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Human Rights Committee

**Concluding observations on the sixth periodic report of New
Zealand**

Addendum

**Information received from New Zealand on follow-up to the
concluding observations***

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* The present document is being issued without formal editing.



Domestic and gender-based violence

Ministerial Group on Family Violence and Sexual Violence work programme

1. In 2014 the Government established the Ministerial Group on Family Violence and Sexual Violence with the objective of establishing a comprehensive response to family violence and sexual violence to stop perpetrators hurting their families, protect victims, and break the cycle of re-victimisation and re-offending.

2. On 24 March 2016, the Human Rights Committee adopted concluding observations on New Zealand's sixth periodic report (CCPR/C/NZL/6). The Committee requested relevant information, within one year, on the implementation of three of its recommendations related to domestic and gender-based violence (paragraph 30 of the concluding observations), child abuse (paragraph 32), and the Marine and Coastal Area (Takutai Moana) Act 2011 (paragraph 44). This paper provides further information and outlines developments in these areas over the 12 months since the adoption of the concluding observations.

3. Ultimately, the Government is creating a system that is integrated across its component parts, with a skilled workforce able to recognise risk and need, and that knows how to respond. The Government will develop a system in which people have confidence to seek help and when they do they get the support that is right for them, at the right time, and no matter which 'door' they seek help through.

4. The Ministerial Group has identified and developed critical projects to strengthen the foundations of the system to improve practice across all agencies and service types while building data and evidence to guide future investment over the medium-to-long term. Where there was a clear need for immediate action and a solid evidence base, the Government has already put in place better services, pilots and other improvements. These include:

(a) National Home Safety Service (to keep victims safe in their own home without having to rely on alternative, safe accommodation);

(b) Developing the Risk Assessment and Management Framework (RAMF), which aims to develop a common approach to consistently and effectively identify, assess and manage the risks of family violence;

(c) Developing the Workforce Capability Framework, co-designed with a sector-led Expert Design Group, which identifies the knowledge, skills and behaviours needed for a safe and competent workforce;

(d) Four community pilots that work with gang-connected populations and their communities to build safer communities, support adult victims, address perpetrator behaviour and reduce the effects of multi-generational gang involvement;

(e) Expanding the Family Start intensive home visiting service for high-risk families with children;

(f) Launching the 'Danger Signs' public awareness campaign in late 2016 as part of the 'It's Not OK' campaign. This highlights the signs that a woman is in danger from a partner and where to get help;

(g) Extending E Tū Whānau (a community based violence prevention programme) into hard to reach communities, particularly those belonging to gangs and refugee and migrant communities;

(h) Expanding the bail information pilot from two to eight locations to give judges making bail decisions more information about a defendant's previous family violence history to help support informed bail decision;

(i) The \$503 million Safer Communities package to substantially increase police staff and resources across the country, and which includes new capability particularly relevant to family and sexual violence, such as:

- 140 additional specialist investigators for child protection, sexual assault, family violence and other serious crimes;
- 20 additional ethnic liaison officers to support Chinese, Indian and other ethnic communities.

5. The Ministerial Group is also overseeing work on family violence and sexual violence prevention that aims to stop violence before it begins and to stop it from reoccurring. It involves working at the population level to change attitudes and behaviours, to increase the factors that provide protection from violence, and to decrease the risk of violence, especially for those groups most at risk.

Family Violence law reform

6. Another key component of the Ministerial Group's work is ensuring New Zealand's legislative framework is effective and responsive. The Minister of Justice introduced to Parliament, on 15 March 2017, the Family and Whānau Violence Legislation Bill to reform the law in relation to family violence. The legislative reforms strengthen the justice sector response to family violence, and support the ongoing development of an integrated system.

7. To support a more co-ordinated and collaborative system, the new legislation includes changes that will:

- (a) Increase access to risk and needs assessments and services;
- (b) More accurately record family violence offending in the criminal justice system;
- (c) Enable codes of practice to be introduced; and
- (d) Introduce new information sharing provisions.

8. The Bill also introduces three new offences: non-fatal strangulation, coercion to marry, and assault on a family member. These offences better recognise the wide range of family violence behaviours and harm they cause.

