



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)

Participation by NHRIs

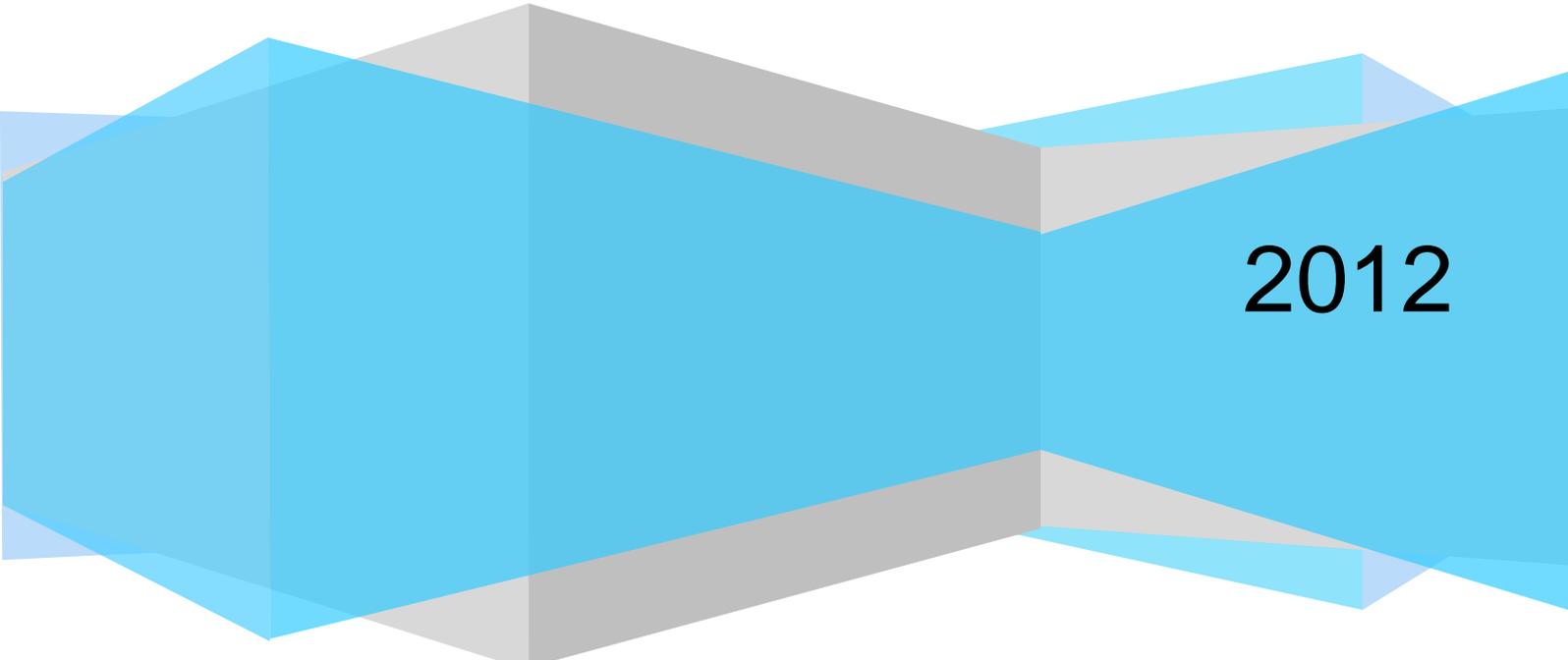
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1. Executive summary

2. The New Zealand Human Rights Commission (NZHRC) has in the reporting period taken seriously its role in monitoring the State Party's implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).
3. This paper outlines:
 - Introduction
 - A brief overview of the New Zealand environment
 - The key issues identified as continuing challenges to the implementation of CEDAW by New Zealand. These are:
 - Violence against women
 - Pay equality and pay equity
 - Women's representation and participation
 - Disabled women's status
 - Young women's unemployment and the effects of ethnicity
 - Legislative change that impacts on women
 - The adequacy of targets and benchmarks
 - Publication and promotion of CEDAW
 - The impacts of the Christchurch earthquake on women.
4. The Commission thanks the Committee for the opportunity to submit this NHRI report and to attend the 52nd session (9-27 July 2012) and participate in the consideration of New Zealand's report.
5. The following recommendations are made to the Committee by the Commission in relation to New Zealand's continued implementation of CEDAW by the State Party

Violence against women

- Develop a timetable for the implementation of recommendations from the Report of the Taskforce for Action on Sexual Violence,
- Improve the level of Government chief executive representation on the Taskforce for Action on Family Violence and ensure adequate resourcing of the Family Violence Unit,
- Commit to the publication of regular data collection disaggregated by gender, ethnicity and disability across all forms of violence against women and girls,
- Ensure that systematic data is collected to monitor the effectiveness of legislation, policy and practice relating to all forms of abuse, violence and harassment within schools, including the gendered aspects of cyber-bullying.

