodic report: UN CEDAW Monitoring Committee Report**

### **New Zealand**

379. The Committee considered the fifth periodic report of New Zealand (CEDAW/C/NZL/5) at its 625th and 626th meetings, on 14 July 2003 (see CEDAW/C/SR.625 and 626).

#### **Introduction by the State party**

380. In introducing the report, the representative of New Zealand noted that the report, which included information up to September 2002, differed significantly from its preceding ones in its development and structure. Particular effort had been made to reach women beyond the traditional networks of non-governmental organisations for wide consultations. Two new sections had been added, one that outlined measures taken by the Government in response to the last concluding comments of the Committee, and one that provided a summary of the key themes and issues that emerged from the public consultation process.

381. Following the introduction of a government-funded paid parental leave scheme of 12 weeks for eligible women or their partners, including same-sex partners, the Cabinet had approved the removal of New Zealand's reservation to article 11, paragraph 2 (b). In 2005, the Government of New Zealand would consider lifting its reservation on women in armed combat.

382. The representative described the position of national courts with respect to international human rights treaties in relation to domestic legislation. New Zealand courts had taken international human rights treaties, including the Convention, into account when determining cases. The Human Rights Act of 1993, as amended in December 2001, contained appropriate non-discrimination standards for the Government, supported by an accessible, publicly funded complaints procedure and effective remedies. Legislation and government policies and activities were subject to those standards, which included discrimination in employment, incitement to racial disharmony, victimization and racial and sexual harassment. A number of steps had also been made to improve women's access to justice, and a new Legal Services Agency was taking a more proactive approach to legal aid. The Government had also commissioned a report on the structure of the courts, which would take into account Maori and gender perspectives. The Human Rights Commission was developing an action plan for human rights that would promote a wide range of human rights, including civil, political, economic, social and cultural rights.

383. The Government had created a social statistics programme to define the broad content and structure of social statistics over the next 10 years. Gender had been identified as a key variable, and would allow ongoing comparison of the situation of women and men of different ethnicities in New Zealand. Further, since January 2002, all papers going to the Cabinet Social Development Committee were required to include gender implications statements, supported by gender analysis. In addition, the first Time Use Survey was completed in New Zealand in 1999. The Survey recorded the amount of time spent by women and men, disaggregated by ethnicity, in different activities, including paid work, voluntary work, household work and caring responsibilities. The Office of Ethnic Affairs had been launched in May 2001 to provide information and advice about groups, such as migrants, refugees, and New Zealand-born residents who identified with an ethnic group. Immigration policy had shifted from a narrow focus to a much broader one on positive settlement and resettlement outcomes for refugees and migrants.

384. The Government was taking a "whole of government" approach, called "Reducing Inequalities" to monitor and set direction in social and economic policies to better respond to the needs of Maori and Pacific communities. The functions of the Ministry of Maori Development were broadened in 2000, and government departments and agencies were expected to monitor and evaluate their own programmes and services in terms of their effectiveness for Maori women. The Government had continued its efforts to implement the Treaty of Waitangi and had allocated in its 2003 budget NZ\$ 6.5 million over three years for a programme of public information on this treaty. To celebrate the twentieth anniversary of the adoption of the Convention on the Elimination of All Forms of Discrimination against Women, and as a contribution to the International Decade of the World's Indigenous People, the New Zealand Human Rights Commission and the Ministry of Maori Development jointly published booklets on the Convention and its Optional Protocol in both Maori and English and widely distributed them.

385. Turning to women in decision-making positions, the representative pointed out that women held four constitutional positions, namely the Governor-General, the Prime Minister, the Attorney-General and the Chief Justice, and the proportion of women Ministers of the Crown had significantly increased, to 31 per cent. The

target of 50 per cent representation of women at all levels in the Ministry of Foreign Affairs and Trade by 2005 had almost been met already with women currently making up 49 per cent of that Ministry.

