

**NON-GOVERNMENTAL ORGANISATION ALTERNATIVE INTERIM REPORT
ON PROGRESS ON JULY 2012 RECOMMENDATIONS 36 and 38
TO THE NEW ZEALAND GOVERNMENT
FROM
THE COMMITTEE ON THE CONVENTION FOR THE ELIMINATION OF
ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)**

36. The Committee recommends that the State party:

- (a) Provide in its next report data and information on the situation of women with disabilities, rural women, older women and women from ethnic minority groups, including with regard to their access to education, employment and health-care services;**
- (b) Ensure that the ongoing welfare reforms do not discriminate against disadvantaged groups of women and that an independent evaluation of their gendered impact is made;**
- (c) Ensure the gender mainstreaming of policies relating to the process of recovery from the 2011 earthquake, and engage in analysis of their gender impact by using data disaggregated by sex, age, ethnicity and other status.**

Discrimination against women in marriage and family relations

37. The Committee is concerned about reports of forced marriages among migrant communities and regrets that there is no legislation to prohibit underage and forced marriages. The Committee is further concerned that the rights of migrant women in terms of family law, particularly forced marriages, polygamy and dowry-related violence have not been sufficiently addressed in law and practice and that girls as young as 16 years could marry with parental consent.

38. The Committee recommends that the State party:

- (a) Revise the legal minimum age of marriage to 18 years without any exceptions for parental consent; and**
- (b) Introduce legal measures to prohibit underage and forced marriages and promote measures to protect women harmed by polygamy and dowry-related violence**

Follow-up to concluding observations:

43. The Committee requests the state party to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraphs 36 and 38 above.

FOREWORD

Pacific Women's Watch (New Zealand) (PWW(NZ)) is well qualified to bring this Non-Governmental Organisation Alternative Interim Report on steps the New Zealand

Government has undertaken to implement the recommendations contained in paragraphs 36 and 38 in the concluding observations and recommendations made by the Committee on the Elimination of Discrimination against Women in July 2012. For the most recent two examinations by the Committee in 2008 and 2012 PWW(NZ) has submitted a highly regarded Non-Governmental Organisation Alternative Report. Data gathering for both reports included the concerns of underprivileged, disadvantaged and marginalised women at the edges of society who struggle to have their voices heard when paying a fee to belong to an organisation is beyond their means. Women of all ages from the diversity of ethnicities living in New Zealand participate in PWW(NZ)'s Conferences and Forums. We focus on promoting gender justice, eliminating violence against women and girls and working for full human rights for all. Under its special consultative status with the Economic and Social Council, PWW(NZ) is mandated to ensure women in Pacific Island states have their voices heard more loudly at the international level.

Furthermore, data has been gathered for a national country alternative NGO report for the ten, fifteen and twenty-year reviews of the Beijing Declaration and Beijing Platform for Action. These reports and the longitudinal measure of women's progress in their everyday lives created as a result intersects with the advancement of New Zealand women and girls under the principles of the Convention on the Elimination of Discrimination against Women (CEDAW). Cross-cutting issues of race, class, ability, age, sexual orientation and gender identity are recognised.

INTRODUCTION

This report is brought under Paragraph 43 of the Committee's concluding observations in July 2012 which requests written information within two years on steps to implement recommendations 36 and 38. We bring follow-up information relating to disadvantaged groups of women on the situation of women with disabilities under recommendation 36 (a) and on discrimination against women in marriage under recommendation 38 (a) and 38 (b).

RESPONSE TO RECOMMENDATION 36 (a)

36. The Committee recommends that the State party:

(a) Provide in its next report data and information on the situation of women with disabilities, rural women, older women and women from ethnic minority groups, including with regard to their access to education, employment and health-care services;

THE CURRENT SITUATION OF WOMEN WITH DISABILITIES

Information provided in mid-2014 by members of the Disabled Women's Forum, Auckland and Taku Manawa Disability, Human Rights Commission of New Zealand for PWW(NZ)'s Alternative NGO Report for the twenty-year review of the Beijing Declaration and Beijing Platform for Action, the blueprint for action on the Convention on the Elimination of All Forms of Discrimination against Women, highlighted the following outstanding concerns for disabled women:

