



Briefing paper from Shakti Community Council Inc (New Zealand)

STATUS OF IMMIGRANT WOMEN September 2011

In 2007 Shakti presented the following key concerns to the CEDAW Committee:

- Migrant and refugee women continue to face discrimination at various levels (including the justice system) on account of their inability to speak English.
- Oppression, violence and discrimination against migrant and refugee women traditionally endorsed through culture, religious beliefs and society continues to prevail, much of which is in violation of basic human rights and in violation of CEDAW Articles. Examples- dowry, forced marriages, under-age marriages, polygamy.
- Domestic violence statistics among migrant and refugee communities is increasing as more and more victims are standing up to abuse. However, existing resources allocated by the government for supporting such victims is not commensurate to the need.
- Modern-day slavery: Several migrant wives especially in rural areas are rendered vulnerable as they remain trapped on farms, face domestic violence, and are deprived of their income and access to support services. These women account for a good percentage of victims seeking legal status (under Immigration's domestic violence category) after their sponsorship is withdrawn.
- Direct government involvement (through projects based on religious and cultural framework) in migrant and refugee community development work is subtly undermining human rights and CEDAW Articles as such projects, by default, reinforce oppression on such community women and restrict their individual/collective development.
- Migrant and refugee women are significantly underrepresented in political and public life.
- Women's health continues to be at risk as a majority are not accessing services such as cervical smear and mammogram on account of poor awareness and inability to access these services.
- Young migrant and refugee women caught in conflicting eastern and western values are unable to cope with the pressure, resulting in them attempting suicide.
- Sex workers from the migrant and refugee community face high health risks as most of them work under cover in massage parlours and salons and do not want put their confidentiality at risk by self-disclosure.

The CEDAW committee responded to the key concerns by issuing the following recommendations to the State:

Data Collection

Extensive data collection was required to enhance the knowledge base about the actual situation of different groups of women and track trends. Such data could be used to formulate laws that would be necessary to achieve de facto equality between men and women.

Portrayal of minority women in a negative inferior manner in society and media

- That the State implement a national campaign on the importance of equality between women and men in a democratic society and to eliminate negative stereotypes associated with men's and women's traditional roles in the family and in society at large.
- State should encourage the media to project non-stereotypical and positive images of women.

Continued prevalence of violence against minority women, inadequate analysis on issues relating to violence against women and declining Protection Orders

- That State should consistently implement and enforce the Programme of Action on Violence within Families
- Revise its Domestic Violence Act of 1995 in order to protect all women victims of violence, including Asian, immigrant, migrant and refugee women.
- Ensure that all violence against women is effectively prosecuted and adequately punished
- Training be enhanced for the judiciary, public officials, law enforcement personnel and health-service providers in order to ensure that they can adequately respond to it.

Adequate data is collected on all forms of violence against women. State to conduct research on the prevalence, causes and consequences of violence to serve as the basis for comprehensive and targeted intervention.

Violence against women within families and illegal practices relating to marriage on the basis of culture and religion take place within immigrant communities may not be adequately addressed because of the dependency and isolation of the women concerned.

- That State undertake proactive outreach measures for the protection of women victims within immigrant communities
- Cooperate with non-governmental organizations providing services to these women.

Lack of information regarding the extent of trafficking in women and girls in New Zealand, exploitation of migrant women and girls in prostitution and the need for measures to provide protection and assistance for migrant women.

- That State provide, in its next report, comprehensive information and data on trafficking in women and girls, on the number of prosecutions and convictions and on measures taken to combat such activities, including with respect to migrant women and girls, and the impact of such measures.
- State to provide a comprehensive assessment of the Prostitution Reform Act of 2003, including statistical data and steps and measures taken in response to the findings.

Asian and other minority women are underrepresented at most levels of public and political life.

- That the State takes 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 boards and the judiciary.
- State to implement measures to increase the participation of minority women in political decision-making positions at all levels

Disadvantaged situation of minority women, and the discrimination faced by them in employment

- That the State to take all appropriate measures and the strengthening of equality mechanisms, to address women's disadvantaged situation in the labour market.
- Efforts be intensified to eliminate occupational segregation, both horizontal and vertical, and to narrow and close the wage gap between women and men.

Seasonal and temporary workers remain ineligible for paid parental leave and barriers to access to childcare and parental leave policies faced by minority women.

- That the State party amend eligibility criteria to ensure that seasonal and temporary workers are eligible for paid parental leave.
- The Committee further requests that the State party analyse and assess the barriers that minority women face in accessing childcare and parental leave, and implement measures to reduce these barriers and increase their access to such services.

Women of different ethnicities may not have equal levels of access to and utilization of health services like free cancer and breast screening. The Committee is also concerned

about the disparity in the life expectancies of women of European descent and women from other ethnic groups and the high rates of sexually transmitted diseases.