386. Since the current Government's election at the end of 1999, a clear emphasis had been placed on halting the privatization of publicly funded social and health services and moving away from free-market legislation. The Employment Relations Act of 2000 replaced the Employment Contracts Act of 1991 as the legislative framework for employment relationships. While current review of the Act did not explicitly focus on issues that directly affected only women, a number of issues relating to inequalities of bargaining power would be relevant to women. The Government had established a Pay and Employment Equity Taskforce to progress pay and equality in employment between women and men in public service and in the public health and education sectors. The establishment of an Equal Employment Opportunities Commissioner within the Human Rights Commission was one of the most significant developments in terms of accelerating equality between men and women.

387. Although there had been a continuous rise in the percentage of women in the paid labour force over the preceding six years, a decrease in the unemployment rate for women, a significant increase in the number of women employed in professional and managerial occupations and an increase in the number of self-employed women, challenges remained, such as the persistence of a pay gap between women and men, occupational segregation and increasing difficulties in achieving a work-life balance. The Government had taken a range of measures to address those challenges, including raising the maximum number of hours of subsidized childcare, and the passage of the Social Security (Working Towards Employment) Bill of 2003, which provided for a more flexible and individualized approach to supporting sole parents and widows. Family responsibilities were recognized as part of the Government's more holistic approach to social development.

388. The representative reported that women's health indicators had improved. The New Zealand Health System had been restructured from a market-oriented model to a community-oriented model, with local district health boards being responsible for providing health-care services to a geographically defined population. Several strategies had been implemented, such as the Primary Health Care Strategy, the Disability Strategy and the Health of Older People Strategy and the Breastfeeding Action Plan, and others were under development. Turning to education, the representative noted that the participation and achievement of women and girls in the education sector continued to improve. Early childhood education enrolment had increased, and more women than men were participating in tertiary education at every level except that of doctorate.

389. Among other current and planned projects highlighted by the representative were: a project to improve the financial assistance available to families with dependent children; the planned establishment of a Community and Voluntary Sector Office within the Ministry of Social Development; initiatives to benefit rural communities; the entry into force in February 2002 of the Property (Relationships) Amendment Act 2001, which treated "de facto" couples, including same-sex couples, in the same manner as married couples in terms of the division of property on dissolution of the marriage; and the launch of the "Te Rito" New Zealand Family Violence Prevention Strategy in March 2002.

390. The representative concluded by stating that the State party looked forward to receiving the concluding comments of the Committee on the fifth periodic report. She would report them to the Cabinet on her return to inform domestic policy, in particular the development and implementation of the Women's Action Plan, which would provide a blueprint of the status of New Zealand women, their future aspirations and how Government would contribute to their achievement. The concluding comments of the Committee would also be published and made available on the Government's web site.

391. Another representative read a statement on behalf of "Fatupaepae" Women's Organisation of Tokelau, a non-self-governing territory of New Zealand, which described the customary and traditional role of women in Tokelau as "good parenting: utmost care for family; responsibility of high esteem for the lives of children, family members and society; yet with freedom to express one's self with respect". Women in Tokelau were pursuing tertiary education and careers, as well as accepting roles in political life, including in the Council of Elders in some villages and in the General Fono, the highest policy-making institution in Tokelau. Although there were currently no social welfare benefits per se, the issue of allowances or pensions for women who could not be employed because of their full-time home responsibilities was being considered. Short-term training courses were being considered for women, including in budgeting and leadership, and women in business. Tokelau had continued to participate in workshops and meetings related to the Convention on the Elimination of All Forms of Discrimination against Women in the region and outcomes and recommendations had been reported to the General Fono. The evolution of the role of women in Tokelau was being handled in a sensitive manner befitting

the speed, scale and impact of social change in a small- scale community (of approximately 1,500 people), spread over three atolls each 80 kilometres apart. The “Fatupaepae” was committed to continuing to discuss and consult with the community and political leaders about the Convention, and that would determine the key decisions that needed to be taken and the actions and resources required to make further progress.

