



NEW ZEALAND COUNCIL OF TRADE UNIONS
Te Kauae Kaimahi

Submission

of the

New Zealand Council of Trade Unions Women's Council

to the

Abortion Legislation Committee

on the

Abortion Legislation Bill

P O Box 6645

Wellington

September 2019

Summary/ Main Points

1. That the Women's Council of the New Zealand Council of Trade Unions Te Kauae Kaimahi (CTU) supports this Bill decriminalising abortion and aligning the regulation of abortion services with health services and health regulation.
2. That this submission is endorsed by the governing body of the New Zealand Trade Unions, Te Kauae Kaimahi, the CTU National Affiliates Council.
3. That public attitudes to abortion have changed with the majority of New Zealanders supporting abortion being decriminalised.
4. That the current legislation governing abortion is outdated and not in line with basic human rights or equitable health care provision.
5. That our abortion law is not in accordance with the international treaty obligations in the Convention on the Elimination of Discrimination against Women (CEDAW) to which New Zealand is a signatory.
6. That those health practitioners who have a conscientious objection to abortion have a duty to tell a patients as soon as possible about their objection.
7. That a health practitioners with a conscientious objection to abortion is accommodated by an employer unless that accommodation is unreasonable.
8. That the other changes in the Bill: self-referral, offering of counselling, and abortion being able to undertaken by other health practitioners, are all supported and reflect changes in society, in modern law and in health service delivery.

1. Introduction

- 1.1. The New Zealand Council of Trade Unions Te Kauae Kaimahi (CTU) acknowledges Te Tiriti o Waitangi as the founding document of Aotearoa New Zealand and formally acknowledges this through Te Rūnanga o Ngā Kaimahi Māori o Aotearoa (Te Rūnanga) the Māori arm of Te Kauae Kaimahi (CTU).
- 1.2. In 2018 the Government asked the Law Commission to undertake a review of New Zealand's abortion laws and present options on how to change the legal framework and treat abortion as a health matter rather than a criminal matter. An extensive consultation process was undertaken and the Law Commission's Report presented three options for changing the legal framework. The Abortion Legislation Bill is based on the change proposals in the Ministerial Briefing Paper on Alternative Approaches to Abortion Law (Law Commission, 2018).
- 1.3. This submission is made by the Women's Council of the New Zealand Council of Trade Unions Te Kauae Kaimahi. (CTU) The CTU Women's Council is the constitutionally recognised body for women trade union members and enables women representatives from all of the 27 CTU unions to discuss, promote and advance issues for working women. Women union members are in the majority of the CTU's membership with nearly 60 percent of the CTU union membership of 310,000 being female.
- 1.4. The CTU Women's Council unanimously supports amending the law to decriminalise abortion and align the regulation of abortion services with other health services.
- 1.5. This submission is endorsed by the National Affiliates Council (NAC) -the governing body of the CTU. The NAC passed a unanimous vote at the August 2019 NAC meeting endorsing that the CTU Women's Council submit in support of the Abortion Legislation Bill.

2. History of Support

- 2.1. There is a history of support in the trade union movement to ensure safe abortion services and oppose restrictions to abortion services. This issue was thoroughly debated and campaigned on in the late 1970s and early 1980s.
- 2.2. In the late 1970s there was an international campaign established for a Charter to promote and protect working women's rights. The Charter, effectively a Bill of Rights for all women, comprises a list of 17 clauses calling for equal opportunities for working women. Clause 15 called for the abolition of restrictions on safe abortion, contraception and sterilisation and that legal, financial, social and medical impediments to safe abortion, contraception and sterilisation be removed ("Women's Labour Organisations:").
- 2.3. Following the overwhelming adoption of the Charter at the New Zealand Working Women's Convention in 1977, a campaign was immediately established for the Charter to be endorsed by the trade union movement. The Shop Employees Association had previously adopted the Charter at its annual conference and submitted a remit to the Federation of Labour (FOL) Conference for the charter to be adopted as FOL policy. The two largest female-based unions, the New Zealand Shop Employees Association and the New Zealand Clerical Workers Association, with strong leadership from trade union leader Sonya Davies among many others, and the Working Women's Council and Working Women's Alliance campaigned for two years for adoption of the Charter. There were meetings and seminars all around the country with trade union members, delegates and leaders and with many local women's groups.
- 2.4. At the 1979 FOL conference a motion was passed to support the Charter in principle and in 1980 delegates at the FOL conference voted overwhelmingly to adopt the Charter as FOL policy. Other unions followed suit including the Public Service Association and the Post Primary Teachers Association and adopted the Charter's aims as official policy. In 1989 the New Zealand Educational Institute Te Riu Roa (NZEI) submitted in favour of the Contraception, Sterilisation and Abortion

Amendment Bill (1989) citing it had adopted the Working Women's Charter in 1984 as a guideline to conditions of service for all primary school teachers (New Zealand Educational Institute, 1989).

- 2.5. Since that time other unions have developed their policy positions on abortion. The New Zealand Nurses Organisation (NZNO) submitted to the Law Commission Review in 2018 to remove abortion from the Crimes Act, that abortion is a health issue and that abortion is an issue between a pregnant women and her health practitioner (New Zealand Nurses Organisation, 2018).

3. Union Policy Reaffirmed

- 3.1. The CTU Women's Council discussed the Abortion Legislation Bill at its August 2019 meeting and supported that the Abortion Legislation Bill should:

- Remove abortion from the Crimes Act to decriminalise abortion;
- Ensure abortion services are accessible without unfair and strict requirements on people to have an abortion if they so choose and need;
- Ensure greater equity of access and ensure timeliness for people especially in rural areas who may seek an abortion.

