

# **Follow-up information on New Zealand's progress in addressing four recommendations from the Committee on the Elimination of all forms of Discrimination against Women.**

## **Foreword**

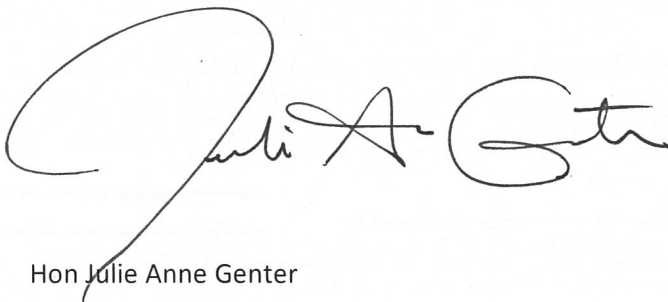
It is my pleasure to provide, on behalf of the New Zealand Government, follow-up information as requested in July 2018 by the Committee on the Elimination of Discrimination against Women (the Committee).

New Zealand is justifiably proud of its history of supporting the rights of women. Women have, and continue to play, an important role in the political, social and economic fabric of New Zealand. At the same time I am conscious that challenges for New Zealand women remain. New Zealand is committed to addressing these challenges to ensure all women have the opportunities they deserve to use their talents to benefit themselves, their families and the country.

In July 2018 my colleague Jan Logie was privileged to present to the Committee New Zealand's eighth periodic report on its implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

The UN Secretary General's recent policy brief on the impact of the COVID-19 pandemic on women and girls, showed that across every sphere, from health to the economy, security to social protection, the effects are worse for women and girls. With this in mind, ensuring that we continue on the path of progress towards achieving gender equality is more important now than ever.

New Zealand maintains its strong commitment to CEDAW and as such welcomes the opportunity to report on the progress being made to implement four recommendations made by the Committee in its concluding observations on New Zealand's eighth periodic report.

A handwritten signature in black ink, reading 'Julie Anne Genter'. The signature is fluid and cursive, with the first name 'Julie' being the most prominent.

Hon Julie Anne Genter  
Minister for Women

## Introduction

In July 2018 the Committee released its concluding observations on New Zealand's eighth periodic report [CEDAW/C/NZL/CO/8]. Along with a number of positive observations, the Committee made some recommendations for further action.

It asked New Zealand to provide, within two years, follow-up written information on the steps undertaken to implement its four recommendations relating to the resourcing of the Human Rights Commission (HRC), and its jurisdiction in relation to migrant workers; a strategy to combat gender-based violence against women, including women with disabilities; decriminalisation of abortion; and access to justice in the Family Court system.

The information below discusses the measures taken to date to implement these recommendations. New Zealand will provide full responses to these and the other recommendations made by the Committee in its ninth periodic report in 2022.

Along with measuring progress for *all* New Zealand women, New Zealand is committed to ensuring progress for wāhine Māori is made visible. A newly designed CEDAW tool, which is available on the Ministry for Women's website (<https://women.govt.nz/cedaw>) reflects the Government's progress against all of New Zealand's recommendations, with a dedicated section on each recommendation, where applicable, for wāhine Māori. New Zealand is committed to continue reporting on progress for wāhine Māori in its ninth periodic report.

## National Human Rights Institution

Recommendation 20(a): The Committee reiterates its recommendation (see CEDAW/C/NZL/CO/7, para. 16 (c)) that the State party provide the New Zealand Human Rights Commission (NZHRC) with sufficient human, technical and financial resources to carry out its mandate to promote and protect women's rights.

The Human Rights Commission received an increase in funding in 2019/20 which was its first increase in funding in 12 years. The funding approved was nearly \$7 million over a four-year period. The funding for 2019/20 was \$11.1 million compared to \$9.4 million for 2018/19. This is an approximate increase of 18 %. Funding for 2020/21 is \$10.8 million. In addition, the Commission received \$3.2 million in 2019/20 for work to address hate speech, racism and discrimination.