- New Zealand's Domestic Violence Act does not cover all disabled women, their domestic relationships and domestic households such as when living in designated care facilities on a long-term basis
- Lack of action with respect of the reinstatement with adequate funding of the Family Violence Taskforce, currently halted, where disabled women were represented, to continue the work on stopping violence against disabled women and the drawing up and implementation of a Taskforce Action Plan for Disability
- New Zealand is not yet a signatory to the Optional Protocol to the Convention on the Rights of Persons with Disabilities (CRPD)
- Complaints of health discrimination by disabled women still not taken seriously by relevant authorities
- Difficulties in access to education for disabled girls and women from early childhood to tertiary education
- Complexities of structure and operation of the Government benefit system especially when disability is a factor
- Forced sterilisation of disabled girls without consent
- Currently a single Commissioner is responsible for both Health and Disability with no separation yet these are distinctly different situations /scenarios.

Clearly, disabled women and girls in New Zealand continue to be greatly disadvantaged despite recommendation 36 (1) from the CEDAW Committee. In our view the New Zealand Government has taken little concrete action to make progress on recommendation 36 (1) in regard to the situation of disabled women and girls.

In June 2013 statistics from the New Zealand Disability Survey released by Statistics New Zealand identified 1.1 million people, or 24 percent of the population, as disabled. This was up from 20 percent in 2001. The results showed that 11 percent of children and 27 percent of adults were limited in their daily activities by a range of impairments. At least half of these are women and girls. Such a large number of disabled persons deserves policies with adequate resources to ensure full access to education, employment and health-care services. In all three areas there are many barriers and gaps, as has been recognised in the Concluding observations on the initial report of New Zealand on the Convention on the Rights of Persons with Disabilities.

On a positive note, the Convention on the Rights of Persons with Disabilities means that New Zealand women with disabilities are now more visible and have a greater voice in the community. While progress in the government sector continues to be minimal the wider community is much more accepting and supportive of their situation.

Technology assists in breaking down barriers but disabled women face social and economic barriers in access. Unable to afford a home computer many have to travel to libraries to access computers.

Although education is inclusive, teacher training for working with students with disabilities is limited and while high needs students are fairly well funded those with low level or minor impairments are often not or only poorly funded. Support mandated for disabled trainee teachers is also inconsistent and limited.

Advances have been made in some areas of health care. Breast screening is provided for all women but mobile healthcare vans are inaccessible for most women with physical disabilities. While some women doctors offer sexual health advice other professionals treat women with disabilities with less respect and this is more likely for Maori or Pasifika women with disabilities.

Employment is fundamental to self-esteem and well-being. The Ministry of Social Development has a programme to support people with disabilities into work. This programme has potential but at present is top heavy with men and there is a bias (possibly unconscious) against women with disabilities. The women are very aware of such unspoken discrimination.

As there has been no action on the "Disability Action Plan" there are no measures of change. The Government has been very slow to push forward with this Plan.

Concluding observations on New Zealand's initial report on the Convention on the Rights of Persons with Disabilities (CRPD) adopted on 29 September 2014 commended a number of achievements. These included establishment and funding of the New Zealand Sign Language Board. New Zealand Sign Language is designated as one of New Zealand's three official languages. In the recent election telephone voting for the first time enabled persons with disabilities, including persons with cognitive and/or psychological disabilities, to vote.

The committee recommended New Zealand ratify the Optional Protocol to CPRD as soon as possible. This complaints mechanism would enable disabled women and girls, as a last resort, to have outstanding issues resolved.

The Committee expressed concerns on a number of issues, many of which reiterated those brought to PWW(NZ) by disabled women and girls for the Beijing + 20 review; as detailed on page 3.

These included:

- the lack of specific training for judges on the rights of persons with disabilities;
- Mental Health (Compulsory Assessment and Treatment) Act 1992 is not fully compliant with CPRD;
- "immediate steps be taken to eliminate the use of seclusion and restraints in medical facilities"
- programmes under the Domestic Violence Act 2013 need strengthening with a system to detect and respond effectively to cases of abuse.

The Committee recommended legislation, policy and practice relating to domestic violence to cover persons with disabilities in domestic situations. Legislation prohibiting the use of sterilisation of boys and girls and adults with disabilities and access to full health care for all persons with disabilities, including sexual and reproductive health care, was also recommended.

