



**Convention on the Elimination
of All Forms of Discrimination
against Women**

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**Committee on the Elimination of Discrimination
against Women**

Twenty-ninth session

Summary record of the 625th meeting

Held at Headquarters, New York, on Monday, 14 July 2003, at 3 p.m.

Chairperson: Ms. Açar

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CBRDP

The meeting was called to order at 3.05 p.m.

Consideration of reports submitted by States parties under article 18 of the Convention *(continued)*

(CEDAW/C/NZL/5;

CEDAW/PSWG/2003/II/CRP.1/Add.5 and

CEDAW/PSWG/2003/II/CRP.2/Add.4)

Fifth periodic report of New Zealand (continued)

1. *At the invitation of the Chairperson, the members of the delegation of New Zealand resumed places at the Committee table.*

2. **The Chairperson** invited Committee members to continue with their questions and comments.

Articles 10 to 14

3. **Ms. Khan** asked why Māori, Pacific and other minority women participated less in public life than white women and why the rate of political participation was declining among some groups, especially Māori women. The eligibility criteria for receiving paid maternity leave, particularly for women who held several jobs, and the percentage of minority women who did not qualify for such assistance should be clarified. Women still dominated such low-paying positions as health service workers and clerks, although men and women had relatively equal levels of tertiary education. She would welcome additional information on the measures that the Government of New Zealand had taken to eliminate horizontal and vertical employment barriers and pay gaps. It would be interesting to have more detail on the level of awareness about the Human Rights Act among minority women and the extent to which they had taken advantage of the Act.

4. **Mr. Melander**, noting that one sixth of women who had filed complaints of sexual harassment with the Human Rights Commission had been fired, asked whether the Government of New Zealand had taken legislative action to prevent such loss of employment. It was unclear whether cases of pay gaps had been referred to a court and, if so, whether the employer or employee bore the burden of proof. It would be useful to learn whether the parties engaged in collective bargaining to settle disputes over wage differentials had been acting in good faith.

5. **Ms. Saiga** wished to know the reasons for the increase in the number of women part-time workers. It was unclear whether part-time workers had been included in the parental leave system.

6. **Ms. Achmad**, noting the gender gaps in education, asked what measures had been taken to eliminate stereotypes and promote equal partnership in public and private life through school curricula and youth groups, which, ultimately, would benefit both men and women.

7. **Ms. Schöpp-Schilling** asked whether the Equal Opportunities Act included targets for women in the private sector. Commending New Zealand on its parental leave legislation, she requested further information on the eligibility of female casual workers for parental leave benefits and social security. It would be interesting to learn whether changes were planned to eliminate the cap on the parental leave payments, which made the cost of taking paternal leave prohibitive for many men. More detail would be welcome on wage equality and whether the task forces mentioned in New Zealand's report were responsible for investigating equal pay for work of equal value.

8. **Ms. Belmihoub-Zerdani** failed to understand why interest on student loans was higher for women than men. It took men 17 years to repay a loan of \$20,000, for example, and women almost 51 years. She would welcome any information on legislation enacted to address the pay gaps for work of equal value, which range from 15 to 17 per cent in the public sector, and whether cases of wage discrimination had been brought to court.

9. **Ms. Manalo** enquired about any government initiatives on the unequal student debt burden of women. Further information should be provided on legislative measures to tackle low wages and poor working conditions of casual workers and pay gaps between men and women. More information should be provided on the measures New Zealand was taking to extend paid paternal leave equally to all women to ensure that it complied with Convention No. 183 on Maternity Protection of the International Labour Organization (ILO). She would appreciate more detail on the health needs of low-income families and the steps that had been taken to deal with inadequate housing, unemployment and poverty. Lastly, the New Zealand Government should clarify the measures it had

taken to address the growing health disparities between whites and Māori, Pacific and other minority women.

10. **Ms. Dyson** (New Zealand) said that her Government had set targets and launched initiatives to increase employment among new migrants and Pacific and Māori people. Employment rates for female migrant workers between 1996 and 2001 had increased by 7.5 per cent and unemployment had decreased by almost 3 per cent. Disparities remained but they were in decline. Low levels of education were responsible for the unemployment rates of Māori and Pacific women, but measures to enrol such minority women in tertiary education, such as the introduction of *wānanga*, private Māori tertiary institutions, had raised their education level and would improve their rate of employment in the long term.