Pay equality and pay equity

- Establish specific measures and indicators relating to the implementation of equal pay and pay equity
- Identify a time frame to develop a pay parity mechanism and redress pay inequality for female care workers in the aged care sector
- Review the accountabilities of public service chief executives to be good employers and a requirement that they address the issues identified in their pay and employment equity response plans.

Women's representation and participation

- Take seriously the implementation of Articles 2, 3 and 7 of CEDAW and Articles 2, 3, 25 and 26 of ICCPR, with the Ministry of Women's Affairs re-setting urgently indicators for women's representation that expressly acknowledge gender equality.

Disabled women's status

- Review Statistics New Zealand's collection and publication of disability disaggregated data in major statistical information, such as the Household Labour Force Statistics.

Legislative change that impacts on women

- Ensure all welfare reforms adhere to international treaty obligations, that they are not regressive and that there is an independent evaluation of their gendered impact.
- Extend paid parental leave to all women with continuous workforce attachment regardless of multiple employment relationships

The adequacy of targets and benchmarks

- Review urgently the measurable targets set for advancing gender equality by the Ministry of Women's Affairs to adequately reflect gender equality articles in major international treaties, and specifically CEDAW, that the State Party has ratified.

Publication and promotion of CEDAW

- Resource a pro-active social marketing campaign in schools and tertiary education institutions to promote and disseminate CEDAW, and establish a Human Rights Select Committee to strengthen Parliamentary oversight.

The impacts of the Christchurch earthquake on women

- Ensure gender mainstreaming in the development of government policies and interventions relating to the Canterbury earthquake recovery process, and that monitoring and evaluation of policies and practices includes gender disaggregation and analysis of gender impacts.

6. Introduction

7. 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.”
8. 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.
9. 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.
10. 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.*
11. The Commission has increased its own activities relating to the promotion and protection of women’s rights in the reporting period. These include:
 - Conducting a national inquiry into the equal employment opportunities of approximately 40,000 low paid and marginal workers (overwhelmingly women) in the aged care sector. In 2012 the Commission published its report relating to pay equality, training, migrant worker protection and other issues. *Caring counts: Tautiaki tika* www.neon.org.nz
 - Preparing a second National Action Plan for Human Rights following the 2010 comprehensive baseline review of the status of human rights in New Zealand¹ that specifically identifies the rights of women.
 - Publishing authoritative biennial census reports (2008, 2010 and 2012 in preparation) of women’s participation in governance, management,

¹New Zealand Human Rights Commission, *Human Rights in New Zealand 2010*, Nga Tika Tangata o Aotearoa, 2010

political, professional and public life that are recognised both domestically and internationally as monitoring and benchmarking tools.

- Developing 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.
- Monitoring and reporting 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.
- Exercising the Equal Employment Opportunities Commissioner's statutory mandate to advocate for equal employment opportunities including pay equity.
- Consistently reporting to the United Nations treaties bodies (The Universal Periodic Review, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights) on the status of gender equality and women's rights in New Zealand.

12. This work and the relationships the Commission has developed with business, the trade union movement, public agencies, academics and women's civil society organisations enable it to offer the Committee a constructive identification of the areas and issues where the Commission believes improvement is required to sustain the momentum of implementation of CEDAW.

13. **The New Zealand environment**

14. 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 has recently slightly declined from fifth place to sixth place, behind the Nordic countries, indicating the fragility of some of the gains made and the extent of the structural gender inequalities that remain.

15. 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 2011, New

Zealand was ranked fifth out of 187 countries, in the Human Development Index, after ranking tenth of 109 countries in 2009.

16. 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.
17. 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.
18. 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.
19. 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).
20. 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.
21. 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.²

22. 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. The effect of the Canterbury earthquakes on women's social and economic disadvantage requires more research.
23. The following list of issues provided by the New Zealand Human Rights Commission (the Commission) identifies the key challenges for New Zealand's continued implementation of the Convention.
24. **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**
25. Violence against women in New Zealand is pervasive and as Kofi Annan has noted, perhaps the most shameful human rights violation.³ The Commission advocates for a reduction in sexual and family violence through accurate, reliable, regular and time-indexed data collection, outcome target setting and fully resourcing of a national programme of action on violence against women. It also wants to see the 2009 Report of the Taskforce for Action on Sexual Violence recommendations implemented and the Family Violence Unit adequately resourced.
26. There are several issues of particular concern. The first concerns government agency leadership in the Taskforce for Action on Family Violence. A coalition of 11 organisations working on the prevention of violence towards women and children have written to the Prime Minister concerned at the lower level of representation within the Taskforce for Action on Family Violence, down from chief executives to low level officials, and the signals that sends to government agencies.⁴

