



**National Council of
Women of New Zealand**

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**Submission to the Justice and Electoral Select Committee on the
Civil Union and the Relationships (Statutory Relationships) Bills**

Introduction

The National Council of Women of New Zealand (NCWNZ) is an umbrella organization representing 41 nationally organized societies. It has 33 branches spread throughout the country attended by representatives of these societies. The council's function is to serve women, the family, and the community at local, national and international levels through research discussion and action.

NCWNZ welcomes the opportunity to make this submission on the Civil Union Bill. This important piece of legislation will have wide reaching social implications for the type of society we want to be. This submission has been prepared by members of the Standing Committee on Family Affairs, on the basis of responses submitted by just over half of the Branches of the Council, a few affiliated societies and a number of individuals. This level of response to questions which were emailed to Branches and societies only three weeks prior to the preparation of this submission indicates the importance of these issues. The Council is greatly concerned that submitters on such major legislation were given only a very short time for the process. Although we have been aware that the legislation would be introduced, it is not until the details are known that our members can be asked for comment. For these reasons too, we have not been able to give attention to the very detailed Relationships (Statutory References) Bill, or prepare a separate submission on it. Some comments on the second Bill are therefore incorporated into this submission.

General comment

NCWNZ has no specific policy relating to civil unions or the treatment of same sex couples, but has been a strong advocate for the development of human rights law, supporting and promoting over recent years the various UN conventions on Human Rights. Cautious support was given to the Bill which decriminalised homosexuality.

When NCWNZ responded to the Ministry of Justice Discussion Document on Same Sex Couples and the Law (March 2000) members gave general support for the concept of registration of relationships, as an option for both same sex and heterosexual couples, and that same sex couples should be able to enjoy the same rights and responsibilities with regard to adoption of children, parental rights, property rights upon break-up of a relationship, inheritance, and the treatment of partners upon the death of a partner. Some of these aspects have already become law with the enactment of the Property Relationships Act 2001, but further changes are needed to remove the remaining anomalies.

In analysing the responses received on these Bills it is clear that opinions are very divided and that NCWNZ has no consensus on the proposal for the introduction of a formal Civil Union. It is possible that people perceive a significant difference between the ability to register a

relationship and a formal contract, which will be very much "in the nature of marriage". On the whole the responses received from the urban and city Branches approve the proposals, or have a considerable proportion of their members in favour, while the responses from provincial towns are



predominantly opposed. Respondents who identified themselves as being in a younger age bracket were generally in support.

Those who support the Bill consider it is a matter of principle, that it respects the rights of same sex couples, and will give people a choice. For some this aspect of choice is very important, in recognition of the fact that many couples may wish to have their relationship recognised without entering into a traditional marriage. They consider too, that establishment of the legal recognition for a relationship will not affect the institution of marriage. It provides people with an alternative to marriage. Executive members of one nationally affiliated society commented that while their personal view was that marriage is a “voluntary and loving union for life of one man and one woman, celebrated publicly and in the presence of God to provide the foundation for the family and to facilitate stability in society” they recognised that these views may not be shared by others, that they did not see it as appropriate that their views be imposed on others and were therefore in favour of the legislation. This recognition of the validity of differing opinions was a feature of many of the responses we received.

The comment was made by one or two respondents that the option for civil union may have the effect of actually strengthening marriage, as only those who believe in marriage as a distinct and perhaps sacred institution would opt for it. Others commented that it was in effect marriage by another name, and that it would be more honest to simply establish same-sex marriage.

Opposition to the Bill is frequently based on the belief that it will erode the basis of the New Zealand family unit, and that the institution of marriage as it is traditionally understood will be eroded. There is particular concern for the impact on children raised by a same sex couple. A number of respondents consider it is the right of a child to have two parents of different gender, i.e. a mother and a father, and thus object to equality of recognition of same sex couples, particularly in regard to their right to adopt. Other members have commented that there are important implications for the children of same sex couples that their parent’s relationship is recognised legally.

Others consider the Relationships (Statutory References) Bill would have been sufficient on its own, with its relatively minor amendments to many acts which will include same sex couples to be regarded as next of kin, to act as power of attorney, share property etc.

Specific Comments

Clause 8 Age of eligibility:

NCWNZ supports the minimum age of eligibility to be set at 16, recognising that this reflects the provision of the Marriage Act. There is some concern, however that even with parental/guardian permission generally needed until the age of 18 very few young persons are mature enough to understand the implications of the responsibilities they are accepting. We are pleased to see that under the Relationships (Statutory References) Bill a de facto relationship will not be considered valid until the persons are 18, except with parental/guardian permission. Concern had been expressed that it is too easy to drift into a de facto relationship at a very young age and not realise the legal and financial consequences.

Clauses 9 Partners not to be within prohibited degrees of civil union

No distinction should be made between civil unions and marriage with regard to prohibited degrees of affinity. We note that under clause 46 of the Relationships (Statutory Relationships) Bill the second schedule of the Marriage Act will be amended to include relationships prohibited by reason of a civil union, yet there do not seem to be any such restrictions regarding de facto relationships.



Clause 14 Solemnisation by Registrar

Subclause (2)

Some members considered the wording so close to that of marriage that the Bill in effect allows same sex marriage. Some saw this as a positive thing, others as a point of objection.

Conclusion

In the preparation of this submission it has been difficult to assess adequately the strength of support and opposition for the proposals of the Civil Union Bill. NCWNZ has, as we stated in our opening paragraphs, supported the creation of a positive human rights culture in many aspects of New Zealand society, and has frequently taken a leading role in promoting such rights. In this instance however the responses received have been more negative than we might have expected, and there is no clear consensus amongst our membership. We believe that the main reason for this is the shortage of time for consultation, which has meant our affiliated societies both local and national were unable to be consulted. It is entirely possible, that had the matter been able to have been voted on at a national meeting the result would have been more positive, given that our larger, urban Branches were more generally in favour.

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