The Commission intends to use the additional funds to carry out statutory functions more effectively and enhance internal capacity, capability and support for its Commissioners. The funding will also be used to respond to increased demand for mediation, Office of Human Rights Proceedings services, and more accessible digital engagement and inquiries.

Protecting and promoting women's rights is one of several key areas of work for the Commission. Focus areas include addressing poverty experienced by working women, equal pay including the ethnic pay gap, gender-based violence and sexual harassment.



Recommendation 20(b): It further recommends that the State party repeal Section 392 of the Immigration Act 2009 with a view to ensure that the New Zealand Human Rights Commission is mandated with the power to receive and process complaints from migrants, in line with the GANHRI recommendations of 2016

There are currently no plans to reform section 392 of the Immigration Act 2009. However, the Minister of Justice has indicated that the Human Rights Act will be reviewed in the near future. The Government has not made any decisions about the timing and scope of that review, but it is likely to include consideration of the jurisdiction of the Human Rights Commission.

## Marriage and Family Life

Recommendation 26(a): Adopt a comprehensive and cross-party strategy on combatting gender based violence against women in accordance with general recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19 and ensure its consistent implementation, including by strictly applying the Family and Whānau Violence Legislation Bill and by, inter alia, including measures that specifically protect women with disabilities that are confronting abusive care-givers;

## Comprehensive work on combatting gender-based violence in New Zealand

Women in New Zealand are significantly more likely than men to suffer physical, sexual and psychological violence at the hands of a partner. Recognising that family violence is a serious and pervasive issue in our country, New Zealand has made progress towards successfully creating a holistic, long lasting approach to eliminating family violence and sexual violence in New Zealand. This approach includes:

- the introduction of new laws and policies (including the Family Violence Act 2018, the Family Violence (Amendments) Act 2018, the Domestic Violence–Victims’ Protection Act 2018, the Sexual Violence Legislation Bill (awaiting its second reading) and New Zealand Police policy;
- the development of a national strategy for the prevention of family and sexual violence;
- increased funding for sexual violence and family violence services, including kaupapa Māori family violence services;
- improved collection and understanding of incidence data and;
- a commitment to a long-term programme of reform to build a stronger health and disability system with a specific focus on addressing issues for disabled people seeking to live free from violence.

### *Introducing new laws and policies*

The Family Violence Act 2018 (the FVA) and remaining provisions of the Family Violence (Amendments) Act 2018 took effect in July 2019. The purposes of the Acts are to recognise that family violence is unacceptable, stop and prevent family violence, and keep victims safe from family violence. The definition of family violence was expanded to include coercive and controlling behaviour and dowry abuse. The changes also recognise a carer can also be in a close personal relationship with the person they care for and removes legal barriers to information sharing between agencies to increase victims' safety. The new charge of attempted strangulation has seen Police lay an average of five charges per day, significantly higher than anticipated.

The Acts made changes to improve responses to family violence in criminal and family law. The FVA contains new provisions making protection and occupation orders more accessible for women who may be disabled by identifying disrupting the care of someone who needs it because of their age, disability, or health condition as a specific type of abuse.

The Domestic Violence–Victims' Protection Act 2018, which took effect in April 2019, creates a legislative requirement for workplaces to provide support specifically for victims of domestic violence. It requires workplaces to provide flexible working conditions and up to ten days paid leave for people affected by, and those caring for children affected by, family violence.

Several businesses and agencies of varying sizes have proactively established their own policies and provisions for their employees who encounter domestic violence issues. WorkSafe New Zealand also offers advice on managing risk in relation to family violence under the Health and Safety at Work Act 2015.

The Disability Rights Commissioner has had a specific focus on issues for disabled people seeking to live free from violence. She has communicated these with Ministers and an initial work plan has since been agreed between the Commissioner and the Joint Venture to advance work to address issues for this population.