Effective enforcement of criminal legislation at New Zealand Police

9. Sexual assault crimes and child abuse are treated as a priority by New Zealand Police. These crime types are under-reported. Police encourages victims to come forward so they can actively investigate recent and historic sexual assaults. New Zealand Police have introduced new initiatives to deliver better services and responses, including the:

(a) Quality Assurance and Improvement Framework introduced nationally in February 2016. It aims to ensure national consistency in family violence, child protection and sexual assault investigation processes and practice. The quality of investigations is assured through monitoring of investigations and case management at the local and at the national level;

(b) Whāngaia Ngā Pā Harakeke (WNPH) — Police and iwi (Māori tribes) are working in partnership to prevent the intergenerational effects of family violence and reduce the over representation of Māori as victims and offenders of this crime type. The initiative provides a holistic approach to family harm, working with the whole family, including the perpetrator, to prevent further harm and violence. The pilot launched in Counties Manukau in April 2016 followed by Gisborne in February 2017 and will be implemented in Northland later in 2017;

(c) Family Violence Victim Video Interviewing On Scene — The purpose of this initiative is to improve victims' experience when Police attend and investigate family violence and to improve the enforcement of the family violence legislation. Victims will not need to repeat their statement at the police station. Also, it is expected that this initiative will lead to more guilty pleas. Legislative changes planned for late 2017 will make the use as evidence of the recorded interviews of family violence victims easier;

(d) Safer Whānau (extended family) work programme — New Zealand Police trains all frontline responders of family harm, including (in 2017) the reintroduction of a

specialist Family Violence Coordinator course and wider training for all frontline responders in understanding family harm dynamics and intergenerational harm. An additional focus area is the over-representation of Māori in family violence;

(e) A four tier training model in place for the investigation of Adult Sexual Assault and Child Protection cases. This model gives guidance to staff across all levels of the organisation;

(f) Dedicated Child Protection Teams nationwide in New Zealand Police, requiring all investigators and supervisors on these teams to have the appropriate level of training;

(g) Training for first responders and front counter staff commenced in October 2016. This training is to improve mind-sets, attitudes and processes when involved in the initial contact with adult sexual assault victims.

Inclusion into National Plan of Action

10. The New Zealand National Plan of Action (NPA), established in 2015, monitors human rights in New Zealand and tracks the Government's progress. The NPA is administered by the New Zealand Human Rights Commission (<http://npa.hrc.co.nz>).

11. The NPA records the Government's actions to address the 121 accepted recommendations made at the Universal Periodic Review (UPR) in 2014. The Human Rights Commission is considering extending the NPA to specifically cover treaty body recommendations including the Human Rights Committee's.

12. There is a large number of UPR actions in the NPA related to programmes to combating domestic and gender-based violence, including sexual violence. These are either completed or well under way as discussed in this report or in New Zealand's sixth report of 2015. The most relevant actions are:

- Implement new trials to improve timeliness of family violence prosecutions;
- Implement an Integrated Safety Response Pilot to address family violence;
- Establish the role of Chief Advisor on Victims;
- Review of family violence legislation;
- Develop a whole-of-government strategy to reduce family violence and sexual violence within New Zealand;
- Improve access and service offerings for people affected by sexual abuse;
- Actions to strengthen the E Tu Whānau (Māori community based) programme;
- Work across government and with communities to strengthen primary prevention initiatives that keep Māori women safe from becoming victims of intimate partner and sexual violence;
- Actions to strengthen the Children's Teams programme.

Effective monitoring and evaluation

13. A key aspect of the Ministerial Group on Family Violence and Sexual Violence is ensuring New Zealand accurately monitors progress toward achieving key goals and evaluates outcomes from interventions. Monitoring the harm caused by family and sexual violence has been difficult in the past due to high rates of under-reporting. Apparent increases in reporting rates may in fact be a positive sign of changing attitudes toward violence and confidence in the justice system.

14. The New Zealand Crime and Safety Survey, which is a significant source of data about victims experiencing family violence in New Zealand, is being redeveloped into an annual survey, called the Crime and Victims Survey. This will enable the Government to better track and measure family violence. Seven family violence indicators have been identified to better monitor trend information on prevalence, victim harm and perpetrator cost/harm. These will be used to inform Better Public Services targets and the Ministerial

Group on Family Violence and Sexual Violence's (Ministerial Group) work programme from 2017 onwards.

