



**National Council of
Women of New Zealand**

Te Kaunihera
Wahine O Aotearoa

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S09.05

**Submission to the Law and Order Select Committee on the
Gangs and Organised Crime Bill**

Introduction

The National Council of Women of New Zealand (NCWNZ) is an umbrella organisation representing 50 nationally organised societies. NCWNZ has 26 branches throughout the country attended by representatives of those societies and some 150 other societies. The Council's function is to serve women, families and the community through research, study, discussion and action.

This submission has been prepared by the Public Issues Standing Committee after consultation with members by circulating information and questions to the members in the branches and by reference to NCWNZ policy.

General Comments

In the past NCWNZ has not been in favour of increased penalties or longer prison sentences. For example in a submission to the Justice and Law Reform Committee on the Violent Offences Bill in May 1987 it was stated "We would like to state again our disquiet at all the current trends towards heavier punishments for violent offending. NCWNZ has been concerned for over 90 years about the impact of criminal behaviour on our society, and at no time have we been persuaded that the simple answer - punishment and more punishment - has any real effect on the problem." This submission also recommended that there needed to be much more emphasis on prevention.

NCWNZ policy is enshrined in a number of resolutions on rehabilitation. Resolution 12.7.1.3 (1950) urged the NZ Government to investigate the use of the most modern, scientific, educative and reformatory treatment for criminals. Resolution 12.7.5.2 (1898) – specified that in all punishment the chief object should be the reformation of the criminal and that all sentences for serious offences should be decided as to duration by the reform of the criminal. Resolution 12.7.6.5 (1978) requested the Justice Department to implement a positive alternative to criminal prosecution for selected cases of first and minor offenders through voluntary supervised programmes. Some members feared that longer prison sentences could in fact strengthen gangs by deepening common experience.

The majority of NCWNZ members do not support increasing penalties for participating in an organised criminal group. The general view is that it does not reduce offending. It would be far better to have shorter sentences and provide effective rehabilitation programmes. Members also renewed a call for prevention through much more focus and help for at risk families with young children, especially in the areas of health and education. Supported by Government policy, there should be more community involvement and commitment to healthy communities, rather than focusing on gangs.





Specific Comments

Part 1 Amendments to Crimes Act 1961

Clause 4 Participation in organised criminal group

NCWNZ does not support broadening the ambit of the offence of participation in an organised criminal group or increasing penalties, because of the subjective and ill-defined nature of participation.

Clauses 6 (Application by Police for warrant to intercept private communications), 7 (Matters on which Judge must be satisfied in respect of applications) and 8 (Contents and term of warrant)

NCWNZ members expressed some apprehension about increasing the surveillance powers of the police.

Part 2 Amendment to Local Government Act 2002

Clause 10 Circumstances when Court may make removal order

Some members expressed concern about the removal order while other members stated that, depending on the nature of the fence or structure, it may be necessary to take steps to help communities feel safer by a removal order. Members agreed that it is important that the order for removal of a fence, a structure or vegetation should be made by a District Court which provides an independent assessment of the application, and makes its own assessment as to whether the structure can reasonably be regarded as intimidating. The Court is also obliged by Section 6 of the Bill of Rights Act to apply the provision consistently with that Act regarding the right to freedom of expression.

Members expressed some concern about fence structures being discriminatory. Many “gated communities” also have fence structures which could be considered to be intimidating.

Concluding comments

Some of the members noted that it is important for communities to feel safe, and argued that there needed to be a balance between controls or laws for this purpose, and actions which created gulfs between gangs and the rest of the community. A better way to make communities safe would be to break or reduce the gang cycle. Members argued for increased social and educational work to be carried out with families, the provision of incentives for marginalised families to attend kohanga reo, kindergarten or other preschools, and parental workshops to increase parenting skills. If there were alternative activities, such as sports and clubs for at risk youth in an area, recruitment into gangs may not be so attractive and easy.