### *A national strategy for the prevention of family and sexual violence*

A multi-agency Joint Venture (JV) team was established in 2019 to set a clear direction for the Government's commitment to eliminate family violence and sexual violence. The Board responsible for the work of the JV is made up of the Chief Executives of the following agencies: Oranga Tamariki (Children's Wellbeing), Health, Te Puni Kōkiri (Māori Development), Social Development, Education, Justice, Police, Accident Compensation Corporation, Corrections, and the Department of Prime Minister and Cabinet. A new 'Lead Minister' position was also established by Cabinet to oversee and co-ordinate this work. The JV cross-agency leadership group is committed to delivering meaningful system-wide change in response to family violence and sexual violence. It aims to bring focus to prevention of family and sexual violence, improve our Māori-Crown partnership to address this violence, and transform how Government operates in responding to this challenge.

The JV is responsible for developing a collective national strategy, designed in partnership with the family and sexual violence sector, diverse communities (e.g. persons with disabilities, rainbow community), Māori, and the wider public. Indicators will be developed as part of the national strategy to monitor Government's progress on eliminating family violence and sexual violence.

In 2020, the Ministry of Social Development (MSD) launched three five-year frameworks for the prevention of family violence across Aotearoa:

1. E Tū Whānau
2. Pasefika Proud
3. It's Not OK (Campaign for Action on Family Violence)

This means reaching new communities through E Tū Whānau and piloting new approaches such as Safe Man Safe Family, which focusses on how men are mobilised to experience positive and sustained behaviour change.

*Increased funding for sexual violence and family violence, including kaupapa Māori sexual violence services*

In 2019 the Government announced the largest single year of investment ever in the Government response to family violence and sexual violence. The \$320 million package (over four years) includes funding and support for:

- sexual violence crisis support services for adults, children and young people;
- enabling victims of sexual violence to give evidence in alternative ways to reduce the risk of experiencing further trauma;
- dedicated funding for a kaupapa Māori response to sexual violence;
- extending Integrated Safety Response (ISR) sites, covering over one million New Zealanders. ISR is a multi-agency intervention designed to ensure the immediate safety of victims and children, and to work with perpetrators to prevent further violence and;
- increased funding to address cost pressures in Sexual Harm Crisis Support Services.

This builds on previous years' funding of \$76 million (over four years) in 2018.

In 2020 the Government announced a further \$253.3 million package (over four years) of funding and support for:

- the Ministry of Social Development to ensure continued access to specialist family violence services, including:
  - Services supporting victims of family violence
  - Services to help perpetrators to stop inflicting family violence, and
  - Support for victims of elder abuse;
- a cross-agency initiative with Police, Justice and Health to ensure victims of non-fatal strangulation can access highly trained medical practitioners, trained to deal with the

trauma and for forensic services necessary to gather the robust evidence needed to prosecute offenders and;

- to support Police, communities and specialist family violence and sexual violence services to meet additional costs and demands in responding to Covid19.

Budget 2020 invests an additional \$183 million (over four years) to address known cost pressures in MSD-funded specialist family violence services for victims/survivors and perpetrators of family violence, including elder abuse. This investment aims to ensure continued access to specialist family violence services, and is made up of:

- \$142 million for services supporting victims/survivors of family violence;
- \$16 million for services for perpetrators of family violence and;
- \$25 million for older people impacted by family violence.

The additional funding will support current MSD-funded providers to start addressing current cost pressures and to retain, support and develop their valuable staff. This will result in safer working environments for staff and better outcomes for people affected by family violence.

#### *Improved collection and understanding of incidence data*

New Zealand is making improvements to the data collected around family and sexual violence. This will give us better insights into the prevalence of family and sexual violence, and the outcomes achieved through services.

New Zealand's family and sexual violence prevalence data comes from a national crime survey. Family violence was prioritised for in-depth exploration in the 2018 New Zealand Crime and Victims Survey, and so the survey provides the most comprehensive family and sexual violence prevalence data that New Zealand has seen. More than 8000 New Zealanders over 15 years of age were asked questions about crime they had experienced. Results included that:

- women (21%) were more likely than men (10%) to have experienced one or more incidents of partner violence in their lifetime; and
- women (34%) were more likely than men (12%) to have experienced one or more incidents of sexual violence in their lifetime.