- That the State party improves the rates of access to health care and health-related services and information, especially for women who face cultural or language barriers in accessing health care.
- That the State strengthen its efforts to analyse and collect data on the levels of access to and utilization of health services by different groups of women and to put in place corrective measures as necessary.

Financial, administrative and cultural barriers ethnic women face in accessing legal aid and seeking redress in the courts and about the level of awareness among women of their rights and available remedies and services.

- That the State party analyses and removes impediments women may face in gaining access to justice.
- The Committee calls upon the State party to provide legal aid services to all women in need and to raise awareness about how to utilize available legal remedies against Discrimination.
- Implement gender-sensitivity training to ensure that members of the judiciary, lawyers and prosecutors are fully familiar with applicable legal provisions, sensitized to all forms of discrimination against women and trained to adequately respond to them.
- It also requests the State party to conduct research and analysis on the impact on women of the new property division provisions in the Property (Relationships) Act and to provide such information in its next report.
- The Committee has encouraged the Government of New Zealand to ratify the treaty to which it is not yet a party, namely, the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

While Shakti acknowledges the work the state has done at responding to some of the recommendations made to them by the committee, we would like to highlight the following concerns in this report.

Legal Affairs and Access to Justice

Currently the legal system is in violation of Article 1, Article 2 d & 2 f, Article 5, Article 15

There is a grave concern that access to fair and unbiased legal advice and support is not being delivered for Immigrant women.

The key areas of concern are:

- Access to an appropriate legal service
- Neglect by the government to recognise the unique problems immigrant women face in accessing and maintaining protection from the law; particularly regarding protection orders.
- Subtle intimidation by legal professionals and alienation in court
- Neglect by the government to provide culturally appropriate legal services and neglect to train and educate government officials and enforcement officers in cultural understanding

One of the most pressing concerns observed is that immigrant women are not freely gaining access to an appropriate legal service. Along with the barriers to justice that all women in New Zealand may come up against, immigrant women face specific barriers when trying to access an appropriate legal service. In a CEDAW workshop conducted by Shakti in 2009 women were questioned about their access to justice. When asked of the barriers they faced immigrant women noted these barriers to include financial, cultural, and linguistic and their residential status.

For many immigrant women, cost, is in issue when it comes to accessing legal services. Many women claimed the cost of lawyers prevents them from seeking justice when they are not eligible for legal aid. Non permanent residents who are not currently eligible for legal aid cannot even afford the cost of a protection order, one quoted that, "an application for a protection order is around \$2000 and well beyond [her] means". In some cases in New Zealand women have had to represent themselves due to not being able to afford a lawyer. While this is far from ideal it is not

even an option for most migrant women who do not have language skills adequate to represent themselves.

Furthermore, currently the New Zealand's legal system fails to recognise how cultural practices may pervert a women's access to justice in New Zealand. An example of this was given by a member of Shakti's Legal team around the issue of asset testing; "legal aid assistance is asset tested. In many Indian families, property is in both names (husband and wife) but this does not necessarily mean that the woman is able to access the assets. Assets are also very often in different countries (i.e. outside NZ) which makes it practically impossible for her to make use of it. The presence of assets, however, disqualifies her from being eligible for government benefits and legal aid (it then depends on the lawyer/law firm to work out a system of payment that is feasible for the client)."

This indicates the need for an overview re how a woman's needs are assessed in the current legal system. It is important that cultural aspects are taken into consideration. New Zealand has a responsibility to guarantee the rights and freedom of all its female citizens and under Article 1 of CEDAW they also have the responsibility to enact appropriate measures to ensure these rights, see Article 3. Currently the legal rights of some immigrant women to gain protection and justice under the law are not being upheld.

The current New Zealand justice system is also failing to support immigrant women in court. Shakti legal advisers are concerned that women are not adequately supported in the court room with regard to being supplied appropriate translators and support personnel. Currently women have to request to be allowed to bring a support person to the court and even then they may not be able to have them there. Current law allows an offender's lawyer to block the presence of a support person he may not feel appropriate. The woman is in a court room with her offender and often his family makes her feel intimidated, she may not have any family of her own present and has no support person. On top of this a significant amount of women have reported that court supplied translators do not translate their statement adequately yet the women are powerless to do anything.

Under the current system immigrant women are seriously disadvantaged. The lack of access to appropriate legal services means they are not being able to practice their basic legal rights and are being stripped of fundamental freedoms, this is a direct violation of Article 1 of the Convention. It also violates CEDAW's guarantee to "the right to security of person and the right to equal protection under the law".