Elizabeth Bang
National President

Joan Macdonald
Convener, Public Issues Standing Committee



Oral submission on the Gangs and Organised Crime Bill (S09/05) made to the Government Law and Order Select Committee on Wednesday May 6th 2009 by Jean Fuller and Judy Whitcombe.

Select Committee: Chairperson: Sandra Goudie (N), Shane Ardern (N) Simon Bridges (N), Tau Henare (N), Richard Worth (N), Rick Barker (L), Clayton Cosgrove (L), Hon Parekura Horomia (L), David Garrett (ACT), Metiria Turei (G).

Good morning. My name is Jean Fuller and my colleague is Judy Whitcombe. We are both members of the Parliamentary Watch Committee of the National Council of Women of New Zealand. This submission has been prepared from a background of policy decisions, and from a questionnaire sent to our members. It has also been reviewed by the NCWNZ Board and the Parliamentary Watch Committee.

The National Council of Women has members throughout New Zealand. Some live in areas where there have been significant gang-related problems, others have not had this experience, but there is a considerable unanimity on two points.

Members believe that people have the right to live peacefully in their homes and neighbourhoods, and believe that government has a duty to encourage a social framework that will enhance this.

However, there is also an overwhelming belief that while extended prison sentences may punish offenders they do little to affect the prevention of crime. This is a view which has been sustained by our members over many decades.

In the course of our consideration of this Bill we were made aware that gang members have developed their own culture for coping with prison and may see it as a stepping stone to greater involvement in the gang, particularly where a junior member takes responsibility for crime committed by a senior. Gangs have also used the prison environment for recruitment.

We see that the explanatory note to the Bill expects that the proposed measures will result in an increase of gang members in prison. It is our firm belief that the money required for this essentially negative process would be better spent on intervention programmes, especially those targeting housing, job skills, young people, and families. We would like to see much more emphasis placed on these actions both within prisons and with those gang associates who are in the community.

The NCWNZ is concerned that Part 1 Clause 4 of the Bill uses the word “participate” loosely. Given that “participation in an organised criminal group” would expose a person to a serious sentence of 10 years it deserves a more precise definition. The penalty for those who “obtain material benefits from the commission of offences” remains at a maximum of 10 years yet the two offences seem of a different order. We know that some young people are attracted to gangs and may be in their ambit without serious intent. It would be regrettable if they fell within this clause as participants and thereby lost the opportunity of moving on.



Part 2 Clause 10 relates to the environs of residences. The membership was of the view that for the most part Local Bodies had adequate regulations in place to control intimidating building. They noted that it had become fashionable for properties to be fenced and gated, so that it might be more difficult for Courts to establish what was intimidating.

When NCWNZ was researching this subject we sought to obtain some statistics on gang activities. In fact this proved very difficult. We understand that collecting such information has inherent barriers but we have an underlying concern that there may be excessive reliance on anecdotal evidence. Our organisation believes strongly that while the isolation of gangs and their exclusion from society might seem an attractive policy it will do little to improve the welfare of the communities that live in areas where they are active. We would advocate dialogue and support for community involvement as more effective ways of reducing crime and intimidation.

Jean Fuller

4/5/09.

Questions:

1. Metiria Turei asked whether any of our members had reported on personal interaction with gang members. We replied that we had not asked for this information, but members had reported that in districts where there was interaction with gangs the problems appeared to be less serious.
2. Rick Barker and Clayton Cosgrove presented two confusing statements/questions which appeared to come down to asking us whether we were concerned that gated communities might find themselves unable to use security walls or gates if the Bill was passed. Our response was that we felt that courts might have some difficulty in distinguishing between the so-called intimidating structures of a gang house and the security arrangements of other houses. This was dismissed as ridiculous by National but supported by the Green Party. We also mentioned that Local Bodies have by-laws for acceptable structures.
3. The Chair of the Select Committee asked that a copy of our oral submission be sent to the Committee. This has been done.

Jean Fuller and Judy Whitcombe.