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## **Submission to the Justice Select Committee on the Inquiry into the 2017 General and 2016 Local Elections**

### **Introduction**

- 0.1. The National Council of Women of New Zealand, Te Kaunihera Wahine o Aotearoa (NCWNZ) is an umbrella group representing over 200 organisations affiliated at either national level or to one of our 15 branches. In addition, about 450 people are individual members. Collectively our reach is over 450,000, with many of our membership organisations representing all genders. NCWNZ's vision is a gender equal New Zealand and research shows we will be better off socially and economically if we are gender equal. Through research, discussion and action, NCWNZ in partnership with others, seeks to realise its vision of gender equality because it is a basic human right. This submission has been prepared by the NCWNZ Justice and Law Reform Convenor and the Parliamentary Watch Committee, and is informed by consultation with the membership of NCWNZ.
- 0.2. The submission's focus is on the competing values and policy issues that should be considered alongside any changes to how elections are run in a free and democratic society. Although it mentions technical issues in part, NCWNZ also recommends that the Select Committee speaks to technical Information Technology [IT] experts, such as Internet New Zealand, Electionnz.com or the relevant government agencies, to see what may be possible in handling the online risks.
- 0.3. NCWNZ would like to thank the Select Committee for extending the timeframe for submissions on this Inquiry into the 2017 General and 2016 local elections (the Inquiry). The United States' Federal Bureau of Investigation Mueller investigation has brought the issues of international interference in democratic processes to the fore and it is a responsible response for New Zealand's legislators to take this as a prompt to investigate this country's processes, policies and laws.
- 0.4. Hacking of emails and breaches of Internet security are general security risks in the twenty-first century which has both the benefits and disadvantages of technology and global interconnectedness. Security agencies, NZ Police, Department of Internal Affairs, Office of Film and Literature Classification, and NetSafe are already dealing with these challenges in the context of organised crime, terrorism, objectionable content (such as child pornography) and cyber-hacking. For example, the National Cyber Security Centre has reported that "attacks from abroad on New Zealand

Government and businesses have risen sharply, [with 396 attempts in the last full year of recorded data](#)<sup>1</sup>.

- 0.5. NCWNZ notes that the Select Committee has received a briefing from the Director-General of the NZ Security Intelligence Service on their role in this process<sup>2</sup> and are likely to have received other briefings from government officials with related responsibilities on the technical aspects of managing the risks, in general and during the election process.
- 0.6. NCWNZ responds to the Select Committee's specific questions by outlining general comments from members as set out below. As part of consultation additional questions have been used to help members engage with the issues, and these are also set out below.

**1. *How can New Zealand can protect its democracy from inappropriate foreign interference, in particular:***

- (a) the ability of foreign powers to hack the private emails of candidates or parties?*
- (b) the risk that political campaigns based through social media can be made to appear as though they are domestic but are in fact created or driven by external entities?*
- (c) the risk that donations to political parties are made by foreign governments or entities?*

- 1.1. Firstly NCWNZ seeks to understand how the Select Committee defines inappropriate foreign interference. Since there has been governments and power, there have been attempts to influence what those governments or leaders do - as can be seen from Machiavelli's text *The Prince*<sup>3</sup>, Sun Tzu in *The Art of War*<sup>4</sup> or Cardinal Richelieu in the French Court. Diplomacy in essence is the attempt to motivate another country or countries into a position or strategy that is favourable to the interests of their home country. While this may sometimes be an open form of influence, such as aligned voting in international forums or favourable conditions in trade agreements, it may be also be subversive in nature.
- 1.2. Elections themselves are the apex of the democratic process in New Zealand, and the outcomes of elections impact the lives of every person in the country, the environment, economy and social fabric of a nation.
- 1.3. There are a lot of legitimate activities that occur during an election period that connect with the international community. For example:
- Encouraging expat New Zealanders to vote;
  - Engaging expat New Zealanders online in the issues of a campaign;

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<sup>1</sup> <https://www.stuff.co.nz/national/crime/100833668/on-the-frontlines-of-the-battle-against-cyber-crime>.

<sup>2</sup> <https://www.gcsb.govt.nz/news/director-general-remarks/>.

<sup>3</sup> *The Prince*, Niccolo Machiavelli. Penguin Books. February 2003

<sup>4</sup> *The Art of War*, Sun Tzu. Shambhala Publications Inc. February 2005

- Donations from expat New Zealanders to political parties; and
- New Zealanders (wherever they are based) engaging with international forums or communities, such as the Muslim community, the women's movement, environmentalism, or the international trade union movement.

Alongside this, there may be legitimate campaigns that New Zealanders want to engage with or that individuals / NGOs based overseas want to promote. For example, a commitment from political parties about supporting, or even publicly declaring their position on, an international agreement - such as the Paris Climate Agreement.