- 3.2. While there was unanimous support from the CTU Women's Council on the Bill to decriminalise abortion and update our legislation, we did note the concerns expressed by some Pasifika and some cultural and religious groups about their concerns about loosening restrictions and making abortion easier to access. But while some people have a moral conscience position against abortion, it was also commented and recognised that very often these same people will respectfully and humanely support a decision made by a colleague, friend or family member who are going to have, or have had, an abortion.

- 3.3. New Zealand's abortion law, is outdated and out of step with other developed countries and drastically needs revision. There has not been a vote on abortion legislation since 1977 and hardly a person of a current child -bearing age will have

voted on it in their life-time. Aside from some changes in 1978 to abortion laws, there have been no substantive amendments since 1977.

- 3.4. Our abortion law is not in accordance with our obligations under the international treaty, the Convention on the Elimination of Discrimination against Women (CEDAW) to which New Zealand is a signatory. The CEDAW Convention identifies that it is a matter of discrimination for women not to be making their own decisions about personal and significant health matters. We note the concluding Comments from the Expert Committee in their August 2018 report to New Zealand that:

The Committee recalls its statement on sexual and reproductive health and rights, adopted at its fifty-seventh session, and recommends that the State party:

(a) Remove abortion from the Crimes Act 1961 and amend the Contraception, Sterilisation and Abortion Act 1977 in order to fully decriminalize abortion and incorporate the treatment of abortion into health services legislation;

(b) Ensure that abortion is legalized, at least in cases of rape, incest, threats to the life or health of the pregnant woman or severe foetal impairment, and ensure access for women to safe abortion and post-abortion care and services (Committee on the Elimination of Discrimination against Women, 2018).

4. Public Attitude Changes

- 4.1. The current law does not represent public attitudes towards abortion and changes in reproductive health issues. Now the majority of New Zealanders support abortion being decriminalised. Recent research shows poll support as between 64 - 70 percent (Huang, Y, Osborne, D, & Sibley, C, 2019). This survey reported that a majority either strongly agreed or agreed that abortion should be legal regardless of the reasons, and even more strongly supported safe access if the woman's life is endangered. New Zealand Election studies show that in 2008, 45 percent of those survey disagreed with a statement that abortion was always wrong but by 2017 this figure has risen to almost 64 percent. Only 17 percent thought that abortion was always wrong (Beddoe, L & Joy, E, 2019).

5. Abortion is a Health Issue

- 5.1. Taking abortion out of New Zealand criminal law and regulating it like other healthcare procedures brings New Zealand's law into line with other developed nations and aligns with international best practice. It will also promote earlier, more equitable access to both survival and medical abortion and remove the stigma associated with abortion being in the Crimes Act.
- 5.2. The current regime is a barrier to good reproductive health. Through having to apply through the certifying consultants it disadvantages, vulnerable, young and rural women and results in inequity in service provision. The Council was very concerned about the difficulties that women face who live rurally, have to travel long distances and women with fewer resources and have other barriers to healthcare.
- 5.3. The changes proposed put in place abortion as a health service which is ensured to be a quality, supportive, and equitable service.

6. Specific Bill Changes

- 6.1. The Bill repeals the current legal grounds for authorising an abortion and the requirements for two certifying consultants.
- 6.2. The proposed new law would remove the requirement of a statutory test for women who are up to 20 weeks pregnant. For those more than 20 weeks pregnant, a doctor or qualified health practitioner would still need to approve the procedure.
- 6.3. The Law Commission report proposed three models. While the Bill is big step forward in abortion law, a statutory test remains for a person who is over 20 weeks pregnant. The retention of any statutory test for abortion was not supported by significant groups responding on the Law Commission report including Family Planning (FPNZ) and the NZNO. An abortion after 20 weeks is very rare and almost always associated with significant medical concerns and risks. We note the position of FPNZ that after 20 weeks that the decision whether to have an abortion is made by the pregnant person in consultation with their health practitioner. Our position

also supports a process which trusts and empowers the person who is pregnant to be making their own decisions in consultation with their own health practitioner.

7. Conscientious Objection

- 7.1. The section on conscientious objection seek to balance the two rights: the right of a health practitioner to conscientious objection and the rights of the woman seeking abortion services.
- 7.2. The Bill requires a health practitioner who has a conscientious objection to abortion to tell the person as early as possible of their own conscientious objection and requires them to provide information on how to access a list of providers. This is supported. The key issue here is that conscientious objection does not delay access to abortion services.
- 7.3. The Bill provides for those who have a conscientious objection to abortion to be accommodated by an employer as long as it would not unreasonably disrupt the employer's ability to provide abortion services. In doing so it ensures that a health practitioner has the right of conscientious objection while at the same time allowing an employer to consider how the conscientious objection would impact on their provision of abortion services.
- 7.4. These are also principles on conscientious objection reflected in the Human Rights Act 1993. Therefore it may be of assistance for proposed s20(2) of the Bill, to replicate the exact wording of s28(3) of the Human Rights Act for consistency purposes.
- 7.5. The provisions in the Bill that provide for employees to use either the Human Rights Act or the Employment Relations Act 2000 for dealing with employment disputes that allege discrimination are supported.

8. Other Changes Supported

- 8.1. We support the availability of counselling for those that need it. This could be either pre or post-abortion. Counselling should be available for those that want it but not be mandatory.
- 8.2. The provisions that remove the requirement that only doctors can provide abortions and to enable qualified health practitioners to provide abortion services are supported. This is important in ensuring enough providers and access to services.
- 8.3. We note changes in the Bill and support that:
 - Pregnant people should be able to access abortion services directly, without a referral;
 - The safety of facilities is ensured and the requirement for a specific license for a facility performing abortions is removed.

9. Bibliography

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