



National Council of Women of New Zealand

Te Kaunihera Wahine o Aotearoa

Oral Submission to the Foreign Affairs, Defence and Trade Committee on the Military Justice Legislation Amendment Bill

By Dr Judy Whitcombe and Helen Reilly on 29 March 2018

Foreign Affairs, Defence and Trade Committee

Chairperson: **Simon O'Connor**, National Tamaki; **Golriz Grahman**, Green List; **Willie Jackson**, Labour List; **Todd McLay**, National Rotorua; **Duncan Webb**, Labour Christchurch Central. Additional Attendees: **Tim McIndoe**, National Hamilton West; **Marja Lubeck**, Labour List; **Chris Penk**, National Helensville. (Absent Deputy Chair: Mark Mitchell, National Rodney; Gerry Brownlee, National Ilam; Louisa Wall, Labour Manurewa.)

Ata marie, good morning, my name is Dr Judy Whitcombe and my colleague is Helen Reilly. We are members of the Parliamentary Watch Committee of the National Council of Women of New Zealand (NCWNZ)

The submission we present has been prepared from a background of policy decisions and previous submissions on related matters, which have been written following consultation with the members of our organisation.

We welcome the opportunity to convey our organisation's views to the Committee and wish to record NCWNZ's support, in general, of the proposed Bill.

As you will note from our submission, NCWNZ has been a supporter of legislation for victims' rights and for women in the armed forces. Back in 2001 there was widespread consultation for our submission on the Victims' Rights Bill and we have supported the Victims of Crime Reform Bill in 2011. In our 2006 submission on the Human Rights (Women in Armed Forces) Amendment Bill, we supported the amendment to the Human Rights Act 1993 to remove an exemption allowing discrimination against women that prevented them from serving in combat positions. New Zealand no longer prevents women from serving in an active combat role.

This Bill is timely - its first reading was on 7 December 2017 and was followed by media publicity. Such media headlines as "Defence sex victims speak" (Sunday Star Times 17 December 2017) focused on past experiences of women in the Military. These past experiences of women in the army, navy and air force have continued to emerge.

The purpose of the Bill “is to update the military justice system and to align it with the criminal justice system in **certain respects**, including **enhancing victims’ rights**”. It confers rights on victims of certain serious offences of a sexual nature or that involve violence.

It is the “certain respects” and “victims’ rights” where we wanted to raise some concerns about the Bill’s coverage – given that the majority of the victims of reported sexual offences have been women.

Focus of the submission

As the Bill’s Explanatory note states this in an omnibus Bill with the purpose to update the military justice system and to align it with the criminal justice system in certain respects.

Our written submission has focused on Clauses 7 and 8 which are amendments to the Armed Forces Discipline Act 1971. Here the Commanding Officer or the Director of Military Prosecutions determines whether the offence is a “**specified offence**”. It is important that the nature of **specified offence** is made clear.

Further clarification is contained in Clause 19 of the Bill. It introduces part 10A which covers Victims Rights and applies to Victims of Specified Offences. The direction is then to section 29 of the Victims Rights Act. Here there are comprehensive details which include “offences of a sexual nature” and “ongoing fears on reasonable grounds”. This Clause also covers the Rights to be accorded to the victim of a specified offence and places responsibility on the Victim Support Officer and the Director, to make all reasonable efforts to ensure that a victim of a specified offence is accorded the rights set out.

As our submission states - if there is denial of a specified offence by the victim’s supervisor, there is a possibility that the victim could be denied justice. Access to an independent arbiter is suggested in the submission.

It will also be important for the Legislation to be promoted throughout the Military to give victims awareness of their rights, confidence to speak out, and have support throughout the process. As recent media reports have noted it takes bravery to speak about sexual assault and for the victim to come forward.

Conclusion

This important Bill is supported by NCWNZ as it aims to update the military justice system. The dimensions of the process of administering justice to victims, and the coverage of the cases which emerge, will be watched by interested parties.

It is important to ensure that victims in the Military have the same rights as victims in the general population. However, there are some reservations about the processes involved, and the commitment to the victim’s rights of those involved in the military process. Our

submission concludes with a suggestion of an independent arbiter in order to ensure that justice is seen to be done.

Thank you for the opportunity to present the views of our organisation on this Bill

Questions and comments

Simon O'Connor thanked Judy for the succinct submission and clear way in which it was presented. He praised NCWNZ's work and noted that our submissions are always of a high standard. He added that the high standard of the submission was reflected in the lack of questions from committee members.

He asked had we heard of Operation Respect and indicated Defence personnel who had entered and were sitting behind us.

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While sitting outside the Committee Room after the submission, Judy and Helen were approached by a reporter from the New Zealand Herald and then Labour MP Poto Williams from Christchurch East, who wanted to make contact with two NCWNZ representatives.

Then the Defence personnel came out from the Committee room and the female officer asked for our contact so she could send us information on Operation Respect.