



**National Council of
Women of New Zealand**

Te Kaunihera
Wahine O Aotearoa

National Office
Level 4 Central House
26 Brandon Street
PO Box 25-498
Wellington 6146
(04)473 76 23
office@ncwnz.org.nz
www.ncwnz.org.nz

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Submission to the Ministry of Justice on the Economic, social and cultural rights in New Zealand – draft report

The National Council of Women of New Zealand, Te Kaunihera Wahine O Aotearoa (NCWNZ) is an umbrella group representing 283 organisations affiliated at either national level or to one of our 21 branches. In addition, about 260 women are individual members of branches. Collectively our reach is over 290,000 with many of our membership organisations representing all genders. NCWNZ's vision is a gender equal New Zealand and research shows that New Zealand will be better off socially and economically if we were gender equal. Through research, discussion and action, NCWNZ in partnership with others, seeks to realise its vision of gender equality because it is a basic human right.

These comments on the draft report produced by the Ministry of Justice on 'Economic, social and cultural rights in New Zealand' has been prepared by the NCWNZ Public Issues Standing Committee and the Parliamentary Watch Committee. Given the short period of time to respond to this report, the comments are based on recent NCWNZ submissions and a key policy document produced by NCWNZ in 2015, Enabling Women's Potential: the social, ethical and economic imperative. There was insufficient time to consult with the membership on their responses to this draft report. However the submissions and other reports that have informed these comments are the product of consultation with NCWNZ membership.

NCWNZ provides comment on specific sections of this report, rather than the whole report. NCWNZ has chosen to focus is on two sections of the report:

II Issues of particular importance - paragraphs 79 - 95

Assessment of how measures to combat different types of violence for groups such as women and girls, persons with disabilities, children and transgender persons have been effective

III D. Article 3 – Equal rights of men and women - paragraphs 137-146

The Human Rights Team, Ministry of Justice has asked the following questions about each section of the draft report on the Implementation of the International Covenant on Economic, Social and Cultural Rights

Is this section of the report clear and accurate? Should any other information related to the specific issues raised by the Committee (see the text in bold at the start of the section) be included?

NCWNZ responses to these questions with respect to sections of the draft report are outlined below.

II Issues of particular importance – Combating Violence

The New Zealand Government has been asked to assess how measures to combat different types of violence for groups such as women and girls, persons with disabilities, children and transgender persons have been effective

This section of the report provides an overview of measures to address ongoing issues relating to violence against women and girls, persons with disabilities, children and transgender persons. It highlights legal and organizational measures directed at improving responses to gendered domestic violence and the ongoing need for action to protect vulnerable children. Failures in the past to protect girls, women and children from family violence are recognised. It indicates a lack of detailed information on the incidence of violence directed at people with disabilities and transgender persons. Overall the review is clear and accurate.

NCWNZ considers that in paragraphs 79 – 85 more attention should be given to the following issues:

Prevalence of intimate partner violence and sexual violence in New Zealand

New Zealand has the highest rate of intimate partner violence in the developed world and most of the victims of family violence are women and children.¹ There is a need to more explicitly acknowledge that the prevalence of intimate partner (domestic) violence and sexual violence against women in New Zealand is an ongoing violation of their human rights and an impediment to the achievement of gender equality. The threat of violence and the experience of violence has a major effect on the lives of many women in New Zealand, especially Māori women.²

Domestic violence against women – better resourcing is necessary for effective action

NCWNZ has commented positively in other documents on current attempts by the New Zealand Government to address levels of family violence (including sexual violence) and efforts to develop legislative frameworks that will provide better protection to victims and potential victims of family violence as well as better processes for responding to home-based/intimate partner violence when it occurs. However, it remains concerned about the allocation of resources to effectively respond to family violence.

NCWNZ has for some time argued that the implementation of the Domestic Violence Act 1995 has been inadequate, and identified the consequence of a lack of resourcing and absence of appropriate

¹ Ministry of Justice, 2015 Strengthening New Zealand's Response to Family Violence – a public discussion document. Wellington, pp.4-5.

https://consultations.justice.govt.nz/policy/family-violence-law/user_uploads/fv-consultation-discussion-document-v2.pdf

² NCWNZ, 2015 *Enabling Women's Potential: the social, ethical and economic imperative*. White Paper on Gender Equality. p. 7-8.

<https://www.ncwnz.org.nz/what-we-do/enabling-womens-potential-the-social-economic-and-ethical-imperative/>

training of the judiciary and police.³ While the Government does provide funding for NGO support services, these are under-resourced. Under-resourcing of government agencies, lack of appropriate training and under-resourcing of NGOs that are the necessary interface with the families/whānau and community organisations undermines the effectiveness of legislation and policy relating to violence against girls and women. It will have implications for effective action relating to violence against people with disabilities and transgender persons.