There is grave concern about the levels of legal integrity of some practising lawyers and government law enforcement officials, including police and lawyers provided by legal aid. Shakti's legal team have reported incidents whereby women did not receive proper legal service because they were discriminated against or pressured by ethnic law officials including police and lawyers. They reported incidents where lawyers deliberately mistranslated their statements and where ethnic police would play down a victim's suffering. In a 2009 CEDAW workshop concerning immigrant women's access to justice, individual women reported being intimidated and 'frowned upon' by ethnic lawyers when they brought their cases to them and some expressed that they got more support from non-ethnic lawyers than from ethnic lawyers. This has been interpreted as a ploy by ethnic lawyers to protect their own culture. This practice is in direct violation of Article 2 d "that all public authorities shall act in conformity with Article 1" [which denounces] discrimination against women on the basis of sex which has an effect of impairing the freedom of women and not recognizing their legal rights. It is also in violation of Article 15 which states that women shall have equality with men before the law.

Shakti staff also reported a lack of cultural sensitivity in the legal system and this included judges, lawyers and even police. When questioned about their experiences, many immigrant women reported accessing legal help to be a difficult daunting process. Some said they had faced discrimination at the public office and reported having felt alienated by the environment of the court¹. Many women expressed they got more support from non law related services than from court or legal advisors and Shakti staff reported incidents where legal officials had showed a lack

¹ Leitner Centre for International Law and Justice. "It's not OK". New Zealand's Efforts To Eliminate Violence Against Women". Fordham Law School. New York. 2008. page 36

of empathy and cultural understanding. It is of great concern that immigrant women may feel reluctant to use the legal system because they feel discrimination. This form of discrimination is in violation of Articles 1, Articles 2 c and 2 f. It is important that the government takes measures to assure that the legal system is accessible to all women.

Recommendations: Shakti strongly suggests that changes need to be made and the system reviewed. Firstly they believe that legal aid should be much more accessible, that it should be free and legal aid advisers should be adequately trained in the area of cultural sensitivity and understanding. They insist that all lawyers (including legal aid lawyers), police and judges have adequate training on domestic violence and cultural sensitivity and the dynamics that are present and that judges become more aware of cultural practices and prejudices that may be perverting justice in their courtroom. Shakti believes it should be mandatory for all women to have access to a support person (whether they choose to have one or not is their decision). They believe that there monitoring of translation of women's statements is needed - it was suggested an interpreter known to the victim could be present otherwise a written victim impact statement is to be presented to the judge along with the verbal testimony. The government needs to openly discourage lawyers (especially ethnic lawyers) practising cultural intimidation and express a very firm line against government law enforcers (including appropriate punishment) to any law enforcer who practises cultural intimidation. They also believe there needs to be a more cohesive approach between government and immigrant groups and more cross-cultural and language-friendly communication resources eg visual information.

The concerns of Shakti are reiterated by other organisations and individuals who can see formidable barriers to Immigrant women gaining access to justice. In a review by the Leitner Centre on New Zealand's effort to eliminate violence against women they noted: "the lack of legal services available to women who face domestic violence can be graver for immigrant women". They also note the low level quality of legal service and the immediate need for "training for judges and police on how to deal with domestic violence within immigrant communities" as they recognised the level of cultural ignorance that may be present within legal circles.

Sex Trafficking

Sex trafficking is a violation of several articles of the CEDAW convention including Articles 1, 6.

Shakti cannot say that sex trafficking is not occurring in New Zealand. They believe that in order for the Government to uphold its commitments to preventing discrimination against women they need to take a more comprehensive approach to the trafficking of women and all persons. Currently the government is not conclusive as to whether they believe trafficking is happening in New Zealand. The Ministry of Justice states that "Information received from Immigration Service NZ indicates that no situations involving trafficking in the sex industry have been identified."²

However a United States report lists New Zealand as a country where trafficking exists and there is an increasing amount of anecdotal evidence of sex trafficking occurring. Shakti has evidence of this and they are not alone. In a forum hosted by Salvation Army on trafficking in New Zealand in September 2009 Jeremy Bioletti an Auckland barrister spoke of a group of 15 Ukrainian women who had been trafficked into to New Zealand to work in the sex industry^[2]. Two of the women are his clients and he has fought long legal battles on their behalf. Conversations with New Zealand police authorities also suggested that trafficking is occurring in New Zealand. In an interview with a Shakti staff member a local Detective Inspector stated that there were many Asian women who were working illegally, but he was not sure if they came to New Zealand knowing that they would work in the sex industry. He said that he could not say these were cases of trafficking, but he was certain, that some of these women were "working under duress".³ This information was collected in a report compiled by Shakti which tracked the progress the New Zealand government had made in addressing trafficking since 2006. It noted that the government had made some progress in this area quoting the Government's Plan of Action to Prevent People Trafficking as being one such step. The Plan of Action indicates that the country is aware that

²Trafficking Section 13. Retrieved from:<http://www.justice.govt.nz>

²Salvation Army <http://salvationarmy.org.nz>

³Information gained from conversations with two Detective Inspectors and a Senior Sergeant of New Zealand Police, who do not want to be named.

human trafficking could be a problem in the country. In 2008, the Department of Labour (DoL) spearheaded a taskforce on trafficking on behalf of the Inter-Agency Working Group on Human Trafficking. New Zealand Police detectives now receive training on identifying victims of trafficking. Also, before a compliance visit to a sex business, DoL ensures staff members are trained to recognize trafficking victims.⁴ These steps and the fact that the government held working groups around the country to address this issue shows that the government is somewhat committed to making sure that trafficking does not occur in New Zealand.

