

## 2020 Mid Term Report to CEDAW

A response to New Zealand's progress in addressing four recommendations from the  
Committee on the Elimination of Discrimination against Women

August 2020



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This NGO report addresses the steps which the New Zealand Government has and has not taken, over the last two years, to implement the recommendations contained in paragraphs 20, 26(a), 40(a) and 48(a) of the Monitoring Committee's Concluding Observations on New Zealand's eighth periodic report (see Appendix A). A list of contributors to the report is provided as Appendix B.

## Para. 20: Human Rights Commission

### Resourcing of the Human Rights Commission to promote and protect women's rights

On 30 May 2019, the New Zealand Government announced a funding increase to the Human Rights Commission of \$5,000,000 (NZ).<sup>1</sup> This was the first Budget increase the Commission had received since 2007.<sup>2</sup>

The money, to be spread over four years, is not specifically tied to work to promote and protect women's rights, or to *'enhance awareness-raising initiatives for women on how to utilize available legal remedies against discrimination, including with regard to the Human Rights Commission'*, as recommended by the Committee in 2016.<sup>3</sup>

The Equal Employment Opportunities Commissioner holds the delegation for the women's rights portfolio at the Commission. She is resourced with a senior advisor, and has access to other policy advisors, legal advisors, a strategic communications advisor and a researcher.

The Commissioner is active regarding the human rights of women. The current Commissioner, Saunoamaali'i Karanina Sumeo:

- co-chairs the Ethnic Minority Women's Rights Alliance of Aotearoa (EMWRAA), together with the Commonwealth Women Parliamentarians, a group advocating for an end to female genital mutilation, dowry abuse, violence and inequality for women from ethnic minority groups in Aotearoa;
- Travels to the hearings of the Committee on the Status of Women annually, and has organised several successful events highlighting human rights issues for New Zealand women;
- Spearheads a campaign called 'End Pay Secrecy', calling for implementation of a pay transparency regime to help close the gender and ethnic pay gap.

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<sup>1</sup> NZ Human Rights Commission. Statement of Performance Expectations 2019/20, pp. 16, 20.

[https://www.hrc.co.nz/files/9315/6203/5943/FINAL\\_APPROVED\\_SPE\\_2019-20\\_to\\_Minister\\_30\\_June\\_2019.pdf](https://www.hrc.co.nz/files/9315/6203/5943/FINAL_APPROVED_SPE_2019-20_to_Minister_30_June_2019.pdf)

<sup>2</sup> Professor Paul Hunt, 'Human rights critical to delivering budget's wellbeing promises', NZ Human Rights Commission website, 31 May 2019. <https://www.hrc.co.nz/news/human-rights-critical-delivering-budgets-wellbeing-promises/>

<sup>3</sup> 'To enhance awareness-raising initiatives for women on how to utilize available legal remedies against discrimination, including with regard to the Human Rights Commission, and to ensure that the Commission is adequately resourced', Para 16 (c), CEDAW/C/NZL/CO/7, CEDAW Committee, United Nations, 2016.

The Human Rights Commission is also a founding member of the NZ Committee for the UN Women's Empowerment Principles (WEPS), which promotes gender equality in New Zealand's workplaces, and the Wāhine Kakano festival to empower young women.

The Disability Commissioner responds to issues around disabled women and violence, including the lack of services when leaving a violent relationship.

In 2016, the Human Rights Act 1993 was amended by the then Government, limiting the number of Commissioners to four (Chief Commissioner, Race Relations, Disability Rights and Equal Employment Opportunities). There had previously been two additional part-time Commissioners, for Indigenous Rights and LGBTQI+ rights. The Commission has since called for resourcing to reinstate an Indigenous Rights Commissioner. This would significantly enhance the Commission's ability to promote and protect the rights of Māori women. The extra funding allocated in 2019 was deemed insufficient to reinstate this role.

NGOs raised queries about the status of the Human Rights Commission as an Independent Crown Entity,<sup>4</sup> including whether it should be more independent in legislation (e.g. making the Chief Human Rights Commissioner an Officer of Parliament, and inserting an entrenchment clause).

