

CLCA Statement on New Zealand's Universal Periodic Review: 4th cycle, 2023 – 2024
Karen Hodgson, Law Reform Coordinator

I am pleased to be here today for Community Law Centres Aotearoa (**CLCA**). We are the national body that coordinates and advocates for 24 Community Law Centres (**CLCs**) across New Zealand. Our member CLCs provide free legal help to those who are unable to pay for a private lawyer and do not have access to legal aid (funded legal representation).

I will cover three key issues from our October 2023 written report. We also fully support recommendations from others about New Zealand's need to honour Te Tiriti o Waitangi. We are concerned about the trend of the new coalition Government's policies having a disproportionate and negative impact on Māori (language, health, criminal justice). These policies and legislative reforms should be reversed.

Rights of Women (family violence and access to justice – recommendations 61-62, 109-145)

In the previous UPR, many countries made recommendations that New Zealand progress efforts against family violence and to increase access to justice. These were accepted by New Zealand. We acknowledge the steps taken in this space (including passing the Family Violence Act 2018, the Sexual Violence Act 2021, Residential Tenancies Act amendment allowing tenancies to be ended for family violence, and putting in place a National Strategy to Eliminate Family Violence and Sexual Violence in December 2021¹).

Little progress has been made to address family violence in migrant communities. Our CLCs regularly see women remaining in abusive relationships because the current Victims of Family Violence (**VFV**) visa category is restrictive.² New Zealand's VFV visa regime is more akin to a form of refugee status for women who face extreme hardship or risk if returned to their home country, than actually providing a way out of violent relationships.

New Zealand extended the VFV visa category in 2023³ to allow partners of temporary visa holders to apply for the 6-month VFV work visa. However, that time frame does not provide a realistic timeframe for work, or to deal with Family Court matters for any children.

The Government began scoping work on a full review of the category early in 2023 and this work was put on hold in June 2023.

Legal aid is not available to migrant women at all for VFV visa applications. In most cases, women have experienced financial abuse, or otherwise cannot afford legal assistance with

¹ See [National Strategy to Eliminate Family Violence and Sexual Violence | Te Puna Aonui](#)

² We refer to a report which outlines these problems: Sarah Croskery-Hewitt, 'Fighting or Facilitating Family Violence? Immigration Policy and Family Violence in New Zealand' <https://communitylaw.org.nz/wp-content/uploads/2023/03/Borrin-Foundation-FV-Visa-Report.pdf>.

³ [Strengthened protections and improved processes for partners of migrant workers | Beehive.govt.nz](#) (February 2023).

their visa applications. VFV visa applications tend to be complex and difficult to navigate without assistance.

Another broader concern for all women is the legal costs associated with a Protection Order for those who are not eligible for legal aid. Sometimes a wealthier respondent has dragged out proceedings knowing that the applicant cannot afford the legal fees to continue with the application. In addition, family violence often involves financial abuse.

Even where people are eligible for legal aid and for their legal issue, there is a critical shortage of civil legal aid providers, especially in the regions.

Recommendations:

- New Zealand must progress the review of the the Victims of Family Violence Visa regime as a priority (noting the Bill, “*Protecting Migrant Victims of Family Violence*” which could be enacted or used to develop policy).
- Legal aid must be made available for all Protection Order applications and to migrant women for VFV visa applications.
- A first principles review of the legal aid regime must be conducted with a view to addressing access to justice issues, for women and others.

Immigration

Asylum seekers and Mass Arrivals (recommendations 189-194 – accepted with 192 noted)

We note with approval that no asylum seekers have been detained since 2020. However, concerns raised at previous UPRs regarding the Immigration (Mass Arrivals) Amendment Act 2013 remain. The Act allows for detention of asylum seekers arriving en masse (30 or more persons) without a warrant for 96 hours, and an amendment Bill is currently going through Parliament to increase to up to 28 days. The Act then allows for up to 6 months detention. Judicial oversight of this further detention is insufficient, and amounts to a rubber-stamp in many cases.

We consider that the Immigration (Mass Arrivals) Amendment Act 2013 allows for arbitrary detention and the amendment Bill increases the length and possibility of such detention.⁴

Migrant Exploitation (recommendations 74, 184-188)

We recognise that New Zealand in recent years has put resource into preventing migrant exploitation and supporting victims of it (we refer specifically to the Migrant Exploitation

⁴See [Immigration \(Mass Arrivals\) Amendment Bill 214-1 \(2023\), Government Bill Contents – New Zealand Legislation](#)

Protection Visa which provides a way out of an exploitative situation). However, not enough is being done to deal with the causes of exploitation.

Recommendations:

- That New Zealand remove visa conditions that tie temporary migrants to a specific employer in order to address the power imbalance between them.
- New Zealand must provide specific and ongoing funding to NGO's that support victims of migrant exploitation.
- The Immigration (Mass Arrivals) Amendment Bill must not be passed and the 2013 Act must be repealed.
- New Zealand must reconsider its position on the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

Housing (recommendations 91-92 - accepted)

We highlight the value in the previous Government's ban of no-cause evictions, name suppression in allowing tenants to enforce their rights, and giving tenants more security of tenure amidst the current housing crisis. In addition, putting in place ability for tenants to be able to leave a tenancy where there is family violence. However, many tenants still remain fearful of angering their landlord or ending up on a 'tenant blacklist'.

Housing unaffordability is one of the greatest drivers of poverty and social issues in New Zealand. New Zealand has one of the highest price-to-rent ratios in the world.⁵ In addition, despite Healthy Homes legislation which puts minimum standards on landlords in relation to insulation and heating for example, many New Zealand renters are living in cold and damp housing. It's also hard to challenge compliance with these standards.

Recommendations:

- New Zealand must significantly improve the number of, and access to, state houses to house our most vulnerable. The private rental system cannot provide housing for this population.
- New Zealand must ramp up compliance and investigations efforts to ensure vulnerable tenants' rights are upheld.

⁵ See https://www.imf.org/external/research/housing/images/pricetorent_lg.png.