² 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

³ Kofi Annan (1999\0, quoted in "Violence Against Women in Aotearoa New Zealand 2009", Herbert, R, Hill, A and Dickson S. Published online at <http://.roundtablevaw.org.nz/Integrated.pdf>

⁴ Auckland Coalition for the safety of Women and Children, 11 May 2012

27. The same coalition has written to the Commissioner of Police concerned about data collection following indications that family violence-related offences are no longer specifically identified in the official statistics for recorded offences. While the Police have indicated they are in fact improving information collection about family violence poor, variable and hard to locate data is part of the general problem relating to violence against women in New Zealand.⁵
28. In their annual release of crime statistics earlier this year police held back figures relating to family violence on the basis that work was underway to bring them into line with international best practice. However, figures obtained by the media under the Official Information Act, showed police investigated 86,722 cases of domestic violence, over 2000 more than in 2009. Of those, 40,024 were for actual offences and the rest were calculated as “non-offence” investigations. The police say statistics in this area are complex because there is no offence of “family violence”. Women’s Refuge expressed concern that police were attending more family violence callouts than ever but the number of actual offences recorded had dropped and asked how “low-level offending” is defined.
29. As well as the issue of reliable data that can properly inform authorities and women’s groups, there is also concern about the implementation of legislation, policy and practice. The New Zealand situation has been summarised as: *Despite a plethora of reports, a strong legislative framework, significant government funding and the efforts of many dedicated groups and individuals, real improvements in both the family violence and sexual violence in New Zealand remains elusive.*⁶
30. 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”.⁷
31. In late 2009, the Report of the Taskforce for Action on Sexual Violence⁸ was released by the Minister of Justice, Hon Simon Power with 71 recommendations. Key recommendations include:
 - Sustainable funding for specialist programmes on primary prevention of sexual violence

⁵ Ibid, 31 May 2012.

⁶ “Pulling it all together: Family violence and sexual violence in New Zealand”, Ruth Herbert (2010) Powerpoint presentation supplied by author.

⁷ 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>

⁸ Report of the Taskforce for Action on Sexual Violence 2009. <http://www.justice.govt.nz/policy-and-consultation/taskforce-for-action-on-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
 - Enhancing of the rights of victims in the criminal justice system
 - Piloting a specialist court support role for victims of sexual violence
32. Lack of progress in implementation of the Task Force recommendations is now a critical issue that the Human Rights Commission has raised in the past three years with treaty bodies.
33. 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.⁹ The groups most at risk of sexual violence are young women, Māori women, women who have been victimised before and people with disabilities.¹⁰ 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.
34. 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.¹¹ 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).¹²
35. 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".¹³ This means that for every 1,000 incidents of sexual violence, only 100 are reported and only eight perpetrators are convicted.
36. Ongoing funding to specialist sexual violence agencies is not guaranteed, and some funding sources are contestable.¹⁴ The availability of culturally appropriate services and services for diverse population groups (including

⁹Restoring Soul (2009), Ministry of Women's Affairs. (Wellington New Zealand) p84

¹⁰V 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>

¹¹ Promoting Sexual and Reproductive Health for Persons with Disabilities 2009 WHO/UNFPA

¹² ibid

¹³Report of the Taskforce for Action on Sexual Violence 2009 Ministry of Justice (Wellington New Zealand)

¹⁴ Restoring Soul (2009) Ministry of Women's Affairs (Wellington New Zealand)

Māori, Pacific people, ethnic communities, including refugees, people with disabilities, men and young people) is uneven and has been identified as a gap in services.

37. 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.¹⁵
38. In 2006, 13,091 women and 5,549 children used refuge services.¹⁶ 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. Some refuges are not accessible to women with disabilities. Shakti Community Council, which provides support services for New Zealand migrant and refugee communities, has established ethnic women's refuges in Auckland, Christchurch and Tauranga.
39. 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."¹⁷ 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 access of programmes for offenders, and ensuring safety for both women and children with respect to the process of obtaining and enforcing protection orders".¹⁸
40. Gender differences are apparent in school bullying that include much higher levels of sexual violence against young women¹⁹ and the greater impact that cyber-bullying appears to have on the mental health status of girls.²⁰ In 2011 and 2012 respectively the Committee on the Rights of the Child and the Committee on Economic, Social and Cultural Rights recommended that New Zealand intensify its efforts to eliminate bullying and violence in schools. Both highlighted the need for systematic data collection that will enable the effectiveness of legislative and other responses to be monitored. The New