#### Repeal of s392 of the Immigration Act

S392 of the Immigration Act<sup>5</sup> precludes anyone from making a complaint to the Human Rights Commission regarding proceedings under the Immigration Act or declarations made by the Minister of Immigration. It also precludes the Human Rights Commission from taking or intervening in legal proceedings regarding decisions made under the Immigration Act.

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<sup>4</sup> Crown Entities Act 2004. Schedule 1 Statutory entities.

[http://www.legislation.govt.nz/act/public/2004/0115/latest/DLM331113.html?search=ta\\_act\\_C\\_ac%40ainf%40anif\\_an%40bn%40rn\\_25\\_a&p=6](http://www.legislation.govt.nz/act/public/2004/0115/latest/DLM331113.html?search=ta_act_C_ac%40ainf%40anif_an%40bn%40rn_25_a&p=6)

<sup>5</sup> S392 Relationship between this Act and Human Rights Act 1993

- (1) The Human Rights Commission may perform, in relation to immigration matters, all of its functions (as described in [section 5](#) of the Human Rights Act 1993), including—
- (a) making public statements in relation to any matter affecting human rights;
  - (b) receiving and inviting representations from members of the public on any matter affecting human rights;
  - (c) inquiring generally into any matter, practice, or procedure if it appears to the Commission that the matter involves, or may involve, the infringement of human rights;
  - (d) reporting to the Prime Minister on any matter affecting human rights.
- (2) However, despite anything in the [Human Rights Act 1993](#),—
- (a) no complaint may be made under that Act in respect of—
    - (i) the content or application of this Act or any regulations made under this Act; or
    - (ii) the content or application of any immigration instructions made in accordance with [section 22](#);
  - (b) the Human Rights Commission may not, in relation to any matter referred to in paragraph (a),—
    - (i) bring any proceedings of a kind referred to in [section 5\(2\)\(i\)](#) of the Human Rights Act 1993; or
    - (ii) exercise in relation to any proceedings the powers conferred by [section 5\(2\)\(i\)](#) of that Act (which relates to applications to a court or tribunal to be appointed as intervener or counsel, or taking part in proceedings in any other way).
- (3) This section recognises that immigration matters inherently involve different treatment on the basis of personal characteristics.

This section of the Act has not been repealed, as recommended by the Committee, therefore complaints to the Commission about proceedings under the Immigration Act are still barred.

In response to COVID-19, extensive powers<sup>6</sup> under the Immigration Act 2009 were conferred in relation to public health and border control (see Appendix C for commentary on COVID-19 and women).

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<sup>6</sup> [COVID-19 Public Health Response Act 2020 No 12](#), [COVID-19 Recovery \(Fast-track Consenting\) Act 2020 No 35](#), [COVID-19 Response \(Requirements for Entities—Modifications and Exemptions\) Act 2020 No 14](#).

## Para. 26 (a): Gender-based violence against women

### The issue of gender in relation to ‘family’ violence

At the time of the last New Zealand Government report to CEDAW in 2018, the Government’s Multi Agency Team was tasked with reducing ‘family’ violence in New Zealand. Positively in 2018 a new entity, the Joint Venture Business Unit (JVU) including 10 Government agencies, was formed to deliver a whole of Government response to ‘family’ violence. Advertisements for JVU jobs explicitly stated that applicants were not required to have knowledge of sexual or domestic/family violence, and there was no mention of gender analysis.

In September 2018 the JVU announced that work was starting on the development of a cross-Government (rather than cross-party) National Strategy and Action Plan. The development of the strategy was led by the Māori Rōpu, the JVU’s independent Māori advisory body, with input from wider stakeholder advisory groups. It was intended that this strategy would be released in draft form for public consultation in early 2019.

As at August 2020 no strategy had been released. It is understood that this is due to a dispute about whether ‘family’ violence is gendered

In August 2020 the Finance and Expenditure Committee<sup>7</sup> released its briefing on the performance of the Family Violence and Sexual Violence joint venture. It stated, ‘The Under-Secretary acknowledged that family and sexual violence are “deeply gendered” problems and that this is a focus for the Government’.