The Family Violence Act 2018 also introduced measures to improve family violence data collection. The Act introduces a flag for family violence offences which will follow a case through the Court process and appear on offenders' criminal records. This will provide reliable information on the number and type of family violence offences going through the justice system.

In 2019 the Ministry of Justice published a new study that quantified the proportion of reported sexual violence victimisations that currently progress through the justice system to a conviction. This has identified a baseline that will enable differences to be tracked over time and for different

population groups. <https://www.justice.govt.nz/assets/Documents/Publications/sf79dq-Sexual-violence-victimisations-attribution-and-progression-report-v1.0.pdf>

The Office for Disabilities Issues has been advocating for collecting better data to understand how many disabled people are accessing sexual violence services and the impact of these services. There is a need for further work on this to highlight the importance of collecting data relating to disabled people's experiences of family violence and sexual violence and ensuring that the methods of data collection are accessible.

## Health

Recommendation 40(a): The Committee recalls its statement on sexual and reproductive health and rights, adopted at its fifty-seventh session, and recommends that the State party:

(a) Remove abortion from the Crimes Act 1961 and amend the Contraception, Sterilisation and Abortion Act 1977 in order for abortion to be fully decriminalized and incorporated into health services legislation;

### Implementation of Recommendation 40(a): Abortion

In 2020, New Zealand decriminalised abortion, with the exception of an offence for abortion providers who are not health practitioners.

The Abortion Legislation Act 2020 (the Act) came into force on 24 March 2020. The Act's purpose was to decriminalise abortion and to better align the regulation of abortion services with other health services. The Act also aimed to modernise the legal framework for abortion that was previously set out in the Crimes Act 1961 and the Contraception, Sterilisation, and Abortion Act 1977.

#### *Changes by the Abortion Legislation Act to the criminal aspects of abortion law*

The Act removed the offences for abortion from the Crimes Act and the Contraception, Sterilisation, and Abortion Act 1977 for health practitioners and women. The remaining Crimes Act offence is new and relates to people who are not health practitioners providing an abortion. The women to whom the abortion is provided are excluded from the offence.

#### *Changes by the Abortion Legislation Act to access to abortion services*

The Act has removed the previous provisions in the Contraception, Sterilisation, and Abortion Act 1977 that applied to access to abortion services, so that there is better alignment with how other health services are provided. This included removing the need for two specially certified consultants to certify that an abortion was lawful and met the grounds set out in the Crimes Act. Instead the Act provides that, for pregnancies up to 20 weeks' gestation, the decision to have an abortion is made by the woman in consultation with a qualified health practitioner.



There is a statutory test for abortion for pregnancies of more than 20 weeks' gestation. A qualified health practitioner may only provide abortion services if the health practitioner reasonably believes that the abortion is clinically appropriate in the circumstances. Whether the abortion is clinically appropriate in the circumstances is to be determined by consulting at least one other qualified health practitioner; and having regard to a range of factors, specifically all relevant legal, professional, and ethical standards to which the qualified health practitioner is subject; the woman's physical health, mental health, overall well-being; and the gestational age of the foetus.

The Act removes the requirement that abortions may only be performed in specifically licenced premises, enabling abortions to be provided in a wider range of settings. It also allows a wider range of registered health practitioners (eg midwives and nurse practitioners) to provide abortions (subject to scopes of practice, competency, and training). A woman may now self-refer to an abortion service provider.

The Act ensures that women know that counselling is available, if needed, both before and after an abortion. However, women cannot be required by abortion service providers to have counselling, prior to accessing abortion services.

The Act also has placed the monitoring and oversight of abortion services with the Ministry of Health, including the collection of data about abortion services, and the development of standards for the provision of services. The Minister of Health is required to take reasonable steps to ensure the availability of abortion, counselling, contraception and other reproductive health services in New Zealand.