11. After much debate, her Government had decided to fund the parental leave scheme rather than leave it to employers. Eligibility for paid leave had been determined by the availability of resources. A review of the paid paternal leave was done to ensure that eligible women or partners had been given access to the scheme and to determine those whom the programme would cover. Priority attention was being given to women who had had more than one employer during a 12-month period, most of whom are low-wage workers or minorities, such as the Māori or Pacific peoples, and to the self-employed. The review also considered the possibility of extending the period of paid leave, which was 12 weeks.

12. Thanks to the Employment Relations Act, employer organizations and trade unions now reached understandings in good faith far more quickly than in the past. There remained some vulnerable employees, considering that they had suffered 10 years of a deregulated labour market and little union protection. Although breaches of good faith had been alleged, mediation through employment relations legislation had made labour relations less adversarial and led to the resolution of disputes in other areas such as human rights and the environment. In any area of dispute, mediation rather than litigation was stressed.

13. The protection of religious freedom is enshrined in her Government's bill of rights and Human Rights Act. Muslim women and, in particular, girls had been harassed in her country following the terrorist attacks on the United States of 11 September. The Human Rights Commissioner and Race Relations

Commissioner had been working together at the local and national level to help the affected communities. Her Government had made efforts to increase women's awareness of their rights under the Human Rights Act and Employment Relations Act. The Human Rights Commission, in partnership with the local Citizens Advice Bureaux, answered questions about human rights and ensured appropriate referrals.

14. A review of the complaints to the Human Rights Commission and the Employment Court showed that women who were victims of sexual harassment were more likely to use the disputes resolutions process of the Human Rights Commission, whereas men who had been disciplined for acts of sexual harassment were more likely to take grievances against their employers to the Employment Court.

15. The Equal Employment Opportunities Commission and Equal Employment Opportunities Trust had been established to cooperate with the private sector on women employment's issues. The Māori Women's Development Fund was created in 1987 to assist women who wished to start small businesses with a credit line of \$20,000. Self-employed Māori women accounted for the highest increase in participation of any gender group in any part of the labour market.

16. The delegation of New Zealand agreed that capping paid parental leave could be a disincentive for some fathers to participate in the programme, especially given the continuing wage differentials between men and women. Her Government had devoted abundant resources to the Parental Leave and Protection Employment Act and hoped to extend it in the near future.

17. The Pay and Employment Equity Task Force had been studying the successful equal opportunities programmes of other countries to determine what might be applied to New Zealand. The Task Force had made efforts to ensure that citizens understood and supported the legislative initiatives it had undertaken. It would be reporting on the public health and education sectors at the end of the year.

18. With respect to student loan disparities, her Government had reached agreement with higher education institutions in 2000 to freeze fees and ensure that no student or part-time low-income worker was accruing interest on loans. Loan repayments went towards the principal rather than the interest to reduce

the overall debt burden. Taking into account the gender differences in student loans and financial aid, New Zealand had recently introduced a “fee maxima” policy by which tertiary education institutions could increase fees, but only by agreement with the Government and at a level no higher than the inflation rate. The aim was to improve the limited student support regime.

19. She noted the concerns raised about the increase in casual and part-time work, especially as it affected the work/life balance, but was confident that any difficulties could be overcome. A core principle of her Government’s policy governing health, employment and income was that they were interrelated and interdependent. She acknowledged that Māori and Pacific women were more disadvantaged with regard to income and health but stressed that the New Zealand Health Strategy was aimed at improving the health of the population, taking into account the specific needs of individual districts, with a view to eliminating inequalities, in particular in districts with Māori or Pacific populations. Points of intervention had been identified and programmes based on best practices were being implemented to assist District Health Boards in meeting the needs of their Māori and Pacific populations. Indicators were also being developed to monitor the success of programmes.

20. She endorsed the remarks expressed about the number of women who did not stay in their jobs after filing a complaint of sexual harassment and stressed that the Human Rights Act 1993 provided job protection guarantees to women who registered complaints. That phenomenon might be explained by the circumstance that large workplaces often had internal structures and procedures for dealing with sexual harassment complaints which made recourse to the Human Rights Act unnecessary. In small workplaces the complainants, who were usually young, with little seniority, who complained of harassment by older employees, often managers, found it difficult and undesirable to stay on the job where there was a real or perceived threat of harassment.