However there are still areas of concern. Officially DoL holds the view that there have been no cases of sex trafficking in New Zealand but this is contradictory to the views and evidence that has been brought forward by Shakti and others.... This could be a result of the lack of consensus on what trafficking is and the nature of trafficking in New Zealand (it is believed that many incidences of trafficking in New Zealand have been women who have come to New Zealand of their free will only to be trapped in the sex industry once they are here). When the United Nations Special Rapporteur on Human Trafficking, Sigma Huda, visited New Zealand in 2005, she stated there was "a lot" of trafficking in the country, but it was not being called trafficking.⁵ She highlighted the point that someone may be brought to the country willingly only then to be entrapped and coerced into working in the sex industry. Currently sex workers that are found to be working illegally in New Zealand are considered as 'immigration cases'. There is also concern that while the Government is accepting that trafficking could be happening, they are underestimating it.

The platform for action also does not tend to see sex trafficking as being high risk in New Zealand therefore they are possibly not addressing the problem with enough urgency and scope. For instance, there has been little discussion about the effects a major event like the Rugby World Cup 2011 could have on sex trafficking and little preparation done for addressing the issue of the increased sex tourism during this event.

There is also concern about how current legislation might be in danger of increasing or encouraging the trafficking of women into the sex industry. In the last CEDAW recommendations to the NZ Government, the Committee recommended the government monitor the effects the Prostitution Reform Act (PRA) had on the sex industry both legal and illegal. Currently there has been no research that looks at the effects this reform has on victims of sex trafficking or potential victims.

The issue of addressing trafficking in New Zealand is cloudy. The government is taking preventative measures but refuses to accept that trafficking is already happening and is not just a distant possibility.

Issues of Health and Wellbeing

A key concern that was highlighted by both Shakti and CEDAW at the 2007 hearing in New York was the issue of migrant women's health. This is still a pressing issue for Shakti especially in the area of mental health.

Shakti is concerned with the continual marginalisation of immigrant women's health, the low access rates and utilization by migrant women of healthcare and the barriers facing immigrant women when trying to access healthcare services.

While several reports have surfaced on Asian health in recent years (including *The Asian Health Book 2006*) the government does not have a framework in which to address the issues of Immigrant (including Asian) health and immigrant women's health tends to be marginalized. Evidence of this is the noticeable under-representation of migrant women and migrant health problems in health campaigns and advertisements. This is of great concern as evidence shows that Asian migrants tend to under-utilize health services⁶ therefore there is a greater need to make services more accessible to them.

As Kumathrana explains in his report of Asian Health in New Zealand and is shown clearly in the 2006 Asian Health Report, Asian immigrants under-utilize health services. Migrant women are no exception with a low utilization of health services compared to their female counterparts.

⁴Department of Labour *Plan of Action to Prevent People Trafficking* (2009) at 8.

⁵Julie Middleton "UN Expert Warns NZ Over Human Trafficking Problem" *NZ Herald* (New Zealand, 21 Dec, 2005)

⁶Rasanathan Kumanan, Ameratunga Shanthi, Tse Samson. *Asian Health in New Zealand-progress and challenges*. Journal of New Zealand medical association .ASIAN HEALTH.page4

An example of this is the area of reproductive health. The Asian Chart Book 2006 concluded that Asian women were overall less likely to get mammograms and cervical smears than their Maori, Pacific Island and European counterparts. However while migrant women are less likely to utilize reproductive health services, current reproductive healthcare marketing tends to be driven towards Maori and Pacific Island women. Even the official cervical smear website under-represents Asian women and fails to provide a multilingual service. The government's failure to enact a plan to address the under-utilization of immigrant women accessing health is in violation of Articles 12.1 and 12.2.

Concerned about the low utilization of health care services by immigrant women between 2008 and 2009 Shakti conducted several national workshops and questionnaires for clients to look at the barriers they face when accessing healthcare services. Information was gathered and conclusions made as follows:

The biggest concern for immigrant women in their access to healthcare is their residential status. Currently women who do not have permanent residency cannot access to government subsidized healthcare, this includes but is not confined to general healthcare and maternity care. Shakti has reported cases whereby women have received treatment for maternity care only to be sent a large bill that they have been unable to pay back. There is a concern that immigrant women will be reluctant to get healthcare because of its cost and this will put both them and their new born child into serious danger. This is in direct violation of Article 12.