15. The New Zealand Social Policy Evaluation and Research Unit is supporting the Ministerial Group with its family violence evidence and evaluation programme. This includes, for example, the independent evaluation of the Integrated Safety Response Pilot explained in paragraph 19 of this report.

16. In late 2016, New Zealand Police developed an on-line survey giving adult victims of sexual assault the option to provide feedback about the quality of Police services. This enables Police to continually improve the quality of sexual crime investigations and services for victims.

17. Improvements have been made to the Recorded Crime Victims and Offenders Statistics to make them more user-friendly for the public. This data is published monthly and available through the New Zealand Police website.

Programmes of victims' rehabilitation and redress

18. The Ministerial Group initiated a 'responding to victims' project in July 2016. This project is focused on designing an optimal service response for victims of family violence in the long term. It has a particular focus on advice services for families seeking help for family violence and on long term care and recovery services, such as social work and counselling.

19. The Ministerial Group is also piloting a new approach, the Integrated Safety Response, to make sure families experiencing violence get the help they need from family violence services. The pilots involve core agencies — Police, Child Youth and Family (now the new Ministry for Vulnerable Children, Oranga Tamariki), Corrections, Health, specialist family violence Non-Governmental Organisations and kaupapa Māori services (services that focus on Māori cultural needs) — closely working together to support victims and prevent further violence.

20. The Accident Compensation Corporation (ACC) provides the Integrated Services for Sensitive Claims (ISSC) through a range of providers including social workers, counsellors and psychologists, for victims of sexual violence. The ISSC delivers end to end, client centred support, assessment and treatment services for clients (and their families) who have experienced recent or historical sexual abuse or assault, to ensure they receive the services they need, when they need them. Under the ISSC, clients are able to access a range of primary and secondary support services including one on one therapy, social work support, cultural advice and family/whānau support which is fully funded by ACC.

Protecting victims of domestic violence in the Family Dispute Resolution framework

21. Family Dispute Resolution (FDR) can lead to durable settlements of disputes relating to the care of children. FDR is not required in the case of domestic violence experienced by a party or a child. Victims of family violence can seek direct access to the Family Court.

22. The approved FDR providers, along with family lawyers (particularly Family Legal Advice service providers), screen applications for instances of domestic violence. FDR is overseen by the Ministry of Justice which reviews data received from FDR providers. This ensures the effective implementation and monitoring of the framework including the protection of victims of family violence.

Child abuse

Establishment of the Ministry for Vulnerable Children and a new operating model

23. As a result of the Child Youth and Family (CYF) review, the Government agreed in 2016 to develop and implement a new operating model, for the care and protection and youth justice systems. The Ministry for Vulnerable Children, Oranga Tamariki (the new

Ministry) was established as a new child-centred, stand-alone ministry and has been operational since 1 April 2017. It will support the new operating model.

24. The creation of the new Ministry signals a ‘whole of sector’, child-centred approach which will transform the way we work with vulnerable children and young people. It will act in partnership with the wider social sector, reinforcing the fact that it can only achieve outcomes through others, rather than as a primary direct delivery agency.

25. Ensuring children’s best interests are at the centre of everything the Ministry does and supporting them to participate will be central to the new operating model. There will also be improved information sharing between agencies with a view to protecting the welfare of children and young persons. The new Ministry has assumed responsibility for making sure vulnerable children and their families and whānau receive the services they need at the earliest opportunity. While it will act in partnership with the wider social sector, the new Ministry is the single point of accountability for services provided to vulnerable children and their families resulting in better access to services. The new Ministry will have a broader range of functions and responsibilities than the service previously provided by CYF, for example in relation to prevention. The Vulnerable Children’s Action Plan will ensure that priorities are agreed and services are co-ordinated across the vulnerable children sector agencies.

26. Under the new operating model, efforts to combat child abuse in all settings will be strengthened through five core service areas:

- Prevention of harm through availability of services families can access;
- Intensive intervention when concerns escalate to ensure children and families get the help they need;
- Care support when children are unable to live with their birth families;
- Youth justice services for young people who offend;
- Transition support for care experienced young people entering adulthood.