21. **Ms. Popescu Sandru** welcomed New Zealand’s success in designing policies tailored to meet the needs of specific categories of women, including the most vulnerable. She enquired whether the Equal Employment Opportunities Commissioner’s function would be similar to that of an ombudsperson, for example, authorized to receive and deal with complaints. Although she applauded the restructuring

of health services to implement a more community-based model and take into account the needs of different regions, she expressed concern that it might lead to inequalities in health services delivery. She asked whether any structure was in place to ensure the coherent functioning and monitoring of the health system, including the sharing of best practices and gathering of statistics. Furthermore, she asked whether there were any specific measures designed to build local capacity and finance District Health Boards.

22. **Ms. Tavares da Silva** stressed that the student loan system was gender biased. The most people affected by that bias were those with low incomes or those who had to leave the workforce from time to time — in other words women. It was important to introduce a gender-neutral approach.

23. **Ms. Kwaku** would appreciate more information on measures envisaged to meet the needs of rural women and ensure they had access to a reasonable level of services. They might include temporary special measures such as incentives to recruit and retain general practitioners in rural areas and subsidies for childcare in order to allow rural women to find employment and increase their income.

24. **Ms. Morvai** expressed gratification about the adoption of the New Zealand Public Health and Disability Act 2000 and the 2001 Household Disability Survey and wondered what measures were planned to meet the specific needs of disabled women. In particular, she was concerned that, according to the report, disabled women received less home help assistance than disabled men and no assistance with parenting responsibilities, for example, affordable childcare. She would welcome information on how the Government intended to address those problems.

25. **Ms. Patten**, noting that the gap between female and male average ordinary time hourly earnings was wider in the public sector than in the private sector, asked what steps would be taken to eliminate gender-based wage gaps in the public sector and what measures would be used to implement and monitor new employment legislation in the private sector, in particular with regard to women working on a casual, part-time or temporary basis. More information would also be welcome on the findings of the three-year review of the Employment Relations Act 2000, and in particular its effect on women and its contribution to eliminating inequality. She also wondered if there were

any mechanisms to counsel individuals when entering into an employment contract and, if so, whether women took advantage of them.

26. **Ms. Gnancadja** welcomed the appointment of a Minister of Rural Affairs, but stressed the need to implement practical measures to protect the interests of rural women, including their property and inheritance rights. Funding must be provided to guarantee that adequate services were available in rural areas. The Property (Relationships) Amendment Act 2001 was also a positive step but the Act must be implemented in practice and rural women must be made aware of its provisions. She would also welcome more information on the Māori Women's Development Fund.

27. **Ms. Khan** expressed concern about the situation of women who held multiple jobs and therefore were never eligible for maternity and social security benefits because they had not worked at least 10 hours per week for one employer. She wondered whether the Human Rights Act 1993 provided for public funding of complaints. Further, she requested information on the number of complaints filed in the public and private sectors respectively. She applauded the State party's efforts to place an economic value on unpaid work, hoped it would have important consequences for public policy and wondered whether some form of compensation was planned for women's unpaid work. In the area of health, she requested information on the reasons for the high suicide rate among young women, especially Māori women.

28. **The Chairperson**, speaking in her personal capacity, and noting the delegation's use of the word "equity" for example with regard to pay and employment, said the Committee's preferred term was "equality" and requested clarification from the delegation on its interpretation of the terms equity and equality.

29. **Ms. Dyson** (New Zealand) confirmed that multiple job holders were often not eligible for parental leave, although that situation was under review; a woman holding multiple jobs who was a single parent would be eligible for a separate, social security benefit. There had been complaints under the relevant human rights legislation governing the public sector in the areas of retirement age, pension entitlement, differential treatment of impairment caused by injury or illness, lack of entitlement to certain social security benefits when a woman had a spouse earning income,

and differential entitlement to the child tax credit according to source of income. She pointed out that human rights legislation also covered the private sector.

30. Turning to the New Zealand Time Use Survey (CEDAW/C/NZL/5, p. 32), she said no decision had been taken as yet to incorporate the findings in an economic model. Research had however been undertaken, for example, with regard to the provision dealing with caregiving. She cited the example of family members caring for another family member: they were not entitled to compensation from the Government but a neighbour providing the same care for that person would be entitled to compensation. The data showing the number of family members in such a situation and the probable cost of providing them with compensation had not yet been incorporated in a specific proposal detailing how to include the economic value of the unpaid work in the national accounting system.