- 1.4. NCWNZ believes that any new regulation needs to ensure that these activities are able to continue. However regulations must address transparency, funding, and the position of overseas governments (including government departments or government-controlled businesses) or multinational companies engaging in another country's election process.
- 1.5. NCWNZ's views the regulation of overseas' funding as very important and that laws need to be in place (if they are not already) that allow enforcement agencies to track and review where overseas' donations are coming from.
- 1.6. NCWNZ emphasises that it is up to the Government to have adequate cyber security measures in place.
- 1.7. NCWNZ believes candidates and party emails need to have email addresses that clearly indicate they are from a party or candidate and that any party, candidate web or twitter account should give the authorised email address and state that any information that comes from any other address must be considered as fraudulent. Laws must require servers to monitor and shut down unauthorised emails and authorised addresses must be registered with the server so that unauthorised addresses can be shut down promptly.
- 1.8. NCWNZ believes that all donations over a reasonable threshold of NZ\$100 must be made available on a publically accessible register that discloses the amount and source of the donation.
- 1.9. Continuous government audits must be held to ensure that the different names and addresses are not used to hide multiple donations from the same source. There is a serious risk of foreign powers using social media to impersonate political candidates and their messages. Social media platforms should have only validated users to post messages, not under assumed names.

## ***2. To what extent do you think that the risks outlined by the Select Committee are a risk in New Zealand? How important do you consider these risks to be:***

- 2.1. NCWNZ members generally agreed that these issues are very important in respect of New Zealand. It was noted that: "New Zealand is no less vulnerable than any other country. We must take risks seriously and mitigate against any risks experienced by other nations."

**3. *Is there value in the Electoral Commission (or another independent body) receiving additional resourcing to mitigate risks outlined by the Committee above? If so, who else could be involved in managing, mitigating or eliminating the risks?***

- 3.1. NCWNZ believes there needs to be appropriate levels of funding given to the agencies that are tasked with monitoring and enforcing the laws that will protect the integrity of our electoral process and supports increased funding being made available for the Electoral Commission and other government enforcement agencies. It is important that any such measures be in place well before the next election.
- 3.2. NCWNZ recognises that the New Zealand Government alone could not manage all the risks involved in electoral cycles and undue influence on elections. As such there needs to be coordination between relevant government departments in partnerships with NGOs to help report dubious content and content that breaches standards. In addition funding should be provided to appropriate NGOs, such as NCWNZ, to deliver workshops and host events encouraging political participation and awareness.

**4. *What other changes could be made to enhance democracy in New Zealand (with a particular focus on fair representation of women's issues/women's participation/women representatives?)***

- 4.1. NCWNZ members take this opportunity to urge the Select Committee to look at, and implement laws and policies (including within the Members' own political parties), that increase the representation of women in Parliament so that there is equal representation. NCWNZ knows that increased presence of women across political parties has ensured that issues that are important to women - such as equal pay, domestic violence and paid parental leave - are progressed.
- 4.2. NCWNZ understands that migrant women, young women, and women from lower socio-economic groups are less likely to vote in elections. Therefore there needs to be specific well resourced initiatives that connect with these groups and educate and encourage civic engagement, including voting in elections. NCWNZ understands this may be part of the induction for refugees new to New Zealand but it is unclear how accessible this information is for women who are otherwise new to New Zealand, particularly if English is not their first language.

**5. *What could the international community do to establish stronger international law, norms and enforcement – to prevent and sanction interference in other countries' democratic systems?***

- 5.1. NCWNZ believes that there needs to be international coordination to set international standards, rather than the current international "gentleman's agreement" which is failing citizens. Further policy work should be done with European Union member states to get this on the international

political agenda and to see what laws may be effective within their existing confederacy as they deal with inter-country issues on a regional level.

## ***6. What are the competing interests/risks of regulation in this area, for example, issues such as the position of eligible voters who are based overseas, competing human rights, participation rates in elections and technology?***

- 6.1. NCWNZ members emphasised that regulations should not infringe the rights of eligible voters. Political advertising and anything to persuade people to cast their vote in a certain way has to take into account human rights, tolerance and gender. For example, the laws regulating electoral advertisements must be sensitive to human rights and decisions on this should not wait until after the election period.
- 6.2. NCWNZ members had varied views regarding online voting. Concerns raised referred to a United States situation where it is believed that the programmer was able to determine the election outcome with no ability to check as the voting machine operators would not allow anyone to check their machines.
- 6.3. However, other NCWNZ members felt that online voting needed to become the norm so that eligible electors could participate regardless of if they were in New Zealand or overseas at the time of an election.

## ***7. What role could and should public education play in response to the risks outlined above?***

- 7.1. NCWNZ believes public education and debate on the electoral voting risks is needed and that this might be led by the Digital Safety group within the Department of Internal Affairs, Internet NZ or Netsafe NZ. Such education would need to cover how to identify risks, what ways voters may be influenced and how to use online technology and media platforms safely. It is believed that people need to understand the types of information provided on the platforms: misinformation, disinformation, malinformation.<sup>5</sup>
- 7.2. Overall NCWNZ members support a general public education campaign through the media on how to recognise authorised sites and emails, and believes civics education throughout primary and secondary school is important to encourage high rates of youth participation in democracy.

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<sup>5</sup> See, for example, <https://internetnz.nz/blog/talking-parliament-about-disinformation>.

## 8. Conclusion and Recommendations

- 8.1. NCWNZ appreciates this timely review on New Zealand's General and Local Elections and supports the importance of fair, transparent democracy which engages all eligible voters. NCWNZ recommends increased education, awareness raising and appropriate resourcing of agencies with the responsibility to implement these programs.
- 8.2. We would like to appear before the Select Committee in support of our submission.



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