

ORAL SUBMISSION (by Zoom) TO JUSTICE SELECT COMMITTEE  
Electoral (Registration of Sentenced Prisoners) Amendment Bill  
4:20 p.m. Thursday 30 April 2020

Select Committee Present (they came and went):

Chris Penk, National

Tim Macindoe, National

Meka Whaitiri, Chair, Labour

Ginny Andersen, Labour

Greg O'Connor, Labour

Clare Curran, Labour

Nick Smith, National

Mark Mitchell, National

Kia ora. Good afternoon. My name is Bernice Williams, and my colleague is Beryl Anderson. We are members of the Parliamentary Watch Committee of the National Council of Women of New Zealand (NCWNZ).

We welcome the opportunity to convey our organisation's views to the Committee and wish to record NCWNZ's support of an amendment to the Bill. We further wish to recommend to the Committee an expansion of the amendment to the Bill that will remove the disqualification from voting of all eligible prisoners.

We have been hearing the phrases "We are all in this together" and "our team of five million" a great deal over past several weeks as the country bands together to seek to eliminate the Covid-19 virus from New Zealand.

The concept of 'team' is a powerful one, and there is considerable empowerment given to individuals when their participation and collective efforts are valued and acknowledged as a significant contribution towards the well-being of the country.

With that in mind, and acknowledging the collective efforts of the country's citizens over the past weeks, we see this Bill as a golden opportunity for Parliament to establish a level playing field from which our team of 5 million can continue to work collectively to seek improved outcomes for the country as a whole.

With the disenfranchisement of prisoners in New Zealand, the current playing field is far from even, and as a result, invites ongoing disparity between the country's citizens.

The findings of The Waitangi Tribunal in 2019 highlight the way "Māori have been disproportionately affected by" the current legislation, which has exacerbated "a pre-existing and already disproportionate removal of Māori from the electoral roll." "The Tribunal also found that disenfranchising Māori prisoners has continued to impact on the individual following their release from prison and that impact extends beyond the individual to their whānau and their community. The Crown, therefore, has failed in its duty to actively protect the right of Māori to equitably participate in the electoral process and exercise their tino rangatiratanga individually and collectively. By failing to take sufficient action to enable and encourage released prisoners to re-enrol, the Crown has further breached its duty of active protection."

This is deeply disturbing and concerning.

The same theme has been highlighted in the UNHRC's 2018 Concluding Observations on NZ's periodic report to CEDAW (the Convention on the Elimination of all Forms of Discrimination Against Women). Paragraph 20 reads "According to information before the Committee, Māori and Pasifika women and girls experience disproportionately high rates of incarceration and are overrepresented at all levels of the criminal justice system. "

The current status with regard to the enfranchisement of prisoners in New Zealand has been found by the Supreme Court in 2018 to be inconsistent with the New Zealand Bill of Rights Act. It has also been found to be inconsistent with international law and conventions. The Regulatory Impact Assessment released by the Ministry of Justice reported "there was no "good policy rationale" for banning any prisoners from voting....that a return to the pre-2010 law would .... breach the International Covenant on Civil and Political Rights, and may also breach the International Convention on the Elimination of All Forms of Racial Discrimination."

We refer also to the Sustainable Development Goals to which New Zealand is a signatory, citing Goal 16.7 "Ensure responsive, inclusive, participatory and representative decision-making at all levels."

A voluntary review of New Zealand's progress towards achievement of the goals was given to the UN last year and "acknowledged significant differences in outcomes for Māori and Pacific people... A People's Report presented by civil society alongside the report noted persistent inequalities within New Zealand." The UN's response in relation to New Zealand and Goal 16, Peace, Justice and Strong Institutions, noted "NZ has met most of these goals but has a high and worsening prison population."

Our burgeoning prison population with disproportionately high numbers of Māori and Pasifika inmates appears to have its roots in a culture of dislocation and disengagement from society that has been allowed to develop in sectors of our country's population. Fostering a sense of belonging and a sense of purpose - giving value to everybody's contribution - is key to strengthening our society and improving the well-being of our citizens. Restoring the right to participate in the country's democratic process to all prisoners will play a significant part in reversing this sense of disengagement.

Full citizenship of our country with all civil and political rights must be universally available. Prisoners with sentences of any length must have access to these rights, and must not be disqualified from voting in local body and general elections. US Supreme Court Justice, Ruth Bader Ginsburg has been recorded as saying "Women belong in all places where decisions are being made." In the context of this Bill, it is appropriate to extend the quote to refer to all citizens, since the right to vote is a fundamental human right.

NZ Human Rights Chief Commissioner Paul Hunt, in response to the Waitangi Tribunal's findings says "prison is about rehabilitation and reengagement, not

disenfranchisement. “We don’t want people to turn their backs on society, we want to encourage everyone to engage positively, and that includes participating in our democratic processes.” “We also see that the impact of the ban continues to persist following release from prison on the individual, their whānau and their community.”

Expanding the Bill to include voting rights for all prisoners, irrespective of length of prison term, is a means of restoring a sense of purpose and worth for the individuals, who, once engaged with the democratic process, will be motivated to make choices that will positively affect their individual situation, their whānau, and their community.

The proposed amendment to the Bill in its current state might well be described as ‘tinkering around the edges’ when a bold approach to restore fundamental civil rights is surely required. ‘Our team of 5 million’ operating from a level playing field in terms of equitable access to, and participation in, our democratic process is not an unattainable hope, but a very real goal that could be achieved in time for the country’s September 2020 election.

We urge the committee members to recommend an expansion to the policy of the Bill with the aim of restoring voting rights to all eligible prisoners irrespective of length of incarceration period.

Thank you for the opportunity to deliver NCWNZ’s position on the proposed amendment to the Bill.

### Response from Select Committee

We were thanked for our submission, and for the succinctly made points.

### Prior to us:

The Opportunities Party (Shai Navot) favoured the Bill

Chester Borrows

Need an evidence-based approach not one based on rhetoric

Policy which engages with people and tends them to rehabilitation

Have a number of rights taken away when imprisoned, but the right to vote is a fundamental right

Question – restore situation to pre 2010. Should all vote?

Meleseini Luhama Tau’alupe

Creative practitioner from Poneke – supports Bill and reregistration because encourages prisoner to be a productive member of society

NZ Council of Civil Liberties

In 2010 they opposed the introduction of the legislation that this Bill overturns..

Raised the importance of prisoners connecting with society that they would be participating in.

Right to vote for all, not just those as outlined in the Bill.