



**National Council of
Women of New Zealand**

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Wahine O Aotearoa

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**Submission to the Justice and Electoral Select Committee
on the Prisoners' and Victims' Claims Bill**

During the past 108 years the National Council of Women of New Zealand (NCWNZ) has sought to make this country a more just society. Today the Council is the umbrella group of organisations representing 42 nationally organised societies, it has 33 Branches throughout the country attended by members of these societies and 150 other organisations.

On the whole we support the Bill, however, we have some concerns about aspects of the Bill.

NCWNZ Resolution 12.10.1.1 was passed in 1896 –

"That in the opinion of this Council there is abundant evidence to show that our present treatment of criminals is not satisfactory, either as regards the criminal or society."

Since then we have frequently supported the need for fair treatment, education, and training opportunities for offenders.

General comment

Clearly a prisoner has the right to expect that he/she will be safe, and will be fairly treated while in prison and especially by prison staff and the system. Recent cases would indicate that this has not always happened, and some large compensation amounts have been awarded to prisoners who have had their claims of mistreatment upheld. Concern about this process has prompted this Bill. It seems that if inmate compensation is made pointless there may be no real redress for ill-treatment. There is a suggestion that the Bill may breach the UN Covenant on Civil and Political Rights because it effectively stops inmates from getting compensation for illegal acts of mistreatment by the State. The government denies that this is the case but the argument has yet to be debated.

Prisoners are citizens, and their rights should be governed by the Bill of Rights. They have the right to make a claim for compensation for abuse. If they are successful, they should be entitled to the same amount as any other person. Comment was made that if a prisoner receives compensation this should be regarded as his or hers and no civil claim against it should be made automatically. Compensation paid to prisoners for injuries received by Correction's Department staff should not be used as of right to make restitution to victims of these prisoners. The punishment for their crime is loss of freedom. Compensation for their mistreatment is a separate issue.

There is a concern that we seem to be moving into a very personal form of justice where revenge is becoming an acceptable position. By personalising punishment and allowing victims to claim for damages we are setting up a system which encourages them to see their experience in terms of money. Our members consistently deplore any aspect of vengeance, but recognise that society has an expectation of redress and/or compensation.

Compensation might not always be financial: other remedies could be Restorative Justice, cleaning, repairing damage to goods or property, service to the community.



**Specific comment**

We support the primary purpose of the Bill, as detailed in the Explanatory note, to restrict and guide the awarding of compensation by ensuring that compensation is treated as a last resort for prisoners, available only where other remedies have been explored and failed, or could not provide effective redress. As well, the purpose aims to strengthen the rights of victims to make civil claims against offenders. We do not, however, agree that this should automatically be linked to the award of compensation to prisoners who offend.

Part 2 Prisoners' and Victims' claims Subpart 2 -Victims' claims**Clause 19: Secretary to give notice of payment... and Clause 29: Secretary's duties for purposes of section 20**

Should the Bill be passed, we are pleased that the Secretary for Justice would establish a system and procedure for identifying and notifying victims of the offender that money is held in trust. Victims are not always aware that they can apply for compensation.

Clause 26: Filing of claims

There was no agreement on a time frame for victims of offenders making civil claims against the offender for compensation.

Clause 27: No filing fees payable

We support the proposal that there will be no filing fees payable for a victim's claim.

Conclusion

In giving limited support to the Bill, NCWNZ is concerned at the haste in the process. This Bill raises serious issues of rights, for inmates, for prison staff, and for victims. Time allowed for in-depth debate would therefore be justified.

Christine Low
National President

Joan Howse
Convener, Justice & Law Reform Standing Committee