Another area of concern was the lack of information on services available. This seems to be the predominate barrier to accessing mental health, with one women expressing she had "no idea where to go" to get appropriate health support. Other barriers to health care include cultural and language barriers – the latter are one of the most dominant barriers especially when it came to accessing mental health support. Women felt they could not express them-selves appropriately and articulate what they wanted to say. Cultural differences also played a role. In the areas of sexual health, disability and mental health they believed culture was a barrier eg the fact that the stigma associated with mental health was culturally different and their gender, sexual health was approached differently. They believed the availability of female doctors and culturally appropriate medical personal also created a barrier.

Other issues raised included: "Lack of familiarity or the ability to relate" and financial barriers.

Mental Health

Another area of concern is the status of immigrant women's mental health especially for female youth. Several factors highlight why immigrant women are at a particularly high risk of poor mental health and why it is important to address the issue of immigrant women's mental health. These factors include

1. Post immigration adjustment difficulties (including lack of employment, language difficulties, and social isolation. K. Rasanathan notes that " low employment, under employment and difficulties settling into the host community are associated with negative health effects particularly in terms of mental health"⁷)
2. Barriers to accessing mental health including financial and linguistic barriers
3. Cultural barriers
4. Exposure to racial discrimination (A Recent study conducted for Women's Health on the link between racial discrimination and poor health concluded that racism was a major determinant of health, both physical and mental, and a driver of health inequalities*)

There is a concern that immigrant women are suffering from extraordinary levels of mental health issues but are unable to access the relevant services or are unwilling to utilize services provided due to fear of discrimination and the lack of culturally appropriate services available. The responses of women given in the 2009 questionnaires and workshops conducted by Shakti on the barriers they faced strongly reiterate this fear. As does a report put forward by CAHRE⁸ which suggest that they believed that the low utilization of mental health services may be concealing the

⁷ Rasanathan Kumanan, Ameratunga Shanthi, Tse Samson. *Asian Health in New Zealand-progress and challenges*. Journal of New Zealand medical association .ASIAN HEALTH.

⁸ CAHRE: The Centre for Asian and Ethnic Minority Health Research: a research unit at University of Auckland

real amount of mental illness in migrant communities especially among women. They used examples of other countries eg the US to point out that in many circumstances “Asian” migrants tend not to use mental health services -if they do they exhibit more severe mental symptoms.”

From Shakti’s experience a large percentage of women that sought Shakti services had suffered some sort of trauma or depression. Many of the women suffer from severe depression and some even attempt suicide.

Again the government is failing to adequately address the issue of immigrant women’s health issues. Mental health awareness campaigns tend to under represent Asian Women (While the official New Zealand Mental Health Website now offers a Chinese Webpage (2009) there is no other language translation on the webpage and little other multilingual or multicultural tools). On top of this the government is yet to produce and enact a plan to specifically help immigrant women’s accessibility to mental health services. This is in violation of Articles 1 and Article 12.1.

Youth Health and Wellbeing

Another serious concern for Shakti is the status of female immigrant youth. In past years Shakti has seen an increase in the cases of female youth using their services. Issues faced by these young women range from forced marriage to parental abuse. Shakti is concerned that there are negative stereotypes for the female migrant child and a large amount of female youth are suffering discrimination based on their sex and subsequently their social status in their families.

Shakti is also concerned for the mental trauma that young females are suffering as a result of the discrimination and cultural pressures they face. They explained that many of the young women that come through their services have suicidal thoughts or have attempted suicide. In one recent case a young women was fighting for her life in Tauranga hospital after attempting to commit suicide due to family pressures. Shakti informs that there have been 10 cases of attempted suicides in 2009 through the Auckland refuges alone. Currently of the 7 current youth cases they are processing at this time five of them have attempted suicide. There is a grave concern for the wellbeing and status of female immigrant as they face severe pressures to conform to cultural aspects that are oppressive and enforced through their families and their communities.

On the 27th of May 2010 Shakti ran a conference for immigrant youth. Here several topics were discussed these included cultural juggling, racism and bullying, sex and relationships and family pressures including the issues of family violence and cultural expectations.

The following issues were brought up:

1. Many of the youth expressed problems with the transition into the new culture citing having felt isolated, and a target of prejudice. They expressed feeling disconnected with their home country while feeling alienated from their new culture, for some this insecurity had a n effect on the mental and wellbeing
2. They also highlighted that they found it hard to access help in the new country; when polled 68% of youth believed that there was a great need for more support for immigrant youth.
3. They often felt isolated at school and suffered racial bullying.
4. They spoke of a lack of understanding among New Zealander students of other cultures. They believed schools had to have in place better systems in place to help immigrant youth, citing the need for mentoring systems and for opportunities to discuss issues relevant to them.

In a recent national study done on the health of New Zealand secondary school students the following conclusions and observations were made concerning the status of young immigrant females:

- Mental health was a major health issue for young Asian students. Many reported anxiety and significant depressive symptoms, with females more likely to report these than males.
- A large number of 'Asian' students reported suicidal thoughts, a smaller group attempted suicide with more females than males reporting both suicidal thoughts and attempts.
- Indian girls were of high concern with high levels of attempted suicide - over twice that of Indian males (11.7% of female Indian youth reported having carried out a suicide attempt in the past year compared to 5.5% of males).