### **Concluding comments of the Committee**

#### **Introduction**

392. The Committee commends the State party for the quality and timely submission of its fifth periodic report, which is in accordance with the Committee’s guidelines for the preparation of periodic reports. It also commends the State party for the written replies to the issues and questions raised by the Committee’s pre- session working group and for the comprehensive oral presentation.

393. The Committee welcomes the State party’s initiative to include in its report a separate chapter on New Zealand Government responses to, and actions taken in pursuance of, the concluding comments of the Committee on the combined third and fourth periodic report.

394. The Committee congratulates the State party for its high-level delegation headed by the Minister of Women’s Affairs. The Committee appreciates the frank and constructive dialogue that took place between the delegation and the members of the Committee.

395. The Committee welcomes the authorization by the New Zealand Cabinet of the withdrawal of the reservation to article 11, paragraph 2 (b), of the Convention on the provision of paid parental leave. It also notes with appreciation the stated intention of the State party to consider lifting its reservation to article 11 (a) regarding women in armed combat in 2005.

396. The Committee appreciates the State party’s collaboration with women’s non- governmental organisations and other interested stakeholders in the preparation of the report.

#### **Positive aspects**

397. The Committee welcomes the State party’s efforts in implementing the “Treaty of Waitangi”, which aim to “strengthen national identity and uphold the principles of the Treaty of Waitangi”. It also commends the State party for the adoption of the New Zealand Public Health and Disability Act, 2000, which includes a section on the Treaty, intended to achieve the Act’s objectives for the health of Maori women.

398. The Committee notes the work currently under way to strengthen women’s human rights in Tokelau, giving attention to the culture and customs of the people of Tokelau.

399. The Committee congratulates the State party for its important achievements towards gender equality since the consideration of its combined third and fourth periodic report, particularly its efforts in preparing a women’s action plan. It also welcomes the adoption of the Employment Relations Act, 2000, which provides protection against discrimination in employment on the same grounds as the Human Rights Act, 1993.

400. The Committee appreciates the State party’s establishment of a paid parental leave scheme and the stated intention to improve it.

401. The Committee welcomes the establishment of an Equal Opportunities Commissioner in the Human Rights Commission as well as the gender mainstreaming efforts in that Commission.

402. The Committee welcomes the State party’s recognition of the various needs of its ageing population, the majority being women, and the development of policies to address these needs.

403. The Committee welcomes the State party’s ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women in September 2000.

404. The Committee welcomes the State party’s policy of strengthening the promotion and protection of women’s human rights and of integrating a gender dimension into development cooperation programmes, particularly in the Pacific region.

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

405. The Committee notes with concern that the Convention on the Elimination of All Forms of Discrimination against Women has not acquired a specific statute to achieve domestic implementation.

**406. The Committee recommends that the State party take appropriate measures to incorporate all the provisions of the Convention into domestic law.**

407. While appreciating the fact that women are in some of the highest decision-making positions and the progress made as regards women's increased political representation, the Committee notes with concern the declining number of women in Parliament and in local government it also notes with concern that not all political parties see this issue as also their responsibility. The Committee further notes with concern that women are underrepresented in public life, inter alia, with respect to chief executives in the public sector, on Crown Company Boards, and that the State party does not pursue an overall policy of target setting in its Ministries. The Committee is further concerned about inequality, which persists within the private sector, in which action on equal opportunities is taken up only reluctantly.

**408. The Committee urges the State party to bring to the attention of all political parties their responsibility to achieve equality between women and men in political life, in accordance with the Committee's general recommendation 23. It also recommends that the State party adopt a comprehensive strategy including temporary special measures, in accordance with article 4, paragraph 1, of the Convention, to strengthen its efforts to increase the number of women in policy- and decision-making positions at all levels and in all areas in the public sector, and to strengthen its policies in supporting the private sector's efforts towards the promotion of women in decision-making positions.**

409. The Committee is concerned about difficulties women are facing at the university level, as reflected in the fact that men are more likely than women to complete postgraduate programmes, and in the decline in the number of women among university teachers in higher posts. The Committee is also concerned about the potential unfavourable impact on women of the existing Student Loan Scheme.