Other Government decisions, or inaction, could be seen to reflect the lack of acknowledgment of the gendered nature of ‘family’ violence, and the increasing use of gender neutral language to describe violence against women:

- The Family Violence Act 2018<sup>8</sup> addresses coercive control and strangulation, dowry abuse, and other initiatives to improve legislation; however, it does not mention gender.
- There is no mandate, policy or legislation from Government requiring either state agencies, such as police, health services and the judiciary, or non-state agencies, such as service providers, to undertake a gendered analysis of violence against women.
- The Government has to date not invited the United Nations Special Rapporteur on Violence against Women to New Zealand.

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<sup>7</sup> Finance and Expenditure Committee, 2020. Briefing on the performance of the Family Violence and Sexual Violence joint venture. Report of the Finance and Expenditure Committee.  
[https://www.parliament.nz/resource/en-NZ/SCR\\_99876/68803d2bb3c2f80fcb2d9f6f4cc0c69dd3d9fe16](https://www.parliament.nz/resource/en-NZ/SCR_99876/68803d2bb3c2f80fcb2d9f6f4cc0c69dd3d9fe16)

<sup>8</sup> Family Violence Act 2018.  
[http://www.legislation.govt.nz/act/public/2018/0046/latest/DLM7159322.html?search=ta\\_act\\_F\\_ac%40ainf%40anif\\_an%40bn%40rn\\_25\\_a&p=1](http://www.legislation.govt.nz/act/public/2018/0046/latest/DLM7159322.html?search=ta_act_F_ac%40ainf%40anif_an%40bn%40rn_25_a&p=1)

On page 3 of its own 2020 mid-term report to CEDAW,<sup>9</sup> the Government acknowledges that ‘Women are significantly more likely than men to suffer physical, sexual and psychological violence at the hands of a partner’. However, elsewhere the report does not discuss the implications of this fact, and continues to use gender-neutral terms such as ‘family violence’.

### Responses to gender-based violence against women

In terms of a ‘whole of Government’ response to ‘family’ violence:

- The Domestic Violence – Victims’ Protection Act 2018<sup>10</sup> provides dedicated paid leave for victims of domestic violence and enhances safety and support in the workplace, assisting women who are abused, or leaving abusive relationships, to remain employed. The law also allows workers who are victims of domestic violence to request flexible working arrangements (e.g. different hours or location of work), and prohibits employers from discriminating against people affected by domestic violence under the Human Rights Act.
- Significantly more money (\$202 million) was made available for sexual and domestic violence services in the 2020 Budget. However, there continues to be underfunding and under-resourcing. The available funding does not factor in ethnicity or areas and groups of greatest need.
- There have been no initiatives for safe, affordable housing for women when leaving violence, only minor changes to inadequate welfare benefits and the punitive system which currently keep women in poverty, and no specific funding to help women gain skills and extend their education.

The Sexual Violence Legislation Bill,<sup>11</sup> introduced in November 2019, has not been passed, due to one Government coalition partner not supporting it. The Bill includes some practical changes to make rape and sexual assault trials less traumatic for victims, including changing how victims give evidence, and making it more difficult for a victim’s previous sexual history to be used/addressed in the trial. The legislation does not address consent.

As the Committee noted, the language used to describe violence against women in New Zealand has been degendered – first by the euphemism ‘family violence’ and more recently by police use of the words ‘family harm’. We believe that this term reduces the agency and responsibility of the perpetrator.<sup>12</sup> Police appear to be using such language to hide the reality of male violence. The police no longer report ‘Male Assaults Female’; such offences are now generally recorded under the degendered category, ‘Serious Assault Resulting in

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<sup>9</sup> Ministry for Women, 2020. 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.

<sup>10</sup> Domestic Violence—Victims’ Protection Act 2018  
<http://www.legislation.govt.nz/act/public/2018/0021/latest/DLM7054315.html>

<sup>11</sup> Sexual Violence Legislation Bill  
[http://www.legislation.govt.nz/bill/government/2019/0185/latest/LMS268239.html?search=ta\\_bill\\_S\\_bc%40bcur\\_an%40bn%40rn\\_25\\_a&p=1](http://www.legislation.govt.nz/bill/government/2019/0185/latest/LMS268239.html?search=ta_bill_S_bc%40bcur_an%40bn%40rn_25_a&p=1)

<sup>12</sup> ‘Violence’ requires a human agent to cause it; ‘harm’ does not.