The New Zealand Government was asked about the effectiveness of measures, not just what measures had been put in place. NCWNZ has indicated in a number of submissions over the last 5 years that the effectiveness of legislation relating to interpersonal violence depends on adequate resourcing of a range of initiatives in this field and better training for the judiciary and the New Zealand Police.⁴

Protection orders - an example of ineffective use of legislated state protection

NCWNZ has provided several submissions to the New Zealand Government that highlight inadequacies in the way in which protection orders are implemented. In the past, the requirement that women self-report and take responsibility for initiating protection orders has been a barrier to orders being used to protect women and children because those who have experience intimate partner violence are often fearful of the consequences of reporting actual or threatened violence. NCWNZ has welcomed inclusion in the Family and Whānau Violence Legislation Bill currently before Parliament of provisions for NGOs to apply for protection orders on behalf of vulnerable victims. NCWNZ members are also concerned that breaches of protection orders often do not incur penalties. Police tend to warn perpetrators, rather than arresting and charging them when they breach these orders, as they are legally entitled to do.⁵ With respect to this aspect of domestic violence, NCWNZ seeks to highlight the importance not only of legislative frameworks, but also resources to support effective practice.

NCWNZ considers that in paragraphs 86 - 91 more attention should be given to the following:

Vulnerable children – actions to address the needs of vulnerable children

NCWNZ supports many of the provisions in the Children, Young Persons and Their Families legislation that is currently before Parliament. However, the draft report pays little attention to an aspect of this legislation that NCWNZ considers very important. It has submitted that the most effective way to improve outcomes for Māori children and young persons would be to work in partnership with whānau, hapū and iwi. This would involve increased consultation with whānau and elders and

³S15.23, NCWNZ, 2015 Submission to the Ministry of Justice on Strengthening New Zealand's Legislative Response to Family Violence. <https://www.ncwnz.org.nz/wp-content/uploads/2013/06/S15.23-Strengthening-NZ's-Legislative-Response-to-Family-Violence.pdf>

S15.11 NCWNZ 2015 Submission to the Human Rights Commission on the National Action Plan for all New Zealanders – Theme: 'A Just and Safe Aotearoa' <https://www.ncwnz.org.nz/wp-content/uploads/2013/06/S15.11-Violence-Against-Women-A-Just-and-Safe-Aotearoa.pdf>

⁴ S16.21 NCWNZ Submission to CEDAW on the Draft Update of General Recommendation No. 19: Accelerating efforts on gender-based violence against women, September 2016. <https://www.ncwnz.org.nz/wp-content/uploads/2013/06/S16.21-Draft-Update-of-General-Recommendation-No-19.pdf>

⁵ Ibid.

appropriate sensitivity to cultural traditions and customs. NCWNZ is concerned that the principles of the Treaty of Waitangi should be translated into action and be the focus for monitoring the outcomes of action by the Ministry for Vulnerable Children, Oranga Tamariki. There is little attention to these principles and their implementation in this draft report nor any detail of planned action in response to the over-representation of Māori children and young people in need of care and protection.

NCWNZ is also concerned about the extent to which there will be adequate resourcing of initiatives associated with the proposed changes in principles, law and practice relating to children in need of care and protection. Funding increases are essential if new legislation is to make a difference to the lives of children and young persons who are currently, and in the future, most in need of action that ensures the rights to well-being identified in the UN Convention on the Rights to the Child. This funding is not only required for government services, but to support collaboration with groups in specific communities that is necessary to effect change.⁶

111. Implementation of the Covenant

Article 3 – Equal rights of men and women

The New Zealand Government was asked to indicate whether the implementation of the Gender Equality Declaration has helped to accelerate women's access to decision-making positions in the public and private sectors. It was also asked to provide an assessment of the remaining obstacles to the achievement of gender equality.

This section of the report provides an accurate overview of the extent to which women are represented in positions within the New Zealand public service, in local and central government, on state sector boards and in decision-making within the private sector. It identifies women's increasing leadership within the public service and improvements in their representation on state sector boards. It identifies women's increased representation in the New Zealand parliament since the introduction of mixed member proportional representation and it recognises the much lower levels of representation of women on private sector boards and as chief executives of private companies in New Zealand.

NCWNZ considers that in paragraphs 137 – 146 more attention should be given to the following issues:

While women's parliamentary representation improved after the introduction of mixed member proportional representation in 1996, it has been static for a number of years at about one third of all those in Parliament. NCWNZ considers that all political parties need to work harder to ensure that women are more equally represented in parliament, in leadership of parties and in Cabinet positions.⁷ At its conference in 2015, it passed a resolution calling on Parliament and all political

⁶ S17.02 NCWNZ Submission to the Social Services Committee on the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Bill, February 2017. <https://www.ncwnz.org.nz/wp-content/uploads/2016/12/S17.02-CYPF-Oranga-Tamariki-Legislation-Bill.pdf>

⁷ S15.10 NCWNZ Submission to the Justice and Electoral Select Committee on the Inquiry into the 2014 General Election, March 2015. <https://www.ncwnz.org.nz/wp-content/uploads/2013/06/S15.10-Inquiry-into-2014-General-Election.pdf>

parties to increase women’s representation in Parliament through changes to processes of candidate selection and the electoral system.