The New Zealand Government still has much work to do to ensure disabled women and girls suffer no disadvantage especially in their access to education, employment and health-care services as requested in recommendation 36 (a). We are deeply concerned that such minimal concrete progress has been made in the last two years,

RESPONSE TO RECOMMENDATION 38 (a) and 38 (b):

Discrimination against women in marriage and family relations

38. The Committee recommends that the State party:

- (a) Revise the legal minimum age of marriage to 18 years without any exceptions for parental consent; and**
- (b) Introduce legal measures to prohibit underage and forced marriages and promote measures to protect women harmed by polygamy and dowry-related violence**

THE CURRENT SITUATION OF THOSE AT RISK OF FORCED AND UNDERAGE MARRIAGE

The government has not responded satisfactorily to the CEDAW Committee recommendations (36 & 38) to raise the legal age for marriage to 18 years; to introduce legal measures to prohibit forced/underage marriage and to protect women from being victims of polygamy and dowry abuse. The government refuted the given reasoning to increase the legal age to 18 years stating that the number of incidents in New Zealand does not warrant such a change and that awareness and prevention strategies within the community is the key. The only development in this regard is a Private Member's Bill: "Marriage (Court Consent to Marriage of Minors) Amendment Bill" to amend the "Marriage Act 1955" which proposes that 16-17 year olds who wish to marry must apply to the Family Court for its permission, and sets out how the court is to consider the application. The Bill would give some protection to minors, but is still waiting to be drawn from the Ballot Box.

The only other development is a Letter of Agreement (Multi agency Collaborative response to Potential and Actual Forced Marriage) that was initiated and signed by the NZ Police, Child Youth & Family and Work & Income (specialist agencies within Ministry of Social Development), Ministry of Education and Immigration New Zealand and recognises the advocacy of Shakti Community Council - a national not-for-profit community organisation specialising in providing culturally competent support services for refugee and migrant women, children and families primarily from Asian, African and Middle Eastern cultural backgrounds and a member organisation of PWW(NZ).

However the Letter of Agreement has no community-based/non-governmental organisations such as Shakti as signatories to the document. Hence, although Shakti is the 'go-to' agency for girls and women from minority ethnic groups who are being overtaken or threatened by forced marriage, Shakti does not know how well [or not] application of this Letter of Agreement is working. Shakti continues to receive and care for a high number of cases of dowry abuse and forced marriage including under-age marriage, wherein girls and women continue to be at high risk of honour-based violence.

PWW(NZ) contends the Agreement the four agencies have signed should also have an NGO as a signatory. If this is not possible then there should at least be an alternative method of linking the NGO community to the processes outlined in the letter.

Since November 2009, when PWW(NZ) presented a Petition to Parliament urging that "the House of Representatives examine the practice of cultural marriages to underage females and initiate legislation that will effectively intervene in the prevention of abuse arising out of such

marriages in New Zealand”, the decision to examine current legislation has not yet been acted upon due to work of greater priority. Therefore a review of marriage law, for clarification, acknowledged to be appropriate, has not yet been undertaken. This is a most unsatisfactory outcome.

To date the government has also shown little will to take action on the Committee's recommendation to revise the legal minimum age of marriage to 18 years without any exceptions for parental consent. Our November 2009 petition to Parliament on the subject of forced and underage marriage became stalled as other work took priority. We urge the government to make forced and underage marriage a priority for targeted legislation. Dowry abuse and early forced marriages, both of which have such devastating effects for women and girls worldwide, thrive on outdated legislation.

It is of grave concern that so little action has been taken in the last two years.

CONCLUSION

Progress by the New Zealand Government on steps to take action on recommendations 36 (a) and 38 (a) and (b) during the last two years has been minimal.

Disabled women and girls, who make up a not inconsiderable number of New Zealand's total population, continue to suffer multiple discriminations in their daily lives. Serious attention and real progress in legislation and programmes to redress such discriminations have not been given nor are being given top priority that they merit.

For women and girls at risk of forced and underage marriage, along with the related risks of polygamy, dowry and trafficking, the review of current outdated legislation to raise the legal age for marriage to 18 years warrants urgency but has yet to commence.

We recommend that the New Zealand Government take urgency to make progress on recommendations 36 (a) and 38 (a) and (b) before their eighth report is examined in 2016.