31. Through wide-ranging community programmes and community support, New Zealand had succeeded in reducing its youth suicide rate — long one of the highest in the world. It was now tackling its very serious suicide problem among older men through educational and awareness-raising measures, including the destigmatization of depression and mental illness.

32. The task force investigating gender-based pay gaps in the public sector, particularly in health and education, would submit its findings to her Ministry by the end of the year. Its recommendations would also be transmitted to the private sector. The Department of Labour had not yet submitted its evaluation of the Employment Relations Act 2000.

33. In response to questions on rural women, she said that many temporary special measures had been taken in support of rural communities, including special funding to attract general medical practitioners to rural areas as well as replacements to ensure them a brief respite. Under the Heartland Services initiative, all key government departments and agencies provided services to the rural population in one location, sparing them telephone and travel expenses. Rural dwellers were able to contact all government agencies on toll-free telephone lines. Efforts were being made to expand the information available on government web sites and, at the same time, to enhance the capacity of rural web site users. Equal rights to land ownership of property by men and women were legally guaranteed;

de facto discrimination with regard to inheritance in the past had all but disappeared. The newly appointed Equal Employment Opportunities Commissioner, within the framework of the Human Rights Commission, compared national standards to international conventions and benchmarks in order to establish best practices in all labour-related areas, from recruitment, job protection and promotion and to retirement and the prevention of stereotyping. Access to the labour market was viewed as a rights-based issue.

34. The national Government retained decision-making power and overall responsibility for the delivery of health services in order to ensure coherency and minimize tensions over competing requests within the 21 District Health Boards created under the restructuring of the New Zealand health system.

35. She thanked Ms. Morvai for complimenting New Zealand on its Disability Strategy. Persons with disabilities felt disempowered by society's attitude towards them and faced discrimination in employment and access to loans and other financial support. The country had a robust system of individual home support and childcare services; however, married women with disabilities were not entitled to government support and were therefore financially dependent on their husbands. Women with disabilities also perceived their condition as an impediment to becoming foster or adoptive parents, although there was nothing in the law to that effect. She noted that New Zealand had played a leading role in promoting a United Nations convention for persons with disabilities.

36. Commenting on the request for clarification of the difference between the use of the terms, she said that in New Zealand, "pay equity" was the term used to denote "pay in employment equality" or "equal pay for work of equal value".

Articles 14 and 16

37. **Ms. Šimonović** requested clarification of trends in women's choice of surnames upon marriage, outlined on page 147 of the report, and on teenage and arranged marriages (CEDAW/C/NZL/5, p. 148). She wondered whether the State Party sought to educate refugees or other groups which perpetuated that practice, and how it was possible to prove a minor's consent in arranged marriages performed under pressure.

38. **Ms. Patten** enquired about mechanisms in place to ensure full implementation of the Property (Relationships) Amendment Act 2001, and about the gender sensitivity of judges, who had broad discretion to determine the amount of compensation or supports payments in cases of the dissolution of marriages and relationships. Was ongoing training provided to the judiciary and law enforcement authorities? She requested information on the budget for the New Zealand Family Violence Prevention Strategy, and asked whether its impact had been evaluated.

39. **Ms. Gnancadja**, referring to article 15, enquired whether the reduction in certain civil court fees really made a difference, given the increase in fees for the Court of Appeal, the second highest court in New Zealand, and the District Courts, which included the Family Court. She also wished to know whether legal aid was provided in criminal, as well as civil, cases and what proportion of the total cost per case was covered by the average subsidy of \$1,500. "Implementation" of the recommendations contained in the study paper entitled "Women's Access to Legal Services" seemed to focus more on reviewing current legislation than on taking specific measures that would yield tangible results.

40. Turning to the issue of marital status under article 16, she said that she feared that citizens' guarantees under the New Zealand Bill of Rights Act could be diminished by the power of judges and government authorities to interpret the law and to subject rights and freedoms to such reasonable limits prescribed by law as could be demonstrably justified in a free and democratic society (CEDAW/C/NZL/5, appendix III, para. 94, p. 185).

41. How was the State party ensuring that the dispute-resolution process was indeed within the control of the Parties themselves? Were pre-trial and out-of-court mechanisms available to that end? Moreover, while the report set out remedies for complaints concerning government legislation or policies and practices, it said nothing of remedies in cases involving individuals.