¹⁵ Family Violence Statistics Report 2009 Families Commission (Wellington New Zealand)

¹⁶ Family Violence Statistics Report 2009 Families Commission (Wellington New Zealand)

¹⁷ Submission of the Domestic Violence (Enhancing Safety) Bill by Rural Women New Zealand 2009

¹⁸ *ibid*

¹⁹ University of Auckland (2009) *Youth'07 The Health and Wellbeing of Secondary School Students in New Zealand: Young People and Violence*

²⁰ <http://www.netsafe.org.nz/challenging-risk-nz-high-school-students-activity-challenge-distress-and-resiliency-within-cyberspace/>

Zealand Law Commission is currently researching the adequacy of the current legal and regulatory environment relating to cyber-bullying, harassment and defamation in social media.²¹

41. **The Commission recommends to the Committee that it urges New Zealand to:**

- ***develop a timetable for the implementation of recommendations from the Report of the Taskforce for Action on Sexual Violence,***
- ***improve the level of Government chief executive representation on the Taskforce for Action on Family Violence and ensure adequate resourcing of the Family Violence unit,***
- ***commit to the publication of regular data collection disaggregated by gender, ethnicity and disability across all forms of violence against women and girls,***
- ***ensure that systematic data is collected to monitor the effectiveness of legislation, policy and practice relating to all forms of abuse, violence and harassment within schools, including the gendered aspects of cyber-bullying.***

42. **Pay equality and pay equity- Articles 2 and 3.**

43. The Commission has consistently raised pay equality and pay equity issues with international treaty bodies (UPR, ICCPR, ICESCR and CEDAW) over the past five years. Three current issues need scrutiny. These are:

- Pay equality for low paid female carers
- Pay equity implementation in the public sector
- Effective pay equality and pay equity legislation.

44. **Pay equality for low paid female carers**

45. The New Zealand Human Rights Commission (NZHRC) recently completed a major national inquiry into equal employment opportunities in the aged care workforce, *Caring Counts, Tautiaki tika*. www.neon.org.nz.²² Up to 20,000 women in New Zealand are working in aged care as homecare support workers or in residential facilities. They are receiving very low wages (often the minimum hourly rate of \$13.50 to \$14.50) which is between \$2 to \$5 less per hour than carers doing the same work in New Zealand's public hospitals.

46. The pay parity issue is a gross anomaly in that public funding is being used by District Health Boards to fund their own employees at a higher rate than is

²¹http://www.lawcom.govt.nz/project/review-regulatory-gaps-and-new-media?quicktabs_23=issues paper.

²²*Caring counts, Tautiaki tika*. New Zealand Human Rights Commission. 2012.

paid by community and private providers who are contracted by District Health Boards to provide the same service in residential facilities and in the homes of older people. In other words in one case the boards directly employ the women and in the other they funnel public money through contracts to other providers. While the Government has acknowledged the pay inequality it says it cannot afford to fix the problem in the current financial climate but will look at it when the country's financial accounts are again in surplus²³.

47. The NZHRC's inquiry report included financial modelling of the fiscal impact of pay parity at approximately \$140 million a year, less than 1 percent of the overall health budget. The Commission recommended that the Government directs District Health Boards to develop a mechanism to achieve pay parity and that is implemented within a stepped programme over the next three years.
48. The Commission reported that the funding model being used by the State Party is driving the employment model in the aged care sector and that pay equality needs to be seriously addressed in light of New Zealand's ratification of international treaties affirming gender equality and pay equality and pay equity. *The Guiding Principles on Business and Human Rights* adopted by the United Nations General Assembly last year indicate that state parties cannot "contract out" of equal pay, pay equity and equal employment opportunities. They state: "States should exercise adequate oversight in order to meet their international human rights obligations when they contract with, or legislate for, business enterprises to provide services that may impact upon the enjoyment of human rights."²⁴
49. **Pay equity implementation in the public sector- Article 11(1)(d)**
50. The gender pay gap narrowed to 9.6 percent with the ratio of female to male median hourly earnings in the June 2011 quarter. 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 percent at the same time.²⁵
51. However, 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

²³ *Government won't increase aged care pay*, 3 News, <http://www.3news.co.nz/defaultStrip.aspx?tabid=213&articleID=255740>. Accessed on 13/06/2012.

²⁴ *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, A/HRC/17/31.21 March 2011.

²⁵ Statistics New Zealand, New Zealand Income Survey, June 2011. Released on 6 October 2011.

departments had a gender pay gap more than the gap in the total labour force.