- More female students than males missed breakfast regularly and had negative perceptions of their body
- There were large barriers to female Chinese youth accessing health care, almost 40% said they did not want to make a fuss (more than males) which may signify a lack of confidence. Females were also more likely than males to report having problems accessing health care, twice as likely to not access health care because they were afraid of privacy issues, and did not feel comfortable and almost three times more likely than boys to not access health care because they were too afraid.
- Family and Parental abuse was higher for Asian females than males. Of those that reported having experienced physical harm 30% of Chinese females reported having been physically harmed by a family member whereas less than 10% of males had experienced harm at the hands of family members rather than they had been harmed by someone outside the family.

It was even higher with Indian females with 42% for Indian girls suffering physical harm at the hands of a family member girls compared to 9.6% of boys.

Even though the above evidence shows that young Asian females are an at-risk group there is little initiative by government to address the discrimination and pressures they face both in their families and in their communities. The rights of immigrant girls are being violated and the government must promptly address this issue. The government needs to uphold its commitments to CEDAW Articles 1, 12.1 and 2 and address the discrimination faced by female immigrant youth.

Forced/Under-Age Marriage

Forced marriage and under-age cultural marriage are violations of Article 16 and all its sub-articles because a woman cannot exercise any of her rights within a marriage that she has been forced into. Shakti has grave concerns about the number of forced marriages and under-age cultural marriages that are still occurring in New Zealand. They note that in their experiences while working with multicultural ethnic communities adhering to Islamic, Hindu and Sikh religions, at least one in five young women that have gone through their services (some below the legal age of marriage in New Zealand) have been forced into marriages without their free consent⁹. Among the recommendations to the government after NZ's last CEDAW Report, the need to address the issue of both forced marriage and under-age cultural marriage was raised.

In December 2009 Shakti under the auspices of PWW(NZ) made a written submission to the Government highlighting the incidence of forced marriages and under-age marriage; the lack of legislation to prevent and deter the practice of these occurring in New Zealand. It also suggested recommendations for the New Zealand Government which included law change and the setting up of a Forced Marriage support model similar to the Forced Marriage Unit in the UK. Other NGOs and individuals also presented submissions and all submissions were heard by the Justice Select Committee in May 2010. The Government has presented their final report which has disputed several aspects, but also acknowledges the need to review relevant legislation and introduce additional protections for those at risk of forced/underage marriage and emphasises community awareness and education. However, we are not certain as to how these measures will be implemented and within what time-frame.

If the government fails to act, it will be in violation of Articles 1 and 2, Article 16.1 and all its sub-articles and Article 16.2 (which nullifies the marriage of a child and commits the state to enacting legislation to make registrations of marriages in an official registry compulsory).

The report submitted to the government highlighted why it was important that the New Zealand government immediately addressed the issue of forced marriage.

In the report submitted to the Government Shakti reiterated the Government's commitments under CEDAW to take appropriate measures to prevent discrimination against women and highlighted the recommendation by them for the State party to

undertake proactive outreach measures for the protection of women victims within immigrant communities and cooperate with non-governmental organizations providing services to [women who are victims of forced marriage].

⁹Forced marriage report - Shakti

As well as being in violation of the CEDAW declaration the act of forced marriage is in violation of various national laws, International Treaties/ Bill of Rights/Conventions ratified by New Zealand such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

The report then mapped out four case studies of forced marriages and made the following important observations about the nature of forced marriages in New Zealand

Forced Marriages and under age cultural marriages are often conducted within places of worship or in their homes. These marriages are considered 'cultural' or religious and the women married assume the status of wives within the family even without the marriage being formally registered or recognized under New Zealand laws.

In some cases in New Zealand, young women were being forced to marry a relative or family friend in order to enable the man to be sponsored into the country or in exchange for a sum of money. This was arranged when the girl was under age.

The act of marrying a child is a violation of CEDAW Art.16.2 which also insists that all necessary action should be taken to make the registration of marriages in an official registry compulsory.

The report also noted the discrimination and coercion young women face in New Zealand through acts of forced and underage marriages

Women/girls in New Zealand undergo Forced Marriages under intense family and community pressure and because they do not want to lose their families or be ostracized by their community.... Parents/families of the woman/girl child resort to coercive methods such as emotional blackmail, physical duress, violence, abduction, confinement and confiscation of documents like passports.

Throughout the report Shakti also highlighted the horrible effects forced marriage had on victims, these effects included isolation, no access to education (a violation of Article 10) victims become deprived of financial independence, suffer sexual and physical abuse, rape, psychological trauma, and are exposed to sexually transmitted diseases¹⁰.

The report expressed concerns in current lack of legislation that protects victims of forced marriage and that punishes perpetrators of forced marriage.