## Marriage and Family Relations

48 (a) Establish a Royal Commission of Inquiry with independent mandate to engage in wide-ranging evaluation of the drawbacks and obstruction of justice and safety for women inherent in the Family Court system, and to recommend necessary legislative and structural changes necessary for making the Family Court safe and just for women and children, particularly in situations of domestic violence.

In 2014, major reforms were made to the family justice system. The reforms aimed to help people resolve parenting disputes without having to go to court. However, they have been widely criticised as restricting access to justice and not working for some people.

In 2018, the Minister of Justice appointed an Independent Panel (the Panel) to examine the 2014 reforms and provide recommendations for change. The Panel examined the reforms over the course of 10 months and undertook significant public consultation, holding more than 110 meetings and receiving more than 500 submissions. Those most intimately affected by the 2014 reforms – children and young people, parents, caregivers, guardians, grandparents and other whānau (extended family) members – were extensively surveyed. The Panel's engagement also included practitioners, providers, academics, government agencies, the judiciary, and community groups.



“Te Korowai Ture-ā Whānau: The final report of the Independent Panel examining the 2014 family justice reforms” was publicly released in June 2019. In it, the Panel made 69 wide-ranging recommendations on the law, policy and practices that currently govern care of children matters. These include suggested actions on:

- increasing children’s participation and better protecting their safety;
- improving recognition of Te Ao Māori (the Māori world view), responding better to diversity and proactively accommodating disability;
- establishing two new roles to increase the efficiency of the Family Court;
- fully funding and diversifying Family Dispute Resolution;
- introducing funded counselling outside of the court and making in-court counselling more flexible;
- allowing legal representation in all stages of Care of Children Act 2004 proceedings and;
- improving case management technology and enhancing data collection and evaluation

The Panel identified the additional barriers that women may face accessing the family justice system and noted that these can be more pronounced for Māori, immigrant, ethnic minority, rural and disabled women. The Panel recommended that care is needed to ensure people with low incomes have equal access to justice and are not discriminated against. For example, women have, on average, less income and wealth than men, and this inequality increases after separation. Increasing disparity between parties may mean that, for example one party is able to pay for a lawyer but the other is not.

Sexual violence and family violence are heavily gendered. The Panel expressed concern that knowledge of family violence in all its forms is still not widespread. The Panel heard that the family justice workforce lacks an understanding of the effects of trauma in the aftermath of violence, and its impact on how people engage in care of children disputes.

The Government welcomed the Panel’s report. It announced the first phase of an extensive, long-term programme of work to strengthen the family justice system with funding of \$62.086 million over four years in May 2020. This first phase includes:

- the Family Court (Supporting Families in Court) Legislation Act 2020, which when it comes into force on 1 July 2020 will reinstate legal representation in the early stages of Care of Children Act proceedings, with legal aid for eligible parties;
- establishment of the role of Family Justice Liaison Officer to help parents and whānau navigate the system, provide information on process and engage with family justice providers;
- development of quality, accessible information for children, parents and whānau; and
- increase of remuneration for lawyer for child to incentivise the recruitment and retention of skilled practitioners.

It is expected that a second Bill focused on strengthening the Family Court will follow later this year, which will:

- enhance children's participation in proceedings that affect them;
- ensure that children feel supported and informed as they move through the Family Court process;
- expand lawyers' duties in care of children proceedings; and
- reinforce expectations that people should be protected from family violence.

Together, these changes will help to ensure that families and whānau are well-supported with early legal advice and information, children's participation is enhanced, lawyers' duties are expanded in care of children proceedings, and that an understanding of the dynamics of family violence as set out in the purpose of the Family Violence Act, is explicitly applied in cases involving children at risk of or impacted by such violence. They also aim to reduce the level of delay in resolving issues in the Family Court, which has been exacerbated by the COVID-19 pandemic.