52. Twelve departments, some with significant numbers of staff, had gender pay gaps of more than 20 percent.²⁶ A number of departments reported the dollar amount of the gap. For example, a 23.2 percent pay gap at the Ministry of Economic Development amounted to an average dollar amount of \$19,636.51 difference in annual pay.²⁷
53. 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 percent. 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.
54. 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.
55. 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 percent 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.
56. The following table demonstrates the difference in median hourly rates by ethnicity in 2011.

²⁶Human Rights Commission, *New Zealand Census of Women's Participation 2010*, <http://www.neon.org.nz/census2010/>

²⁷Ibid

57. **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
Middle Eastern/Latin American/African (MELAA)	20.00	19.18
Other	22.00	17.34
TOTAL	21.58	19.50

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

59. The Ministry of Women's Affairs in its latest Statement of Intent has no specific indicators relating to closing the gender pay gap or implementing pay equity, a critical element in women's economic independence and in advancing gender equality.

60. **Effective pay equality and pay equity legislation**

61. No successful cases have ever been progressed under New Zealand's Equal Pay Act 1972 and there is no legislation in New Zealand that relates to pay equity and to work of equal value. The Equal Pay Act 1972 and the Human Rights Act 1993 provide for protection against sex discrimination but are widely regarded as ineffective in pay equity cases largely because no positive obligations are placed on employers in relation to equal pay and pay equity. The legislation also anticipates individual complainants rather than groups of women which limits attempts to reduce structural discrimination.

62. The NZHRC 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.²⁸ 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.

63. ***The Commission recommends that the Committee asks New Zealand to:***

- establish specific measures and indicators relating to the implementation of equal pay and pay equity***

²⁸Human Rights Commission, Pay Equality Bill, in *Tracking Equality at Work*, 2011 <http://www.neon.org.nz/trackingequalityatwork/>

- ***identify a time frame to develop a pay parity mechanism and redress pay inequality for female care workers in the aged care sector***
- ***review the accountabilities of public service chief executives to be good employers and a requirement that they address the issues identified in their pay and employment equity response plans.***

64. ***Women’s representation and participation-Article 7***

65. The Committee on the Elimination of Discrimination against Women in its Concluding comments in 2007 requested the State Party to take concrete action and establish goals and time frames to increase the number of women in decision-making positions at the local level, in civil service, political parties, district health boards, statutory bodies and the judiciary.
66. Other treaty bodies have also urged New Zealand to improve women’s representation. For example, in 2010, the ICCPR Committee expressed concern about the low representation of women in high-level and managerial positions and on boards of private enterprises and urged the State Party to seek ways to “*further encourage the participation of women in high-level and managerial positions and on boards of private enterprises through enhanced cooperation and dialogue with partners in the private sector.*”²⁹
67. Some cooperation has recently ensued with the Prime Minister and Minister of Women’s Affairs support for private sector and New Zealand Exchange initiatives. However, the Commission is concerned that soft target setting (of both goals and time frames) by the State Party is a symptom of regression and not progress around women’s representation.
68. The Commission has produced for the past ten years a biennial Census which shows that representation of women at governance level in government appointed statutory bodies has slipped slightly to 41.5 percent, down from 42 percent.³⁰ This follows New Zealand’s commitment at Beijing in 1995 by former Prime Minister Jenny Shipley of a target of 50 percent women’s representation by 2000. Because this was not achieved, the target for government appointments of women was then extended by the Government to 2010.
69. However, in 2012 the Government introduced a sliding, lower target which is of considerable concern to the Commission. The Ministry of Women’s Affairs Statement of Intent 2012-2015 states that the percentage of appointees to

²⁹ CCPR/C/NZL/CO/5

³⁰ New Zealand Census of Women’s Participation 2010 accessed from www.neon.org.nz

state sector boards who are women will increase from 41 percent to 45 percent by 2015.

70. The New Zealand Government committed to gender equality of 50/50 at Beijing more than 12 years ago, but is now targeting five percent less. The Commission would ask the Committee to comment on the soft and sliding target setting by the State Party, which breaches both the spirit and the intent of the “equal rights of men and women to the enjoyment of all civil and political rights” in the ICCPR.
71. Of equal concern is the target set by New Zealand for corporate sector representation of women in governance. The Ministry has set the following indicator, “the percentage of appointees to boards of the top 100 companies on the NZSX who are women will climb from 9 percent to at least 10 percent by 2015.”
72. Given that the Commission’s Census report has indicated at least a one percentage point gain every year for the past ten years to reach 9.32 percent in 2010 of women in the top 100 companies by market capitalisation, the 10 percent indicator is disappointing to say the least. It comes at a time when there is considerable civil society activity in mentoring, leadership development and sector accelerator programmes for women to address boardroom gender gaps³¹. The newest of these activities is one launched by the Prime Minister John Key called the 25 Percent Group which has a single-minded objective of 25 percent female participation on boards by 2015. It is comprised of 12 members who are chairs, directors and senior management of some of New Zealand’s leading companies and organisations.³²
73. It also comes at a time when the New Zealand Exchange is pro-actively and positively consulting with its listed entity members on whether to follow the Australian Stock Exchange’s example of requiring companies to disclose diversity policies in their annual financial reporting in a bid for transparency. At odds with these active programmes is the State Party’s newly established and lesser target that appears to have set a 90 percent men and 10 percent women aspiration for corporate sector governance.
74. Other areas of concern about women’s participation and representation are local government where women have yet to reach the Commonwealth target