1. While New Zealand is a signatory to a number of international obligations that emphasize importance of ensuring that Forced Marriages and Under-Age Cultural Marriages are not legally recognized, there is no domestic legislation that penalizes /criminalizes those conducting such marriages.
2. The legal age for marriage in New Zealand is 18years and 16years with parental consent. As most Forced and Under-Age Cultural Marriages are held at the behest of parents, the requirement of parental consent is non-relevant and in fact works contrary to the New Zealand Marriage Act 1955.
3. Many underage marriages are conducted by ethnic religious institutions such as temples and mosques or held privately in the homes of the young women/girl. These bodies are not represented in the list of New Zealand-approved organizations and whose marriage rituals are not being monitored for consent. Registration of marriage celebrants from non-Christian religion institutions is not currently mandatory.
4. Polygamy is not a criminal offence in New Zealand

The report concludes by highlighting key recommendations it believes the New Zealand government should take to eliminate Forced marriage in New Zealand. These included registration of all marriage celebrants (a recommendation that is also present in the CEDAW Report, 16) and the introduction of appropriate legislation, laws and specific policies to abolish forced marriage and prevent the rights of children and women from being violated. (As a signatory to CEDAW the government already has a commitment to do this).

Shakti made many more recommendations to the government on how to prevent forced marriage and cultural underage marriage from happening in New Zealand^[10].

¹⁰Forced marriage report as submitted to Parliamentary Select Committee on Justice, New Zealand, 2010

Employment

Shakti has concerns about the barriers immigrant women still face in gaining employment. They are concerned about the presence of negative stereotyping of immigrant women in the labour market, lack of information for immigrant in how to gain employment, and in the pay discrepancy between immigrant women and both their female and male counterparts.

Racial discrimination within the New Zealand employment sector is still of great concern. Recent research into exploring race relations within the employment sector provided some worrying statistics. For example in a study recently conducted it was revealed that Asian New Zealanders are less likely to be interviewed for vacancies than other New Zealanders if they have non-European names (despite similar qualifications and experience, and regardless of duration of residence in New Zealand.) While there have been pockets of research done into immigrant employment relations in New Zealand there is a lack of research especially when it comes to immigrant women.

Since 2006 Shakti has collected data on the financial situation of clients and their attitude towards employment (including the barriers and discrimination they faced in gaining employment).

On three separate occasions questionnaires designed by PWW(NZ) were administered by Shakti in 2009 and 2010 with women responding that they were worst off now financially than they had been five years earlier. These questionnaires and a series of workshops conducted in 2010 also collected data on the significant barriers women believed they faced in gaining employment. The following forms of discrimination were noted:

- Women explained how they battled against stereotypes of “foreign workers” and “expendable labour force”. Some said they have felt discriminated against because they were an immigrant and a woman. They had experienced acts of xenophobia and cultural ignorance i.e. racial comments and comments on their dress.
- In a 2010 workshop conducted women expressed a belief that immigrant women have a negative stereotype of only being able to do menial simple jobs. Disparity due to gender i.e. pay level
- Over 70% of those that participated in the 2010 workshop voiced having been discriminated against because of their nationality. Due to their racial status their experience was undervalued and their qualifications not seen as valid. They said they were often being asked for “New Zealand experience” even if they were new migrants – a sign of discrimination against those not from New Zealand. On one occasion this even happened to a Chinese woman with a PhD and over ten years teaching experience.

Those surveyed and involved in the workshops noted several other barriers they faced to employment. These included but were not limited to:

Legal residential status;
Language level (some may be unable to market their skills due to limited language);
Lack of information, including a lack of knowledge of where to go to get help on how to write CVs and get jobs;
Lack of negotiation skills regarding pay and conditions etc;
Country-specific cultural barriers - different forms of communication and formalities in the new host country such as handshakes and eye contact.

Recent research done in the area of immigrant employment relations gives weight to the data that was collected in Shakti's national surveys. An article in University of Auckland's *Business Review* explains how Asian peoples in New Zealand are more likely than non-Asian New Zealanders to have tertiary qualifications, but have higher levels of unemployment and lower incomes as a group¹¹. New Zealand income statistics reiterate this. As the below graph demonstrates Asian women have much lower levels of employment than Asian men and of those in paid employment they earn on average 7.1% less weekly than their male counterparts¹².