Injury'.<sup>13</sup> This response is indicative of the ongoing political degendering of language that consequently masks the extent of men's violence against women.

At its 2019 Congress, the International Labour Organisation (ILO) adopted Convention C190: Violence and Harassment. The high percentage of supportive votes demonstrated significant interest in violence and harassment free workplaces, with a strong focus on gender-based violence in the workplace. While New Zealand voted in favour of this Convention, there is still no Government commitment to ratify it. To do so would facilitate ensuring strong, inclusive, integrated and gender-responsive approaches to the prevention and elimination of violence – including sexual harassment in the world of work.

### Violence against disabled women

The Family Violence Act 2018<sup>14</sup> includes two specific and long sought changes relevant to disabled women's circumstances. The definition of violence and abuse now includes hindering or removing access (or threatening to do so) 'to any aid or device, medication or other support that affects, or is likely to affect, the person's quality of life'. The definition of 'family relationship' now includes 'caregiver'.

The only other move to address violence against disabled women is the inclusion of disabled people on some JUV reference/advisory groups. These people have reported feeling unheard and seeing no action on the issues they raise.

The response to an Official Information Request (OIA)<sup>15</sup> asking for details of the JUV's progress on addressing violence against disabled women indicates that no progress has been made on consulting with disabled women, or on any work to make the national strategy and other work inclusive of disabled women's needs.

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<sup>13</sup> The subgroup 'Male Assaults Female' was created as it was a topic of interest. However, with the enactment of the [Family Violence Act 2018](#) there was a shift in recording offences from 'Male Assaults Female' to 'Assault on Person in a Family Relationship' or 'Strangulation'. Most of these new offences fall under the 'Serious Assault Resulting in Injury' subgroup.

<sup>14</sup> Family Violence Act 2018  
[http://www.legislation.govt.nz/act/public/2018/0046/latest/DLM7159322.html?search=ta\\_act\\_F\\_ac%40ainf%40anif\\_an%40bn%40rn\\_25\\_a&p=1](http://www.legislation.govt.nz/act/public/2018/0046/latest/DLM7159322.html?search=ta_act_F_ac%40ainf%40anif_an%40bn%40rn_25_a&p=1)

<sup>15</sup> OIA made by the National Adult Safeguarding Alliance.

### Para. 40(a): Abortion

On 5 August 2019 the Government introduced the Abortion Legislation Bill (the Bill), an omnibus bill to amend the law to decriminalise abortion, better align the regulation of abortion services with other health services, and modernise the legal framework for abortion then set out in the Crimes Act 1961 and the Contraception, Sterilisation, and Abortion Act 1977.

The proposed changes to abortion law were supported by a majority of New Zealanders. In Parliament the Bill was subject to a conscience vote. Following the first reading on 8 August 2019, approved by 94 votes to 23, it was referred to the Abortion Legislation Committee, a Select Committee specially set up to consider it, which reported back to Parliament on 14 February 2020. The second reading began on 3 March 2020, with numerous Supplementary Order Papers, and was approved by 81 votes to 39. At the third reading on 18 March 2020, the Bill passed by 68 votes to 51, to become the Abortion Legislation Act 2020.<sup>16</sup>

The law states that women can now access abortion via a health practitioner in the first 20 weeks of pregnancy. After 20 weeks a health practitioner must agree that an abortion is clinically appropriate with regard to the person's physical and mental health and wellbeing, and must consult a second practitioner. Of the 13,000 abortions carried out in New Zealand in 2018, 57 took place after 20 weeks of pregnancy.

In practice, policy and funding changes are needed to enable improved access to abortion through both primary and secondary providers across all regions, including associated services such as scans and blood tests. Otherwise access will not improve, despite the intentions of the new law. Improving abortion outcomes and access for Māori must be prioritised.

