



**National Council of
Women of New Zealand**

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Wahine O Aotearoa

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**Oral submission to the Justice and Electoral Select Committee by the
National Council of Women of New Zealand (NCWNZ) on the
Objectionable Publications and Indecency Legislation Bill 124, S13.24
made by Jean Fuller and Wendy Zemanek on 6.3.14**

Justice and Electoral Select Committee: Chairperson: Scott Simpson, National, Coromandel; Deputy Chair: Alfred Ngaro, National, List; Paul Foster-Bell, National, List; Raymond Huo, Labour, List; Denis O'Rourke, NZ First, List; Joanne Hayes, National, List; Kate Wilkinson, National, Waimakariri; Maryan Street, Labour, List, David Clendon, Green, List.

Good morning. My name is **Jean Fuller**. I am the **Convener of the Parliamentary Watch Committee of the National Council of Women of New Zealand** and my colleague is **Wendy Zemanek who is a member of that Committee**. This submission has been prepared from a background of policy decisions and consultation with the members of our organisation.

As we have noted in our submission NCWNZ has a long history of opposition to the use of objectionable publications which harm women and children. What adds a new dimension to this behaviour is the development of the Internet and Social Media. We acknowledge that existing law does not adequately cover these means of publication and especially the ease of distribution made possible by the Internet.

However, we do see a significant difference between punishments for adults who deliberately seek to involve children, or other adults, by using objectionable publications, and young people who in the excitement of the moment may publish material on social media which would fall into this category.

Clause 6 Section 131A. NCW appreciates that it is the intention of the Bill that by providing for longer sentences it may be possible to institute more effective educational and treatment programmes. If this Bill is to achieve these aims there would need to be significant funding attached for the restorative effects that are being advocated. We understand from members that present programmes appear to be grossly underfunded so that there is a considerable waiting list for prisoners to attend these courses. We note that Corrections Minister Tolley is proposing new educational assessments for all prisoners and will watch with interest whether this is extended to offenders who might be sentenced under this Bill. Longer sentences might be appropriate for adult or repeat offenders but we do not see this as being a suitable way to cope with naive teenagers.

Clause 13, New Section 124A Our members were generally supportive of the longer sentences and stronger penalties for adults who deliberately offend and could be expected to know the penalties.

However we note that this Bill has nominated 16 years as the age from which a person is liable to imprisonment. In our view there are many teenagers who lack the maturity to understand the restrictions that this Bill imposes. These are people for whom a prison sentence would be inappropriate, and alternative sentences should be available, such as a warning coupled with targeted information.

Our members have suggested that it would be necessary to undertake a vigorous education campaign directed at young people who might otherwise find themselves in Court. Unfortunately this could not be a one-off campaign but would need reinforcing as population cohorts moved through society. We have

heard of other jurisdictions where teenagers have ended up on a sex offenders' list. This should not be the objective of this legislation.

Clause 13 New section 124 A section (3a). A small group of our members questioned the viability of this section. What exactly would constitute the "reasonable steps to find out whether the young person is over the age of 16years"? They felt that a more specific wording should be used as the present requirement was too vague.

Definition of Indecent While members understood the rationale for not including a definition of "indecent" in this legislation there was some concern about using definitions from other Acts. One of our members noted that a particular social media site forbids pictures showing women breast feeding. This hardly seems to us to be objectionable yet it may involve the *Films, Videos, and Publications Classification Act* 1993 Section 3 (1) (1A) a). - quote "the publication is or contains 1 or more visual images of 1 or more children or young persons who are nude or partially nude;"

We would be concerned if, say, beach photos on a social site were caught up in the proposed regime.

The question of "intent" takes on a particular urgency in this context.

Alteration of images: We are also aware that once an image is on the internet it can be digitally altered in ways that were never the original intent. This is a problem for any legislation in this area and does not seem to be covered in the Bill.

Conclusion:

In conclusion :

1. We are concerned that the definitions for indecent may not allow for situations where there is no intent to be objectionable, and would like to see this area more clearly presented in the legislation.
2. The application of adult standards to teenagers seems unduly harsh.
3. We want much more emphasis on education especially for young people who might find themselves unintentionally caught by this Bill.
4. We want to see real commitment to funding the restorative programmes for which the Bill is intended to provide opportunity.

We would also agree with the previous submitter (Business and Professional Women) that this legislation needs to be regularly reviewed as both the technology changes and the way in which people use it.

Thank you.

Questions: There were no questions but Maryan Street commended us for tying our points to specific clauses which made it much easier for MPs to use the information.

We were also approached by a reporter (not sure whether she was from Scoop or Stuff) for a copy of our oral and written submissions. This does not mean that anything will appear but we were happy to provide the information.

Jean Fuller.

6/3/14