11 Vol 7, No.2; <http://www.uabr.auckland.ac.nz/files/articles/Volume11/v11i2-a-rose-by-any-other-name.pdf>
12 NZ 2010 quarterly table 5

Average and median weekly income for people in paid employment⁽¹⁾

June 2010 quarter

	Average weekly income from:					Average: all sources collected	Median: all sources collected	Number of people (000)
	Wages and salaries	Self-employment	Government transfers	Investments	Other transfers			
	(\$)							
Sex								
Male	832	197	21	37	3	1,090	905	1,145.0
Female	649	74	39	21	1	784	699	1,004.2
Total	746	139	29	29	2	947	800	2,149.2
Age group (years)								
15-19	267	1	18			287	221	112.5
20-24	562	18	24	3		607	601	190.2
25-29	762	57	22	7		849	806	204.4
30-34	835	88	24	12		960	882	205.3
35-39	893	124	27	21		1,068	941	237.3
40-44	837	176	27	25		1,067	882	255.2
45-49	853	230	18	28	1	1,133	891	266.8
50-54	816	205	13	56		1,091	875	241.3
55-59	741	217	13	67	4	1,041	863	193.9
60-64	696	172	15	55	8	946	768	154.3
65+	444	144	244	52	14	897	797	87.9
Total	746	139	29	29	2	947	800	2,149.2
Ethnic group⁽²⁾								
Male								
European	854	226	22	43	3	1,148	959	882.9
Māori	781	48	23	5	1	855	768	127.6
Pacific peoples	739	56	18	23		837	729	49.9
Asian	689	117	17	12	1	837	740	116.4
MELAA ⁽³⁾	900	211	27	11		1,157	844	11.0
Other ethnicity ⁽⁴⁾	969	180	31	37	2	1,226	940	23.2
Total Males⁽⁵⁾	832	197	21	37	3	1,090	905	1,145.0
Female								
European	648	84	38	24	1	796	700	792.0
Māori	640	43	66	10		760	686	112.9
Pacific peoples	660	13	46	4		728	690	41.7
Asian	640	55	24	10		728	671	95.5
MELAA ⁽³⁾	859	26	23	17		931	806	8.0
Other ethnicity ⁽⁴⁾	555	40	33	9	1	648	574	18.9
Total Females⁽⁵⁾	649	74	39	21	1	784	699	1,004.2

Asian women also did not fare well compared to their female-counterparts of other ethnicities with an average income lower than both European and Pacific women for those in paid employment. Those not in paid employment also had a much lower weekly income than their female counterparts (over half that of Maori women). Furthermore, as a group immigrant women (not including Pacific women) have the strongest tendency in comparison to any other category of women to withdraw from the labour market to look after children.¹³

There is also concern for the lack of research conducted into the under employment of immigrant women. The government tends to side-line the lack of participation of immigrant women in the labour market. The latest Ministry of Women's Affairs portfolio failed to mention the participation of immigrant women in the labour market; it only providing statistics on Maori, Pacific Island and European women. Considering that there is clear evidence that underemployment is particularly high among immigrant women and that the barriers they face to employment are especially prevalent, it is alarming this information was not mentioned.

Furthermore Shakti is concerned about the low levels of participation of immigrant women in the labour market; they are also concerned about the discrimination that immigrant women are still facing when accessing employment and in employment itself. This can be seen through both their narratives and the low pay rates of immigrant women.

The government must direct research into immigrant women labour relations in New Zealand and put in place initiatives to stop the discrimination against this group and break down the barriers they face to employment.

13 Workshop on laborforce Gender and Ethnicity in the labor market participation decision:
<http://www.treasury.govt.nz>

Domestic Violence

Government reports in April 2011 acknowledged family violence has continued to rise nationwide, going up by 655 offences, or 1.2 percent overall (New Zealand Herald, April 1, 2011). The NZ Police issued Police Safety Orders averaged 436 a month in the very first year (2010) of operations.

One in three women have reported intimate partner violence during the period 2000-2010 in New Zealand (UN Women National Committee, Aotearoa, New Zealand).

According to the Women's Refuge, New Zealand, one third of women killed in 2010 were killed by intimate partners. In 2009, 41 people lost their lives in family violence compared to 19 in 2008.

According to reports published by the New Zealand Police, offences in the Acts Intended to Cause Injury division rose by 3.3%, driven entirely by Family Violence assaults. Family violence in this division increased by 8.5% in 2009-2011 from the previous year. Sexual offences, which make up less than 1% of recorded crime and are known to be significantly under-reported, increased by 2.7%¹⁴.

Shakti provides specialist culturally competent services to New Zealand's migrant and refugee communities. Through our eight centres and an additional two satellite centres in New Zealand, services accessed by women and their children in domestic violence situation (refuge and none-refuge) during 2010-2011 averaged 12,800 with over 155 abused individual women accessing our accommodation services alone, with their children averaging 310. We have been receiving an increased response to our services since 2007 and our four refuges in 2010-2011 reported over 1000 bed-night occupancy by migrant and refugee women and ~~with~~ their children.

The government response, instead of facilitating more refuges for the purpose of safety for vulnerable women, seems to be centered around their own sponsored community initiatives that are ethno-specific and based on cultural values and with emphasis on 'awareness', which does not necessarily enable women to be safe or provide them with access to services that will help them uphold their rights.

¹⁴ Fiscal year crime statistics 2009-2010, New Zealand