



**National Council of
Women of New Zealand**
Te Kaunihera Wahine o Aotearoa

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23 April 2020

S20.11

Submission to the Justice Select Committee on the Electoral (Registration of Sentenced Prisoners) Amendment Bill 223-1

Preamble

“Women are entitled to share in the privileges of citizenship... and she needs the vote for protection of herself and her children.”¹

“If we have to obey the law, we want a voice in the making of that law.”²

Kate Sheppard, one of New Zealand’s leading suffragists

“He waka eke noa”

A waka we are all in, no exceptions

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, informed by previous policy decisions and submissions from NCWNZ members.

1. Comment on Process

- 1.1 While we note the concerns raised in the first reading speeches by some Members of Parliament about the speed of this legislation, we also note that the proposals in the Bill do not seek to remove existing electoral rights, which would be the case with the example

¹ A Chat with the Franchise Superintendent of the WCTU – *The Prohibitionist* 7 October 1893.

² The Franchise – *The Prohibitionist* 17 June 1893.

given of removing the Māori electorate seats, but instead seek to reinstate franchise that previously existed.

1.2 The Regulatory Impact Assessment for the Bill states that:

“The right to vote is recognised by Article 25 of the International Covenant on Civil and Political Rights (ICCPR). The United Nations Human Rights Committee considers blanket prisoner voting bans as inconsistent with the ICCPR and as serving no rehabilitative purpose. It has noted the “significant racial implications” of prisoner voting prohibitions, given the disproportionate representation of ethnic minorities in most prison populations.”³

1.3 The removal of this franchise is inconsistent with international law, has been ruled inconsistent with the New Zealand Bill of Rights Act 1990 (NZBORA) by the High Court of New Zealand in 2015⁴ and the Supreme Court in 2018⁵, and is also the subject of a scathing report from the Waitangi Tribunal from 2019⁶.

1.4 In view of these findings, it appears that urgency is in fact required to ensure that those who have been adversely affected by the existing law do not continue to be negatively impacted, and to ensure that they are enrolled to vote in the upcoming general and local elections. Anything less than urgency would be negligence on the part of the government by ignoring fundamental international civil and political rights. We note that the Waitangi Tribunal has also recommended urgency.⁷

2. Comment on key proposal

2.1 NCWNZ supports voting rights being restored to people serving a term of imprisonment.

2.2 The legitimacy of governments is secured through free and democratic elections. NCWNZ has previously emphasised in submissions to Parliament (S05.09 Prisoners’ and Victims’ Claims Bill⁸ and S01.09 Re-evaluation of Human Rights Protections in New Zealand⁹) that

³ <https://www.justice.govt.nz/assets/Documents/Publications/5v7kp3-RIA-Prisoner-Voting.pdf> - Page 9

⁴ Taylor v AG: Prison voting law inconsistent Bill of Rights. 2015.
<https://www.scoop.co.nz/stories/PO1507/S00229/taylor-v-ag-prison-voting-law-inconsistent-bill-of-rights.htm>

⁵ Supreme Court upholds decision saying ban on prisoner voting inconsistent with Bill of Rights. 2018.
https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=12156876

⁶ Waitangi Tribunal. 2019. He Aha I Pērā Ai.
https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_151635085/He%20Aha%20i%20Pera%20Ai.pdf

⁷ Waitangi Tribunal. 2019. Tribunal releases report on Māori prisoners’ voting rights
<https://waitangitribunal.govt.nz/news/tribunal-releases-report-on-maori-prisoners-voting-rights/>.

⁸ NCWNZ. 2005. Submission to the Justice and Electoral Select Committee on the Prisoners’ and Victims’ Claims Bill. S05.09.
<https://d3n8a8pro7vhm.cloudfront.net/ncwnz/pages/1026/attachments/original/1586911599/S05.09-Prisoners-and-Victims-Claims-Bill.pdf?1586911599>

⁹ NCWNZ. 2001. Submission to the Ministry of Justice on the Discussion Paper: Re-evaluation of Human Rights Protections in New Zealand. S01.09.
<https://d3n8a8pro7vhm.cloudfront.net/ncwnz/pages/1026/attachments/original/1586911595/S01.09-Re-evaluation-of-Human-Rights-Protections-in-New-Zealand.pdf?1586911595>

prisoners are citizens, and their rights should be governed by NZBORA¹⁰. As citizens, their voices are equally important.

- 2.3 We note that full franchise for prisoners was previously the law in New Zealand. In his paper¹¹, Robins (2006) relates the history of New Zealand's record on electoral law for prisoners, which included this passage:

“The Electoral Amendment Act 1975 removed the disqualification of prisoners as electors, opening for the first time the door of prisoner enfranchisement in modern New Zealand. In the passage of the Bill, the Labour Government made only one reference to prisoner enfranchisement in the House. The Minister of Justice remarked that:

“[T]he imposition of a criminal penalty involves the penalty of deprivation of liberty, but it should not mean a deprivation of all civil rights, and after conscious consideration we have concluded it would be proper to allow people in custody, as this Bill provides, to cast a vote.””

- 2.4 The Waitangi Tribunal has recommended that there be no minimum term of imprisonment preventing a person from being eligible to vote. The New Zealand Human Rights Commission has made the following comment about the current law:

“We see that the law disproportionately affects Māori and this not only breaches Māori rights under Te Tiriti but also raises concerns under our international human rights obligations.”

- 2.5 There are a number of women who are currently in prison who will have their civil rights restored through this Bill. There are many more, with longer terms of imprisonment, who will also have views about how social, economic and environmental policies may impact on their families, friends, and communities. The right to vote is a fundamental way that these people are able to participate in the democratic process and contribute to choices that a future government will make. Many of the decisions that governments make, such as infrastructure, education, social and environmental policies, go beyond the neat three year electoral term.

3 Clauses 5 and 7

- 3.1 **Clause 5 Section 80** provides details relating to disqualification of sentenced prisoners for registration as electors. **Clause 7 Section 86A and 86C** detail the provision for prisoners serving a term of imprisonment of less than three years to be registered as an elector where the prisoners are qualified to do so, and the obligations of prison managers to notify prisoners of their rights and to forward relevant information to the Electoral Commission. NCWNZ disagrees with the disqualification of any prisoners from their right to be registered

¹⁰ New Zealand Bill of Rights Act 1990.

http://www.legislation.govt.nz/act/public/1990/0109/latest/DLM224792.html?search=ta_act_N_ac%40ainf%40anif_an%40bn%40rn_25_a&p=4

¹¹ Robins, G. 2006. “The Rights of Prisoners to Vote: A Review of Prisoner Disenfranchisement in New Zealand”. *New Zealand Journal of Public and International Law*, 4(2): 165-195.

as electors, and **we recommend that the policy in the Bill be extended to enable voting for any person serving any term of imprisonment, rather than the proposed period.**



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