The Bill originally contained provisions to create 150 metre safe zones around abortion clinics, and prevent people from handing out pamphlets or approaching women going inside a clinic. A confusion at the voting stage meant that these did not become law. Amending legislation, the Contraception, Sterilisation, and Abortion (Safe Areas) Amendment Bill,<sup>17</sup> has been introduced.

Te Whāriki Takapou and Family Planning New Zealand have submitted their joint report<sup>18</sup> to CEDAW, which provides more information.

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<sup>16</sup> Abortion Legislation Act 2020. <http://www.legislation.govt.nz/act/public/2020/0006/latest/LMS237550.html>

<sup>17</sup> Contraception, Sterilisation, and Abortion (Safe Areas) Amendment Bill.  
<http://legislation.govt.nz/bill/member/2020/0310/latest/LMS378596.html>

<sup>18</sup> Te Whāriki Takapou and New Zealand Family Planning, 2020. NGO 2020 mid-term report to CEDAW.



### Para. 48 (a): Family Court system

This recommendation echoes NGO submissions to CEDAW and refers to a broad range of issues detrimentally affecting women and children within the existing Family Court system.

This section gives a brief overview of the major recent (2019) report, and provides the most recent information available on the Government's response (see Appendix D). It also highlights criticisms, and covers a relevant 2020 Court of Appeal decision regarding the rights of mothers who are charged with child abduction after fleeing domestic violence in other countries (see Appendix E).

### Independent Panel Report

In August 2018, the Minister of Justice appointed an **Independent Panel** charged specifically with examining the 2014 family justice reforms. The terms of reference required the Panel to consider:

- the effectiveness of out of court services and Family Court processes
- the roles of professionals, for example, lawyers, lawyer for child, Family Dispute Resolution providers and psychologists
- whether the system as a whole is producing outcomes upholding the welfare and best interests of children, and particularly tamariki<sup>19</sup> Māori.

To answer these questions, the Panel had to consider the extent to which the family justice system is 'child-centred, accessible, coherent, flexible and evidence based'. Moreover, 'the impact of the 2014 reforms could not be considered in isolation from other areas of family law, such as legislation governing family violence, care and protection, and relationship property'. However, the Panel was not undertaking 'a first-principles review of the Family Court or family justice services as a whole'.

The Panel's report, **Te Korowai Ture ā-Whānau**, was delivered in May 2019 and made public on 16 June 2019.<sup>20</sup>

### System-wide issues

The current Family Court is broadly shown to be no longer fit for purpose. From consultations, submissions and other research, the report identifies serious system-wide issues where shortcomings and lack of understanding impact on every stage of family justice services.

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<sup>19</sup> Children.

<sup>20</sup> Te Korowai Ture ā-Whānau is defined as: 'a family justice system that protects, supports and empowers parents, whānau and their children as they work through and decide on parenting and partnership issues... Korowai are taonga, treasured cloaks. The word...symbolizes the mana of the family justice service and affirms that all who draw on it for protection, support and empowerment will be treated with dignity and respect.' (Principal Recommendation, p. 29.)

<https://www.justice.govt.nz/assets/Documents/Publications/family-justice-reforms-final-report-independent-panel.pdf>

All these issues impact on women and children. They include: children's participation; recognition of te ao Māori;<sup>21</sup> responding to diversity; accommodating disability; family violence and children's safety; and delays. Each of these is identified as 'a human rights issue' and 'a barrier to accessing justice' (p. 32). International and domestic human rights standards 'are still not consistently incorporated into the development of family law and policy' (p. 33).

**Child inclusive practice** has been developed in an ad hoc way, with 'no resolution of critical issues', including their right to participate in decision-making affecting them, or their involvement in decisions made about them.

**Paying serious attention to the Treaty of Waitangi and to diversity** is essential to addressing the ways in which family justice services have remained 'monocultural and alienating for many Maori' (p. 38, para 43) and 'do not adequately respond to whanau with diverse cultural backgrounds', as well as being 'generally inaccessible to people with disabilities' (p. 41, para 63). The strategic approach required in order to improve access to justice as a human right has to consider 'the barriers faced by disabled women, children and Maori' (pp. 46, para 84; p. 47, para 87).