³¹These include the EEO Trust’s cross mentoring programme, Global Women’s Women in Leadership Break Through programme, work by the Institute of Directors, the New Zealand Women in Leadership initiative within universities for academic women, the 13 corporate CEOs who has signed the UN Women’s Empowerment Principles and accelerator programmes in agribusiness and the electricity supply industry.

³²25 Percent Group Targets Board Diversity. <http://newsroom.co.nz/stories/25-percent-group-targets-board-diversity>.

of 30 percent representation (28.3 percent) and where there is slight slippage, the judiciary which remains static at around 26.3 percent women's representation despite the Committee's repeated urgings to the State Party, and national politics at 32 percent down from 33 percent previously³³. 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 percent of all public servants, only 17.6 percent are chief executives of public service departments and 37.8 percent of senior management is female³⁴. The figure for chief executives is expected to fall further with pending retirements.

75. ***The Commission urges the Committee to recommend that New Zealand takes seriously the implementation of Articles 2,3 and 7 of CEDAW and Articles 2, 3, 25 and 26 of ICCPR, and that the State Party urgently resets indicators for women's representation that expressly acknowledge gender equality.***

76. **Disabled women's status — all Articles**

77. 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 until then. This means that the figures of women aged 15 years and over who report having a disability at 18 percent of women (332,600) are likely to be conservative, particularly because of the confluence of disability and an increasingly ageing population. Even when data exists, it is seldom used in policy development, and disabled women's issues remain invisible.

78. 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.³⁵ Detachment from education and employment means that more disabled women experience poorer social and economic outcomes across their lives. Disabled women are particularly vulnerable in violence against women. A Ministry of Women's Affairs study, albeit with a low sample rate, found 33 percent of victims of sexual violence interviewed indicated they had a disability or impairment.³⁶ However, the

³³Ibid

³⁴Ibid

³⁵ 2006 Household Disability Survey.

³⁶ Kingi and Jordan, *Responding to sexual violence: Pathways to recovery*, Ministry of Women's Affairs, 2009.

research did not establish whether the disability was the result of sexual violence.

79. 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. ***The Commission believes that Statistics New Zealand could start investigating disability disaggregated data in major data sets such as the Household Labour Force Statistics.***
80. **Young women's unemployment and the effects of ethnicity — Article 11**
81. 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.³⁷
82. Young women and men have been disproportionately affected since the onset of the financial 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.³⁸ 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”.³⁹
83. 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.

³⁷ ILO: Equality at work: The continuing challenge report 2011, Executive summary, p.ix

³⁸ ILS: World of work report 2010, op.cit., p.2.

³⁹ ILO: Equality at Work: The continuing challenge report 2011, p.8

84. **Female unemployment under 25 years by ethnicity**⁴⁰

Under 25 yrs	
European	14.4%
Māori	27.7%
Pacific peoples	32.7%
Asian/MELAA/ Other	17.3%
Total	17.1%

85. 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.

86. Māori comprise almost 15 percent of New Zealand’s female population and Pacific women, 6.8 percent. But there is a gap in all almost all of the available indicators between European and Māori and Pacific women. Inequalities have not been eliminated or substantially reduced by programmes targeted at individual factors and many Maori Pacific women and girls and those from ethnic minorities suffer from multiple forms of discrimination. 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 percent compared to Māori women at 50.9 percent and Pacific women at 43 percent. 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 face longer term unemployment in the delayed labour market recovery, the outlook is particularly bleak and there is a risk of rising discouragement.

87. **Legislative change that impacts on women - Articles 11 and 16.**

Both law change and the absence of legislative progressive can impact negatively on women. The Commission is concerned about the gender effects of proposed changes to welfare policy and to collective bargaining and the decision not to extend paid parental leave.