Women’s representation in local government has similarly plateaued at slightly less than one third of those serving as councillors and as mayors. While improvements have occurred in the last 25 years, it is important to recognise that women are still a minority of those involved in these important opportunities for decision-making.

NCWNZ considers that it is important to recognise the improvements in women’s representation among chief executives in the public service and also on the boards of state owned enterprises. It recognises efforts to ensure that able, well-qualified and experienced women are appointed to these positions.

There is appropriate recognition of gaps between women’s representation in decision-making positions in the public and private sector in New Zealand. More attention should have been paid to the fact that New Zealand has one of the lowest rates of women on public company boards in the western world. In 2016, only 17% of those on the boards of publicly listed companies were women. This compares with 24.5% in Australia.⁸ NCWNZ considers that the NZ Government could provide more resources for those working in the not for profit sector who provide workshops, mentoring and networking services for women in the private sector that can contribute to improvements in the appointment of women to the boards of private sector enterprises. Examples include initiatives such as Global Women and Women’s Empowerment Principles.

Remaining obstacles to gender equality – paragraph 146

The draft report acknowledges that obstacles remain to achieving gender equality. It suggests that these are best addressed by supporting women’s and girls education and training and using women’s skills in the economy. Encouraging and developing women leaders and ensuring that women and girls are free from violence are also identified as strategies for overcoming obstacles to gender equality. What is not recognised in this paragraph is that, despite improvements in women’s training and education, the median rate of pay per hour for their work is still less than the median rate for men in paid work. There has been no improvement in the gender pay gap in New Zealand since 2002.

NCWNZ considers that it is important for this report to recognise that recent research indicates that the inequalities in pay for women and men in New Zealand can no longer be primarily explained by women’s lower levels of training or qualifications. Approximately 80 percent of the gender pay gap is now attributed to ‘unexplained’ factors, which the Ministry for Women have defined as “behaviour, attitudes, and assumptions about women in work, including unconscious bias.”⁹ The 2015 Income Survey data shows that “at almost all educational attainment levels, females now outstrip their male

⁸ Ryan, Holly, Women on Boards: New Zealand lagging behind, New Zealand Herald, 11 January 2017.

http://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=11780512

⁹ Pacheco, Gail et al. for the Ministry for Women, 2017. Empirical evidence of the gender pay gap in New Zealand. Wellington. March 2017, p. 4.

http://women.govt.nz/sites/public_files/Empirical%20evidence%20of%20GPG%20in%20NZ%20-%20Mar2017_0.pdf

counterparts. For instance, the proportion of males with a Bachelor's qualification or higher increased from 14.3% in 1997 to 22.5% in 2015; and for females increased from 12.4% to 30.5%.”¹⁰

While encouraging women to pursue training and qualifications is important, the evidence suggests that there is systematic unfairness between women and men in the payment they receive for their work. As the report commissioned by the Ministry for Women indicates, “There is clear evidence pointing to a glass ceiling effect in New Zealand.”¹¹ This indicates that a wide range of strategies are needed to effectively address economic inequalities between women and men. Some of these strategies must be directed at those exercising “unconscious bias”.

A key obstacle to equality between women and men remains the lower monetary value given to the jobs in which women are concentrated and this cannot be remedied solely through improving the training and education of women or encouraging them to take on positions of responsibility and leadership. There is a need to address historic inequalities in pay.¹²

Recent recognition that the Equal Pay Act 1972 is relevant to pay equity claims and decisions by the New Zealand Government to address historic inequalities in the payments of predominantly women caregivers working in aged-care, home care and disability services could be included in this report as indicating the type of action necessary to effectively address contemporary economic gender inequalities.¹³

Rae Duff
National President

Rosemary Du Plessis and Judith Sutherland
Convenors, Public Issues Standing Committee

¹⁰ Ibid. p. 7.

¹¹ Ibid. p. 8.

¹² NCWENZ, 2015 *Enabling Women's Potential: the social, ethical and economic imperative*. White Paper on Gender Equality. pp. 14-15. <https://www.ncwnz.org.nz/what-we-do/enabling-womens-potential-the-social-economic-and-ethical-imperative/>

¹³ Davison, Isaac, Government announces historic pay equity deal for care workers, *New Zealand Herald*. 18 April 2017. http://www.nzherald.co.nz/-/nz/news/article.cfm?c_id=1&objectid=11840364