**The difficulties encountered by victim-survivors of family violence** (most of whom are women and children) are covered extensively. The report stresses that 'professionals in the Family Court do not understand the dynamics of family violence . . . some victim-survivors felt re-traumatised and unsafe in the Family Court and FDR' ('What we learnt', p. 49).

**Endemic delay across all areas of family justice services** has increased, rather than declined, since the 2014 reforms. Even simple track cases 'take on average eight months to conclude'. More complex cases can take years to resolve. This has severe impacts, particularly on children.

**Cost is strongly associated with delay.** Women tend to have fewer financial resources than men and are, on average, worse off after separation. Poverty is a significant issue for single parents (who are mainly female). By making legal aid more difficult to access, the 2014 reforms impacted more severely on women.

**The difficulties of accessing family justice services information, 'timely (and robust) legal advice', and out-of-court services** are also highlighted, in the context of an unwieldy, largely paper-based system and IT systems which are unfit for purpose.

## Recommendations

The principal recommendation is the development of Te Korowai Ture ā-Whānau:

Direct the Ministry of Justice to develop a joined-up family justice service . . . bringing together the siloed and fragmented elements of the current in and out of court family justice services. The Korowai should provide a variety of ways for people to access the right family justice service at the right time for them. (p. 29)

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<sup>21</sup> The Māori world view (te ao Māori) acknowledges the interconnectedness and interrelationship of all living and non-living things.

In the Panel's view, implementing these recommendations will 'strengthen respect for and fulfilment of human rights for all who engage with the family justice services' (p.3).

The 70 detailed recommendations and proposals comprise a wide-ranging reshaping of family justice services. While this would not deal with every issue highlighted by NGOs, it would go a long way toward making these services work better for women and children.

### **Family violence**

The recommendations related to family violence include:

- improving understanding of and responses to family violence in the family justice services;
- sharing information, so that family violence agencies and social services practitioners can collaborate to identify, stop, prevent, and otherwise respond to family violence;
- amending the Family Court Rules 2002 to specify that Care of Children Act 2004 documents include information about the safety needs of victim-survivors when attending court;
- one judge having access to all information on and the ability to deal with all aspects of individual cases (especially complex cases);
- the judge making a finding of fact, ongoing risk assessment, use of a checklist of factors relevant to each child's physical and emotional safety, and the impact of violence against the mother on the child, whenever family violence is concerned;
- the judge being required to consider 'whether there is a historic pattern of violence or threats of violence, for example, coercive and controlling behaviour or behaviour that causes or may cause the child or their carer cumulative harm'(p.116);
- making children's participation a guiding principle;
- requiring parents and guardians to consult children on important matters that affect those children;
- considering how to take children's views into account, throughout the family justice services, where there is family violence.

### **The Government's response**

Early news reports indicated that the Cabinet supported all the recommendations put forward, and that the Government would consider these and receive further advice from officials before making any decisions. Dealing with COVID-19 resulted in delays, but in May 2020 the Minister of Justice announced the first phase of a long-term programme of work to strengthen the family justice system, funded by just over \$62 million from the COVID-19 response and recovery fund. In June 2020 he wrote to NCWNZ giving details of a second Bill, intended to follow later in 2020 (see Appendix D).

### **Criticism of the report**

The 2019 Government-initiated review was not a Royal Commission of Inquiry as recommended by the CEDAW Committee. Less than 48 hours after the CEDAW report was released, the Minister of Justice said that he did not think the Government needed to consider upgrading the review to a Royal Commission, as he already had a fair idea what the problem points were, and inferred that he was confident the review would address the

CEDAW recommendations. The Backbone Collective have submitted their report<sup>22</sup> which is critical of this stance.

The review and recommendations were generally useful, but failed to fully address long-standing concerns about the safety of women and children who come to the family court because of intimate partner violence and related child abuse. This was partly because the terms of reference did not specifically include examining how courts treat women in a relationship with abusive ex/partners, and how the court processes can be used to further abuse women. Nor did they include analysis of judges' use of parental alienation and related concepts. Judges and lawyers are still using these ideas to discredit women who seek help to escape violence, and they frequently prioritise abusive fathers' rights over the safety of women and children. These actions indicate a total lack of understanding of the gendered nature of violence against women.