42. **Ms. Manalo**, referring to article 15, enquired about the allocation of resources to address the issues raised in "Women's Access to Legal Services" and other reports of the New Zealand Law Commission. She would appreciate details on Government plans to implement the recommendations contained in those

reports. She also wished to know the Government's strategy for identifying and meeting the needs of groups with different sexual orientations, including what advances had been made in their legal status.

43. With regard to article 16, the delegation should indicate any government measures to protect the Family Court, the safety of the judiciary and the privacy of the parties involved, against a backlash by men's rights groups. Lastly, she sought assurances that sufficient funds were being allocated to monitor the implementation of the Property (Relationships) Act.

44. **Ms. Dyson** (New Zealand), replying to Ms. Gnancadja, said that, historically, discrimination and human rights instruments had applied only to the private sector and that, in adapting those provisions to the public sector and allocating resources for that purpose, a balance had been struck between competing rights and responsibilities of different groups and individuals. The provision on "reasonable limits that could be demonstrably justified in a free and democratic society" was based on the International Covenant on Civil and Political Rights.

45. She conceded that the Government was not entirely satisfied with the representativity and diversity of the judiciary, which it was attempting to improve by changing the nomination process. Gender-sensitivity training was provided to judges annually. Not enough cases had been heard to determine whether the pioneering Property (Relationships) Amendment Act 2001 should be further amended; however, the Government was strongly committed to its effective implementation and was monitoring it closely. Mediators were available through the Family Court to help the parties resolve disputes amicably. The Government was currently reviewing the legal aid system to determine whether \$1,500, the average amount of assistance, was indeed sufficient to ensure access to the justice system.

46. Replying to Ms. Šimonović, she said that the section of the report on family names did not purport to analyse trends so much as set out a factual situation, namely, that women had traditionally taken their husbands' names upon marriage but there were now other options, including hyphenated surnames or husbands adopting their wives' names. The number of teenage and arranged marriages in New Zealand was currently very low; nonetheless, the Government continued to voice strong opposition to any form of

coerced marriage. Replying to Ms. Manalo, she said that, in addition to the provisions of the Property (Relationships) Amendment Act affecting same-sex relationships, the Government was reviewing the whole issue of marital status. The Cabinet would soon be considering legalization of same-sex relationships and civil unions.

47. To counter pressure from men's rights groups, New Zealand was attempting to maintain a steady focus on the children of dissolved marriages or relationships. It was, *inter alia*, modernizing the terminology of its legislation; for example, "custody" and "access" applied more to property than children. It was also funding the supervision of access to children of the spouses and making it easier to negotiate parental responsibility in acrimonious situations.

48. **The Chairperson** welcomed the State Party's withdrawal of its reservation to article 11, paragraph 2 (b), of the Convention and its sustained commitment to implementing the Convention, as evidenced by, *inter alia*, its ratification of the Optional Protocol. She expressed satisfaction at the keen awareness of the provisions of the Convention in New Zealand, the exemplary mainstreaming of gender analysis in government policies and in the country which had been the first to grant women the right to vote in the 1800s, the presence of an exceptionally large number of women in high-level political posts. The Committee hoped that New Zealand would take steps to reverse some recent slippage in women's representation in high-level positions in the political and judiciary spheres and to strengthen their presence in the higher echelons of the economic and education sectors.

49. The Committee would have appreciated more specific information on the impact of measures to eliminate stereotypes and to protect the human rights of indigenous and minority women. New Zealand should make every effort to guarantee women's rights in indigenous and minority groups whose traditions included discriminatory practices and, in that endeavour, closely monitor the implementation of national policies at the local level. The next periodic report should include information on the repercussions of its system of devolution.

50. The Committee looked forward to hearing the results of government policies to afford Māori women equal access to health and education services and employment opportunities. The Committee was

impressed by the State party's cooperation with NGOs in both the preparation of its fifth periodic report and the Action Plan for New Zealand Women. It welcomed the appointment of a new full-time Equal Employment Opportunities Commissioner despite its reservations concerning his or her powers. It continued to be concerned about the gender impact of student loan schemes and welcomed the State party's willingness to address that issue. It also hoped that effective action would be taken to deal with the country's gender-segregated labour market and wage disparities between men and women.

51. In conclusion, she noted that the Committee would be holding a meeting in New Zealand to facilitate the reporting process of the Pacific island States and hoped that the New Zealand Government would continue its activities to support that effort.

The meeting rose at 5.05 p.m.