Proposed welfare reforms

88. The Human Rights Commission has consistently raised concerns domestically and to treaty bodies (CESCR in 2012) that proposed welfare reforms are regressive and possibly discriminatory. The CECSR Committee urged that State Party to meet its obligations to ensure that welfare reforms,

⁴⁰Human Rights Commission, *Tracking Equality at Work*,2011,p.13
<http://www.neon.org.nz/trackingequalityatwork/>

including those aimed at reducing long- term welfare dependency, protect the right to social security and to an adequate standard of living in respect of disadvantaged and marginalised individuals and groups.

89. The Social Security (Youth Support and Word Focus) Amendment Bill due to be enacted by July 2012 includes a more stringent work test applied to women who have a subsequent child while receiving the domestic purposes benefit. The Commission considers this to be a coercive measure undermining parents' right to freely decide on the number and spacing of their children as required under article 16(e) of the CEDAW. Nor can it be justified as in the best interests of the child.
90. As the Government's Cabinet papers noted, Youth Parent Provisions aimed at young sole parents will predominantly affect women, and more specifically, Māori women⁴¹. These provisions are therefore *prima facie* indirect discrimination on the basis of sex and race. The Commission has questioned how the proposed changes will ensure adequacy of core benefit levels and reduce the high incidence of child poverty amongst beneficiary families.⁴²
91. The Commission highlights the importance of independent evaluation in order to monitor the impact of welfare reforms. This will require ensuring government agencies' administrative data can be disaggregated sufficiently to measure the impact of welfare reforms on groups vulnerable to systemic disadvantage, including Māori and disabled women.
92. ***The Commission recommends that the Committee urges New Zealand to ensure all welfare reforms adhere to international treaty obligations, that they are not regressive and that there is an independent evaluation of their gendered impact.***

Paid parental leave (PPL)

93. The Commission has consistently urged the New Zealand Government to extend its paid parental leave provisions to those women in New Zealand who are seasonal or contract workers such as carers, cleaners and agricultural workers whose workforce attachment is continuous even if they are covered by multiple employment arrangements during the year. Given that PPL has been progressively extended to teachers and to self employed women over the past decade which the Commission welcomes, it is a glaring anomaly that

⁴¹ Cabinet Paper, Policy Decisions on the Youth Package, para 69.

⁴² A Youth Payment (YP) and Youth Parent Payment (YPP) will replace current benefits available for these groups. Higher benefit abatement rates mean new beneficiaries will retain less part-time earnings and lose eligibility for any benefit at a lower income threshold. Sixteen to 18 year olds on the YPP will be required to be in full-time education, training or work-based learning once their child is 1 year old, or is 6 months old if they are attending a school Teen Parent Unit. Otherwise sanctions will apply, with a maximum penalty amounting to losing half of the benefit payment.

lower paid groups of contract and seasonal workers are not covered by paid parental leave provisions simply because they may have more than one employer during a year. Their exclusion from paid parental leave is arbitrary and their denial of the paid parental leave benefits prejudices both women and their families, simply as a consequence of the nature of their employment relationships. This comes at a time when casualised employment relationships are increasing, so the pool of potential women excluded from PPL is likely to also rise. Given that many female contract workers are also low paid, their exclusion from social benefits, constitutes a “double whammy” effect.

94. ***The Commission recommends that the Committee urges New Zealand to extend paid parental leave to all women with continuous workforce attachment regardless of multiple employment relationships.***

Proposed changes to collective bargaining

95. New Zealand women are more likely than men to be unionised (59.84 percent in 2010) so legislative changes that weaken employment and union rights have greater impact on women. The Commission has expressed concern about changes to probationary periods of employment which reduce worker’s right of redress, the changes to personal grievances and greater restrictions on union access.
96. Proposed legislative changes have been identified by CTU’s Women’s Council as having the potential to dilute collective bargaining and to disproportionately effect women. These include:
- The removal of the obligation of unions and employers to conclude collective agreements
 - Provisions allowing employers to “opt out” and to refuse to negotiate multi-employer or industry collective agreements
 - Allowing employers to employ new workers on lower individual terms even when a union-negotiated collective agreement exists.
97. The proposed legislative changes will impact on the female workforce and pose challenges to the internationally recognised right of women to be part of a union.
98. **Adequacy of targets and benchmarks — see par 21 of Committee’s Concluding Comments 39th Session 2007**
99. 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. 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.