27. The focus will be on prevention and early intervention including support to at risk families at the earliest opportunity. The new operating model will also have a focus on improved outcomes for Māori.

28. The new operating model will be implemented over the next four to five years and the Government will invest nearly \$350 million over that period. These reforms are supported by a range of legislative changes, most notably to the Children, Young Persons, and Their Families Act. These changes have been achieved through the (Advocacy, Workforce and Age Settings) Amendment Act 2016 and the Children, Young Persons, and Their Families (Oranga Tamariki) Bill introduced to Parliament in 2016. New Zealand will provide more information about outcomes for children and young people in the next periodic report.

29. In 2012, the Government announced as one of the 10 Better Public Services targets, the aim to reduce substantiated physical child abuse by 5% by June 2017 compared with the June 2011 figures. Ministry of Social Development data shows a continuous decrease of substantiated physical abuse in children aged 0-16 years from 2013 to 2015. This trend has flattened out within the last year. The same trend applies for total substantiated abuse findings (emotional, sexual, physical abuse, and neglect). New Zealand Police statistics show a 5.5% increase of assault and sexual assault cases relating to victims under 15 years of age from 2014/15 to 2015/16. The two agencies use different criteria for the respective statistics, a different time range and a different focus (Police focusing on crimes and the Ministry of Social Development focusing on care and protection proceedings). Also this particular Police data is not available for the years before 2014 making a comparison difficult. There is uncertainty about whether the Better Public Service target of reducing the June 2011 physical child abuse figures by 5% by June 2017 will be achieved.

30. Existing programmes, services and arrangements to prevent and address child abuse and neglect include:

- Prevention opportunities at New Zealand Police call-outs to family violence. The New Zealand Police will conduct a risk assessment for all children who usually reside at the address. That risk assessment informs the urgency of referrals through to CYF (now the new Ministry);
- The Child Protection Protocol — It sets out the way that CYF (now the new Ministry) and New Zealand Police work alongside each other in situations of serious child abuse. This was reviewed and updated in September 2016 and provides for an improved inter-agency working relationship resulting in strengthened efforts to combat and investigate child abuse;
- The Family Start programme — providing integrated and holistic assistance to families struggling to offer an optimal environment for their baby;
- Children’s Teams, established in 2013, which have been incorporated into the new operating model within the new Ministry. They are local community based and made up of practitioners and professionals from government agencies, Māori and non-government organisations (e.g., paediatricians, psychologists, and social workers). They are designed to respond to the needs of at risk children and their families and whānau within the setting of each unique community. As at 31 December 2016, the ten Children’s Teams around New Zealand had received a total of 3,597 referrals.

31. Links between the work described above focussing on children and the family violence and sexual violence work programme are being made at the Ministerial, governance and working levels, as it is imperative that these systems work together seamlessly from the point of view of the children affected.

Preventing recurrence of events like the ‘Roast Busters’ case

32. As a result of the 2015 Independent Police Conduct Authority’s review of the ‘Roast Busters case’, the Ministry of Social Development took actions to prevent recurrence of events like the ‘Roast Busters’ case. This included internal practice changes, such as the inter-agency management of child abuse and neglect cases. The new operating model will further improve the protection of children and young people from sexual violence, for example through the focus on improved child participation and establishment of the prevention and intensive intervention services.

33. In addition, Mass Allegation Investigation: Standard Operating Procedures were introduced. These joint operating procedures set out the agreed working arrangements between the New Zealand Police and the new Ministry in the event of a mass allegation investigation (MAI). This agreement sits as a schedule to the Memorandum of Understanding between the New Zealand Police and the new Ministry.

34. These procedures will be followed when dealing with a MAI where victims are children or young persons or where a historic MAI indicates that children or young persons may be at current risk. The procedures will be followed alongside the New Zealand Police and the Ministry’s Child Protection Protocol: Joint Operating Procedures (CPP).

35. The Ministry of Education and the New Zealand Police have also been active in developing resources and providing advice and training to schools so that they are equipped to address bullying, as well as prevent it from occurring. This includes training for school staff and new guidelines on cyberbullying made available to all schools in 2015, which include information to help schools to act confidently and in the best interests of students with regard to digital technology.