**410. The Committee recommends that the State party promote the adoption of policies within universities aimed at creating a more favourable climate for women in order to achieve equality. The Committee also recommends that the State party review the Student Loan Scheme so that it does not result in additional difficulties for women.**

411. While acknowledging the efforts undertaken by the State party to address discrimination faced by women in the labour market, the Committee is concerned that women remain disadvantaged in the labour market, that prerequisites and criteria qualify for paid parental leave may add to women's difficulties in entering the labour market and that the level of benefits does not provide an incentive for men to take up parental leave. The Committee is concerned about the persistence of a gender pay gap, occupational segregation, the high number of women in part-time work and in temporary jobs, affecting their eligibility for paid maternity leave, and the low wages paid to women. The Committee is also concerned about the difficulties women face in reconciling their personal and family lives with their professional and public responsibilities.

**412. The Committee recommends that the State party ensure equal opportunities for women and men in the public and private sectors, including through the use of temporary special measures in accordance with article 4, paragraph 1, of the Convention. It also recommends that the State party design and implement targeted job-training programmes for different groups of unemployed women. The Committee further recommends that efforts be made to eliminate occupational segregation, through education and training, the application of the principle of equal pay for work of equal and comparable value, and the promotion of additional wage increases in female-dominated sectors of employment. The Committee recommends that the State party consider further amending the Parental Leave and Employment (Paid Parental Leave) Amendment Act with a view to ensuring that pregnancy under no circumstances creates an obstacle for women entering the labour market, and to removing the specific time limit which is required to qualify for paid parental leave, and to increasing the benefits level so that men are encouraged to take parental leave.**

413. Noting that recent legislation decriminalizes prostitution by repealing some of the offences associated with prostitution and soliciting, the Committee is concerned that prostitutes continue to face risks of exploitation and violence.

**414. The Committee recommends that the State party begin immediately to monitor the implementation of this law and to provide, in its next report, an assessment of the intended as well as unintended effects of the law, in particular for those women without residence permits who are engaged in prostitution, including statistical information. The Committee also urges the State party to increase its efforts to provide training and education to prostitutes in order to ensure that they can acquire alternative means of earning their livelihood.**

415. The Committee expresses concern at the prevalence of gender-based violence, including rape and sexual and domestic violence within the family. It is also concerned at the lack of systematic data collection on violence against women, including domestic violence and sexual harassment in the workplace.

**416. The Committee recommends that the State party devise a structure for systematic collection of data on all such forms of violence against women. In the light of its general recommendation 19, the Committee calls upon the State party to ensure that all violence against women is prosecuted and punished and to provide information in its next report on the number of cases of violence reported to the police and other relevant authorities, and on the number of convictions. It further recommends that the number of shelters for women victims of violence be increased and that public officials, especially law enforcement officials, the judiciary, health-care providers and social workers, are fully sensitized to all forms of violence against women. The Committee calls upon the State party to create public awareness of violence against women as an infringement of women's human rights that has grave social costs for the whole community.**

417. The Committee is concerned that women who complain about sex discrimination, including sexual harassment, in the workplace run a serious risk of being dismissed.

**418. The Committee recommends that the State party take measures to ensure that women who file complaints against sexual harassment have a legal right to remain in their job.**

419. The Committee notes with concern that women face difficulties in accessing legal services, inter alia, because of the high fee for civil court proceedings.