Other particular concerns about this report included:

- The omission of any references to the gendered nature of violence in the report.
- The fact that the Review Panel did not include experts on gendered coercive domestic violence. Only one person with specialised knowledge about the safety of women and children was involved in the review, and only on a reference group, not on the panel.
- The report's failure to give sufficient weight to the importance of mandatory education and training of the Family Court workforce, and all those professionally associated with such cases, in essential knowledge and understanding regarding domestic violence, post-separation violence, the misuse of parental alienation and the parenting practices of perpetrators.

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<sup>22</sup> Backbone Collective, 2020. Shadow Report for the CEDAW mid-term report for the eighth periodic report of New Zealand.

## Appendices

### Appendix A: Recommendations from Concluding Observations

#### Para. 20: Human Rights Commission

The Committee reiterates its recommendation (CEDAW/C/NZL/CO/7, para. 16 (c)) that the State party provide the New Zealand Human Rights Commission with sufficient human, technical and financial resources to carry out its mandate to promote and protect women's rights. It further recommends that the State party repeal section 392 of the Immigration Act 2009 with a view to ensuring that the Commission is mandated to receive and process complaints from migrants, in line with the recommendations issued in 2016 by the Global Alliance of National Human Rights Institutions.

#### Para. 26 (a): Gender-based violence against women

Adopt a comprehensive and cross-party strategy on combating gender-based violence against women in accordance with general recommendation No. 35 and ensure its consistent implementation, including by strictly applying the provisions of the Family and Whanau Violence legislation, once adopted, including measures that specifically protect women with disabilities who are victims of abusive caregivers.

#### Para. 40 (a): Abortion legislation

Remove abortion from the Crimes Act 1961 and amend the Contraception, Sterilisation and Abortion Act 1977 in order to fully decriminalize abortion and incorporate the treatment of abortion into health services legislation.

#### Para. 48 (a): Family Court system

Establish a royal commission of inquiry with an independent mandate to engage in wide-ranging evaluation of the drawbacks for women, the obstruction of justice for women and the hindrances to their safety inherent in the family court system and to recommend the legislative and structural changes necessary to make the family courts safe and just for women and children, in particular in situations of domestic violence.

## Appendix B: Individuals and organisations contributing to the report

Anmar Taufeeek

Joanna Maskell

Debbie Hager

Coalition for the Safety of Women and Children

Family Planning New Zealand

National Council of Women of New Zealand Te Kaunihera Wahine o Aotearoa

New Zealand Council of Trade Unions – Women’s Council

UN Women Aotearoa New Zealand

Zonta International District 16

## Appendix C: COVID-19

The COVID-19 pandemic has exacerbated existing inequalities for women in Aotearoa. The Human Rights Commission should be adequately resourced to deal with these inequalities.

In the Government's response to COVID-19, women's refuges were designated essential services, recognising that an increase in violence against women was likely – and in fact did occur. However, in terms of COVID-19 grants, Government gave only \$1 million to organisations supporting women and girls.

Abortion services were also designated essential during lockdown,<sup>23</sup> and Interim Standards for Abortion Services in New Zealand<sup>24</sup> were published.

NCWNZ's Gender Attitudes Survey<sup>5</sup> in 2017 and 2019<sup>25</sup> showed that a number of people still perceived men as household heads. With COVID-19 rules requiring entire families to stay at home, many women were expected to hold the household together (doing the shopping, minding/schooling the children, and more), while men's careers were prioritised.

In 2019 the Ministry for Women released its tool, Bringing Gender In,<sup>26</sup> to assist with analysing the gender impacts of policy. Treasury<sup>27</sup> turned down a proposal by the Minister for Women to put a gender lens across Budget spending allocations, which would have ensured fairer outcomes for women. No gender lens was applied to COVID-19 legislation.