36. A section was added in 2016 to the Child Protection Protocol regarding underage sexual conduct. This details factors to be considered during the consultation stage between both agencies (New Zealand Police and CYF — now the new Ministry). Training in this area has been increased and is now part of the Child Protection Investigators course as well as the School Community Officers introduction course.

37. The Harmful Digital Communications Act came into force in 2015. Its purpose is to deter, prevent, and mitigate harm caused to individuals by digital communications and to

provide victims of harmful digital communications with a quick and efficient means of redress. In particular this Act introduced a new offence of ‘causing harm by digital communication’, which includes so called ‘revenge porn’, punishable with up to two years’ imprisonment, and a range of court orders. Victims can seek quick and efficient help through the approved agency NetSafe. NetSafe deals with complaints about harmful digital communications (e.g. cyberbullying) and provides education and advice about online safety.

38. The Accident Compensation Corporation (ACC) has a prevention team and is actively involved in sexual violence prevention initiatives that target children and young people (school-based programmes etc.).

Marine and Coastal Area (Takutai Moana) Act 2011

Recognition and promotion of customary interests

39. The New Zealand Government has no plans to review the Marine and Coastal Area (Takutai Moana) Act 2011 (the 2011 Act). The 2011 Act recognises and promotes the exercise of the customary interests of Māori in the common marine and coastal area (CMCA). The 2011 Act removed Crown ownership of the CMCA and restored the customary interests of Māori that had been previously extinguished. Under the 2011 Act the whole of the New Zealand coastline is amenable to inquiry rather than the limited areas available for inquiry under the previous Act.

40. Under the 2011 Act, Māori can seek recognition of their customary interests either by engaging directly with the Crown and negotiating agreements or by applying for a determination in the High Court. Applicants are able to apply under both pathways, meaning that if the Crown engagement pathway does not result in an outcome considered satisfactory by the applicant then the possibility of a determination by the Court is still available if an application has been made to the court prior to 3 April 2017 (end of application period).

Customary rights are not extinguished

41. An application can be for either a Protected Customary Right (PCR) or a Customary Marine Title (CMT). A PCR are activities, uses, and practices that have been undertaken by a group of Māori in a CMCA. There is no limit to the number of groups that may be awarded a PCR in a CMCA area and there is no mechanism that can extinguish PCRs. CMT is different and recognises the customary interests of groups that are able to prove exclusive use and occupation of a CMCA area from 1840 to the present day. Though a higher threshold to meet, if awarded, CMT recognises the customary interests of the applicant group to the exclusion of all other groups. Groups can contest an application for CMT. If historical evidence supports such a contest, it may become difficult to establish exclusive use and occupation. In these cases the Crown can decline to engage with an applicant group. In these instances customary interests are not extinguished. An application for CMT may also include recognition of a wāhi tapu area (area sacred to Māori). If the CMT is recognised, the wāhi tapu conditions can include restrictions on the wāhi tapu area.

Communication and Information

42. The 2011 Act is administered by the officials in the Marine and Coastal Area Team in the Ministry of Justice. An extensive advertising campaign was undertaken to ensure potential applicants’ awareness of the 2011 Act. The Ministry of Justice holds an extensive database of 138 iwi (tribal) authorities and 500 marae (meeting houses). Letters were sent to this database on four occasions including recently in February 2017. Officials met with groups around New Zealand. Several initiatives were implemented to ensure maximum engagement with applicant groups. Guidelines, information booklets and instructional and informational videos were available online. There was also a free phone number and dedicated email address should a potential applicant need further information or have questions. Applications for the Crown engagement pathway could be lodged online.

Applications

43. The application period closed on 3 April 2017. The Crown has received approximately 380 applications for a recognition agreement and the High Court has received approximately 200 applications for a recognition order. The Crown has, to date, signed terms of engagement with six applicant groups and the responsible Minister has made one determination on an application finding CMT exists and a recognition agreement is being considered by the applicant group. The High Court has made its first determination under the Act. The Court has found CMT exists and an order recognising the applicant's CMT is pending resolution of representation issues.
