



30 March 2021

S20.07

## **Submission to the Justice Committee on the Harmful Digital Communications (Unauthorised Posting of Intimate Visual Recording) Amendment Bill 305-1**

### **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.
- 0.2. This submission has been prepared by the NCWNZ Consumer Affairs Committee and the Parliamentary Watch Committee.

### **2. Background**

- 2.1. NCWNZ has a long-standing concern about the amount of internet-based violence and abuse that women are subjected to on a routine basis; the harm this causes; the lack of protections against this sort of abuse and the ability for perpetrators of on-line sexual abuse to do so with impunity.
- 2.2. We therefore strongly support this bill, which will help provide protection for women and men, and especially young women, from being preyed upon and sexually exploited on the internet without their consent.
- 2.3. The internet and social media generally have become a new platform for the expression of violence against women. 'Revenge porn,' or the distribution of sexually explicit images or videos of individuals without their consent, is one example of the growing trend for internet-based violence and abuse which is becoming a daily backdrop to many teenage girls and young women's lives. At present men who post sexually explicit images of women on the internet can effectively do so without impunity, and that is why this legislation is so important.
- 2.4. The visual images or recordings that are typically posted on the internet are of someone who is naked, exposed or engaged in an intimate sexual activity. Often these images are able to be identified and may include links to social media profiles or workplaces.

- 2.5. The sharing of these sexually explicit images on-line and through social media without consent has become an increasingly common and even normalised form of sexual abuse in recent years. According to Dr Claire Meehan<sup>1</sup>, who carried out research for an Auckland University study on 'revenge porn,' there are more than 3000 known websites dedicated to 'revenge porn' and its victims are primarily women –95% of uploads are of women. Other studies have found that people in the Rainbow community, and young people aged 16-29 are at most risk of experiencing this type of sexual exploitation.
- 2.6. Netsafe reports that 6% of adult New Zealanders, or around 300,000 people, have experienced image-based sexual violence.
- 2.7. The sharing of a sexualised image online without consent is usually intended to humiliate or intimidate someone; to silence them, to destroy their reputation or for financial gain. It may be used to blackmail a person into performing further sexual acts; to coerce them into continuing a relationship or to punish them for ending one.
- 2.8. The experience is almost always traumatic for the victim and typically causes shame, humiliation, mental anguish and severe mental breakdown. Some victims have their working and professional lives ruined by 'revenge porn'. Others are exposed to workplace discrimination, cyber-stalking and even physical attacks as a result. Others fear for their personal safety, especially where they are publicly identified.
- 2.9. For all of these reasons our members are delighted that Parliament is addressing this important issue and making it an offence to post sexually explicit images on the internet without the explicit consent of the person concerned

### 3. Specific Clauses

#### 3.1. Clause 4 New section 22A inserted (Posting an intimate visual recording without consent)

- 3.1.1. NCWENZ strongly supports clause 4 which inserts a new clause 224 into the Harmful Digital Communications Act, making it an offence to post a digital communication that is an intimate visual recording without consent. The clause specifies that the consent must be given voluntarily and in full knowledge of how the intimate visual recording will be used on any specific occasion.
- 3.1.2. We believe the wording of the new clause 224 is clear and unequivocal, and should enable the swift prosecution of anyone who posts sexually explicit images without the explicit consent of the subject.

#### 3.2. Offence Provisions in new section 22A

- 3.2.1. This clause also stipulates that a person who is found guilty of this offence may get up to 3 years' imprisonment. In addition to the penalty imposed for the crime, it gives the court powers to require the video or image to be taken down.

---

<sup>1</sup> Meehan C. 2019. Revenge porn is sexual abuse.  
<https://www.newsroom.co.nz/@ideasroom/2019/02/25/453284/revenge-porn-is-sexual-abuse>.

3.2.2. We support the punishment proposed in this clause and the powers it would give to a court to require that sexually explicit images are immediately removed from the internet. We hope that these proposed punishments will be sufficient to deter New Zealand men from carrying out 'revenge porn' in the future.

#### 4. International obligations

- 4.1. New Zealand is a signatory to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)<sup>2</sup>. Article 5 states that the parties to the Convention shall take all appropriate measures to modify patterns of conduct of men and women, with a view to achieving the elimination of prejudices and practices based on stereotyped roles for men and women.
- 4.2. Under General Recommendation 19<sup>3</sup> of CEDAW, violence against women is considered a form of "discrimination" which states parties to the Convention are obliged to address and eliminate.
- 4.3. Technology-related violence against women (VAW) falls within this definition of violence but is mediated via phone, internet, social media platforms, etc. It is acts or behaviours that cause harm or suffering, both mental and physical, and is increasingly becoming part of women's experience of violence as well as part of their online interactions.
- 4.4. Technology-related violence exists in a continuum, and often what are seen as "merely virtual" threats soon translate into physical violence and threats to the life and safety of individuals.
- 4.5. The perception is often that the violence that takes place online is not "real" and is therefore less harmful. Another perception is that if violence is not physical, then it is not as damaging. However, mental cruelty and psychological violence are recognised both in international law and in most national jurisdictions.

#### 5. Conclusion

- 5.1. For all of these reasons NCWNZ strongly supports this bill and urges Parliament to give it priority in its timetable so that it can be passed into law as swiftly as possible.



Suzanne Manning  
NCWNZ Board

Sue Kedgley  
Convenor NCWNZ Consumer Affairs Standing Committee

---

<sup>2</sup> United Nations. 1979. Convention on the Elimination of All Forms of Discrimination against Women New York, 18 December 1979. <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx>

<sup>3</sup> Committee on the Elimination of Discrimination Against Women. 1992. General recommendation No. 19: Violence against women. [https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1\\_Global/INT\\_CEDAW\\_GEC\\_3731\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/INT_CEDAW_GEC_3731_E.pdf)