**420. The Committee urges the State party to take measures to lower the threshold for women to access legal services, inter alia, through the implementation of an adequate legal aid scheme.**

421. While applauding the State party's progressive disability strategy, the Committee is concerned that discrimination against women with disabilities still exists, particularly in the areas of loans, employment and childcare, and about the situations of economic hardship they may encounter. The Committee is also concerned about the lack of economic independence of married women with disabilities.

**422. The Committee recommends that the State party take appropriate measures to ensure that disabled women do not suffer from discrimination, in particular in the areas of employment and access to health care and loans. It also recommends that the State party pay attention to the situation of disabled married women with a view to ensuring their economic independence.**

423. While recognizing the State party's efforts to address the needs of Maori and Pacific women and girls through the "Reducing Inequalities" programme, the Committee is concerned that the situation of Maori and Pacific women and girls remains unsatisfactory in many areas, particularly with regard to employment, political participation, decision-making positions in the public and private sector, the judiciary and tertiary education and economic independence. The Committee is also concerned about Maori and Pacific women and girls. unfavourable health situation, including their limited access to health care and their high mortality rate as well as the high incidence of domestic violence and of arranged marriages. The Committee is also concerned that the Human Rights Act, 1993, does not explicitly cover non-discrimination on the basis of language and the cultural field, which are of particular relevance to Maori and Pacific women.

**424. The Committee urges the State party to continue to implement the "Treaty of Waitangi" and to monitor the impact of measures taken through the "Reducing Inequalities" programme on Maori and Pacific women and girls, in particular in the social, economic and political areas and in criminal justice. It also recommends that the State party implement targeted measures to respond to the needs of Maori and Pacific women and girls, and to continue to invest in Maori and Pacific women and girls, taking into account their linguistic and cultural interests.**

425. Taking note of the efforts made by the State party to combat discrimination against refugee and migrant women in New Zealand, the Committee expresses concern at the continuing discrimination suffered by immigrant, refugee and minority women and girls, based on their ethnic background, particularly with respect to education, health, employment, violence against women, and in regard to permanent residence status.

**426. The Committee urges the State party to take effective measures to eliminate discrimination against refugee, migrant and minority women and girls, and to strengthen its efforts to combat xenophobia and racism in New Zealand. It also encourages the State party to be more proactive in its measures to prevent discrimination against these women and girls within their communities and in society at large, to combat violence against them and to**

increase their awareness of the availability of social services and legal remedies, and to provide for their needs with respect to education, employment and health care. It also recommends that the State party provide in its next report more specific and analytical information and disaggregated data on these issues.

427. The Committee urges the State party to communicate with the Government of the Cook Islands concerning the obligation of States parties under article 18 of the Convention on the submission of initial and periodic reports on the implementation of the Convention.

428. The Committee urges the State party to expedite the steps necessary for the withdrawal of its remaining reservation to the Convention.

429. The Committee requests the State party to respond to the concerns expressed in the present concluding comments in its next report under article 18 of the Convention, due in 2006.

430. Taking account of the gender dimensions of declarations, programmes and platforms for action adopted by relevant United Nations conferences, summits and special sessions (such as the special session of the General Assembly to review and appraise the implementation of the Programme of Action of the International Conference on Population and Development (the twenty-first special session), the special session of the General Assembly on children (the twenty-seventh special session), the World Conference on Racism, Racial Discrimination, Xenophobia and Related Intolerance and the Second World Assembly on Ageing), the Committee requests the State party to include information on the implementation of aspects of these documents relating to relevant articles of the Convention in its next periodic report.

431. The Committee requests the wide dissemination in New Zealand and its territories of the present concluding comments in order to make the people of New Zealand and its territories, and particularly government administrators and politicians, aware of the steps that have been taken to ensure de jure and de facto equality for women and the future steps required in that regard. It also requests the State party to continue to disseminate widely, in particular to women's and human rights organisations, the Convention and its Optional Protocol, the Committee's general recommendations and the Beijing Declaration and Platform for Action, as well as the results of the twenty-third special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century".