100. 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 that are meaningful and "stretch" the State Party's commitment.
101. The Ministry of Women's Affairs in its latest Statement of Intent 2012-2015⁴³ has set what it describes as measurable "indicators" in its three priority areas of greater economic independence, women in leadership and violence against women. Under greater economic independence the indicator is listed as "the percentage in the lowest two income quintiles who are women will reduce from 59 percent." No actor is identified as accountable for this "low bar" indicator. Presumably any slight improvement, say to 58 percent means that this indicator will have been met. Similar comments apply to the Ministry's very low indicators for women's representation (see earlier at par 69) and for violence against women.
102. A higher level of State Party leadership and 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". If such soft targets and indicators are set for women's progress, they become meaningless and undermine the concept of progressive realisation in any real sense. Soft target setting is even more problematic when there is no longer any form of national machinery such as an Action Plan for New Zealand Women that can help to drive gender equality and helps bind business, civil society and individual women into a programme of further action.
103. ***The Commission urges the Committee to recommend to New Zealand that the measurable targets set for advancing gender equality by the Ministry of Women's Affairs are urgently reviewed to adequately reflect gender equality articles in major international treaties, and specifically CEDAW, that the State Party has ratified.***

⁴³ Ministry of Women's Affairs, Statement of Intent 2012-2015.

104. **Publication and promotion of CEDAW**

105. In its Concluding comments on the Committee on the Elimination of Discrimination against Women on New Zealand's last periodic report a recommendation was made to the State Party relating to the "wide dissemination" of the comments to ensure government officials, politicians and parliamentarians, and women's and human rights organisations were aware of the steps taken, and what still needed to happen, to ensure equality of women. The Commission believes that CEDAW, the Optional Protocol and other international treaty bodies directly relevant to gender equality have a low visibility and profile within New Zealand and risk being of decreasing influence to younger New Zealand women who are less likely to be engaged formally in women's NGOs. The mere availability of CEDAW on websites, if someone knows where to look, can no longer be considered active promotion.

106. In addition there is no formal mechanism that currently allows treaty body reporting or concluding comments from the CEDAW committee to be reported back to the New Zealand Parliament and debated. Nor is there a specific Human Rights Select Committee that enhances systematic Parliamentary oversight and strengthens accountability on human rights matters, including gender equality. The Justice and Electoral Committee currently deals with human rights but given their wide scope it is clear that human rights considerations are not confined to justice and electoral matters. The functions of select committees include considering and reporting to the House on bills, petitions, financial reviews, estimates, supplementary estimates, international treaty examinations and other matters.

107. ***The Commission urges the Committee to recommend to New Zealand a pro-active social marketing campaign in schools and tertiary education institutions to promote and disseminate CEDAW, and to establish a Human Rights Select Committee to strengthen Parliamentary oversight.***

108. **The impacts of the Christchurch earthquake on women- across Articles.**

109. Women have been at the front line of many of the negative impacts of the devastating Canterbury earthquakes in the largest region of the South Island (population approx 500,000). For example:

- studies show that women have reported higher degrees of stress, depression and anxiety than men as a consequence of the earthquakes and the continuing after shocks ;
- women are the mainstay of families suffering displacement through housing and property loss, and now from substandard heating in winter;

- women make up the majority of carers for elderly people who make up 15 percent of the population in Christchurch, the New Zealand city with the most number of elderly;
 - women lost the most jobs and face increasing casualisation of part time work making their ongoing employment more precarious.
110. Labour market analysis has shown that women's employment has been seriously affected from the Canterbury earthquakes (MOWA, 2011). In the year to September 2011, employment in Canterbury has decreased by 8 percent (26,800) compared with an increase of 2.8 percent in employment across the rest of New Zealand. Women accounted for 70 percent of the decrease in employment in Canterbury with the number of women decreasing by 19,200, in the year to September 2011.
111. Construction jobs in Canterbury, predominantly male, have been increasing while the retail trade and accommodation sectors, predominately women's jobs, have suffered major losses. In the construction industry for the year to September 2011, an additional 4,500 jobs have been created and women accounted for 8.9 percent of this increase. Women in the retail and accommodation industries have been most affected by job losses and account for a decrease of 12,600 jobs.
112. The CTU Women's Council has expressed concern that the efforts in relation to increasing the employment of women in Canterbury will be limited to a focus on getting young women into male-dominated trades. While it supports initiatives that will provide more jobs and opportunities for young women to enter male-dominated trades, tackling occupational segregation has traditionally proved to be painfully slow in New Zealand. Support and funding must not be limited to this area. Mature women workers who have lost jobs work due to earthquake impacts must also be a focus of Government's active labour market interventions in Canterbury.
113. The Commission is monitoring the human rights impacts of the Canterbury earthquake recovery process.
114. ***The Commission requests the Committee to recommend to New Zealand that gender mainstreaming is essential in the development of government policies and interventions relating to the Canterbury earthquake recovery process, and that monitoring and evaluation of policies and practices includes gender disaggregation and analysis of gender impacts.***