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<sup>23</sup> Strongman, S., 2020. Abortion services available by phone for some New Zealanders during lockdown. <https://www.rnz.co.nz/news/national/413671/abortion-services-available-by-phone-for-some-new-zealanders-during-lockdown>

<sup>24</sup> Ministry of Health, 2020. Interim Standards for Abortion Services in New Zealand. <https://www.health.govt.nz/publication/interim-standards-abortion-services-new-zealand>

<sup>25</sup> NCWNZ, 2017/2019. Gender attitudes survey. <https://genderequal.nz/ga-survey/>

<sup>26</sup> <https://women.govt.nz/gender-tool?fbclid=IwAR1ox2du0Kjzgai3lGyYcWQHMQWqCtSgdFUWEP4DdgTmSFurDUpbT9QWjVo>

<sup>27</sup> Alves V. (2020). Women's groups united against Treasury's gender lens decision. [https://www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=12337179](https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=12337179)

## Appendix D: Letter from Minister of Justice

# Hon Andrew Little

Minister of Justice

Minister for Courts

Minister for Treaty of Waitangi Negotiations

Minister Responsible for the NZSIS

Minister Responsible for the GCSB

Minister Responsible for Pike River Re-entry



**08 JUN 2020**

**Lisa Lawrence**  
President  
National Council of Women Aotearoa New Zealand  
By email: [arna.metcalfe@ncwnz.org.nz](mailto:arna.metcalfe@ncwnz.org.nz)

Dear Ms Lawrence

### **Te Korowai Ture ā-Whānau**

Thank you for your letter of 3 May 2020 about the implementation of the recommendations in Te Korowai Ture ā-Whānau, the final report of the Independent Panel (the Panel) examining the 2014 family justice system reforms.

The Government welcomed the Panel's report and in May 2020 I was pleased to announce 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 from the COVID-19 Response and Recovery Fund. This package includes:

- reinstating legal representation in the early stages of Care of Children Act 2004 proceedings, with legal aid for eligible parties. The Family Court (Supporting Families in Court) Legislation Bill was introduced on Budget Day and will come into force on 1 July 2020;
- establishing the role of Family Justice Liaison Officer to help parents and whānau navigate the family justice system, provide information on process and engage with family justice providers;
- developing quality, accessible information for children, parents and whānau; and
- increasing remuneration for lawyers for children 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 and children's participation is enhanced. 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. The first step in an extensive long-term programme of work, these changes promote my vision of a family justice system that continues to place child wellbeing at its heart.

Thank you for taking the time to write to me.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Hon Andrew Little', written over a printed name.

Hon Andrew Little  
**Minister of Justice**

## Appendix E: Important 2020 Court of Appeal decision

In July 2017, after years of domestic violence at the hands of her former partner, a mother who was a New Zealand citizen returned with her child from Australia, where she was unable to access social assistance. Her partner then invoked the Hague Convention to force them to return to Australia. On 3 April 2020 the New Zealand Court of Appeal ruled in her favour. As a press report explained:

The Hague Convention was designed to send a child back to their country of habitual residence, where a child custody case can then be heard. Originally, it was created with the idea that mothers could enact the Convention when fathers kidnapped children and left the country. But in the years since it was created, the majority of global cases have involved a mother fleeing domestic violence, and the father then ordering them back to his country of residence.

A clause in the Hague Convention states that if a child would be at grave risk of being thrust into an intolerable situation by returning, a court can deny the order. But the clause does not take into account violence against a mother, and the impact that may have on a child.<sup>28</sup>

Generally, once a parent has requested the return of their child, the onus of proof has lain with the fleeing parent. It can be extremely difficult or impossible for mothers to obtain police reports and other evidence from overseas.

The Appeal Court judges asked the father for the criminal records and charges previously laid against him, and court documents to back up claims he had made in the High Court. They also asked about the financial support that would be available to the mother in Australia, where she might live in the immediate and longer term, and what social supports would be on offer in the absence of family or friends.

The judges' full reasoning is yet to be released, but the decision will have wide implications for the rights of mothers who are charged with child abduction after fleeing domestic violence in other countries.

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<sup>28</sup> 'Court of Appeal rules in favour of domestic violence victim who fled from Australia to New Zealand with her child', *NZ Herald*, 6 April 2020. [https://www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=12322787](https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=12322787)