



7 August 2023

S23.12

Submission to the Justice Committee on the Corrections Amendment Bill 264-1

Introduction

1. The National Council of Women of New Zealand, Te Kaunihera Wāhine o Aotearoa (NCWNZ) is an umbrella group representing around 60 affiliated organisations and 300 individual members. Collectively our reach is over 200,000 with many of our membership organisations representing all genders. NCWNZ has 13 branches across the country.
2. 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.
3. This submission has been prepared by the NCWNZ Safety, Health and Wellbeing Action Hub and the Parliamentary Watch Committee.
4. Prison reforms are some of NCWNZ's earliest policies dating back to 1896¹. NCWNZ endorsed policy supports the reform of prisoners and changes in this Bill:

12.10.5.12 NCWNZ urges the Government to develop and implement policies and procedures that address the specific needs for women prisoners in transition to the community. 2011.

12.10.5.13 NCWNZ recommends that:

- Women in prisons are frequently screened for mental illness and those who are diagnosed with a mental illness receive appropriate treatment and support as required by Section 75 of the Corrections Act. 2004
- These services are adequately funded. 2014.

¹ NCWNZ. 2012. 115 years of resolution. 1.10.4. https://bit.ly/ncwnz_resolutions_1896-2010 12.10.1.1 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. 1896; 12.10.1.2 That no [penal] system can be satisfactory which does not distinguish and classify the different kinds of criminal, and aim at individual reform. 1896.

5. NCWNZ has made submissions² on policy affecting women in the justice and corrections systems. From Strengthening Social Cohesion in Aotearoa New Zealand (para 37):

The justice system desperately needs reform. Our justice system does not provide those affected with the tools and systems they need to be rehabilitated and reintegrated with society. The high incarceration rates of Māori are symptoms of colonisation, and educational, social, and economic inequality. Due to systemic racism, Māori are more likely to be apprehended, charged, and given custodial sentences.

Executive summary

6. NCWNZ welcomes the Bill and endorses the aims to improve rehabilitation, reintegration and safety outcomes in the Corrections system. We see this as an important opportunity to advance women's equality issues and concerns in the prison system.
7. NCWNZ is concerned about the slow progress in reducing the number of women in the prison system, on finding alternatives to incarceration and an end to the over representation of wāhine Māori.
8. We welcome the provisions in new section 6A to give effect to the principles of Te Tiriti in the prison system. However, we remain concerned about how Te Tiriti obligations will be implemented to achieve equitable outcomes for wāhine Māori prisoners.
9. NCWNZ asks that the Department of Corrections make a commitment to reporting on how the implementation of the Bill contributes to addressing CEDAW concerns.

The prison system for women

10. Like prisons worldwide, the New Zealand prison system was built for the needs of men and there are marked differences between women and men prisoners. While women make up a much smaller proportion of prisoners than men, women prisoners are a vulnerable group that face specific risks and hazards in prison and have specific needs and requirements.
11. We note the words of Kelvin Davis, as Minister of Justice in 2021³:
"The corrections system and network were built to suit the needs of male prisoners. I believe we need to review the system and network to ensure we operate our women's prisons based on the needs of female prisoners."
12. There continues to be little or no specific acknowledgement of the needs of female offenders which is deeply troublesome and inequitable. Māori women are the most

² See the Electoral (Registration of Sentenced Prisoner Bill S20.11, Wayfinding for Civil Justice Strategy S22.12, and Strengthening Social Cohesion in Aotearoa New Zealand S22.06.

<https://www.ncwnz.org.nz/submissions>

³ Giovannetti J. 2021. [Review, apologise, overhaul: Kelvin Davis dramatically changes tune on women's prison abuses. The Spinoff.](https://thespinoff.co.nz/politics/22-03-2021/review-apologise-overhaul-kelvin-davis-dramatically-changes-tune-on-womens-prison-abuses) <https://thespinoff.co.nz/politics/22-03-2021/review-apologise-overhaul-kelvin-davis-dramatically-changes-tune-on-womens-prison-abuses>

incarcerated population in Aotearoa New Zealand, and arguably in the world. Wāhine Māori aged 20-60 years comprise 63% of women in prison⁴.

13. Transgender, intersex and non-binary people also face high risks of discrimination and abuse in prisons and have unique issues and concerns.

International Obligations: United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

14. NCWNZ is a contributing Non-Government Organisation to the CEDAW⁵ rigorous reporting processes. NCWNZ is concerned with the lack of reference to international obligations specific to women in the documentation for this Bill. The Cabinet Paper, proposing amendments to the Corrections legislative framework⁶, makes cursory mention on UN international obligations (unnamed) in Clause 5, and to the Bangkok Rules in Clause 85 but only with regard to the use of imaging technology.
15. Manutū Wāhine | The Ministry for Women, in the CEDAW Ninth Periodic Report by the Government of Aotearoa New Zealand⁷, includes a response to question 21c: *‘please indicate the steps taken to: (c) Implement the United Nations Rules for the Treatment of Women Prisoners and Noncustodial Measures for Women Offenders (the Bangkok Rules) and provide alternatives to detention to reduce the high number of Māori women detainees.’*
16. The NCWNZ submission⁸ on the Government response to question 21c reads:
75. The answer does not mention the implementation of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders. We suggest the Government should give a statement on that issue.
76. The answer does not mention the measures and treatment of juvenile female prisoners.

⁴ Ibid

⁵ Convention on the Elimination of All Forms of Discrimination against Women New York, 18 December 1979. <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>

⁶ Office of the Minister of Corrections. 2021/2. Proposed amendments to the Corrections legislative framework regarding improved safety, rehabilitation and reintegration outcomes. https://www.corrections.govt.nz/_data/assets/pdf_file/0007/49399/Proposed_amendments_to_the_Corrections_legislative_framework_improved_safety_rehabilitation_and_reintegration_outcomes_Redacted.pdf.

⁷ Ministry for Women. 2023. United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW): Ninth Periodic Report by the Government of Aotearoa New Zealand. <https://women.govt.nz/sites/default/files/2023-07/FINAL%20Ninth%20Periodic%20NZ%20CEDAW%20Report.pdf>

⁸ NCWNZ. 2023. Submission to the Ministry for Women (MfW) on the United Nations Convention on the Elimination of All Forms of Discrimination Against Women Ninth Periodic Report by the Government of Aotearoa New Zealand. S23.08. https://assets.nationbuilder.com/ncwnz/pages/1026/attachments/original/1680397923/S23.08_draft_CEDAW_9th_periodic_report.pdf?1680397923

17. NCWNZ asks that the Department of Corrections make a commitment to reporting on how the implementation of the Bill contributes to addressing CEDAW concerns.

Aims of the Bill

Clause 7 New section 6A inserted (Tiriti o Waitangi/Treaty of Waitangi)

18. We welcome the reference to Te Tiriti o Waitangi/Treaty of Waitangi (Te Tiriti) in the legislation. The provisions in new section 6A in the Bill represent a step forward in providing a clear statement by the Crown to give effect to the principles of Te Tiriti in the prison system.
19. Given the disproportionate number of wāhine Māori in the prison system, the Bill could go further to identify how Te Tiriti obligations will be implemented to achieve equitable outcomes for wāhine Māori.

Rehabilitation and reintegration outcomes for Māori

20. One of the core objectives of this legalisation is to support improved rehabilitation and reintegration outcomes for Māori under Corrections Management, an objective the NCWNZ endorses.
21. Alternatives to imprisonment and applying non-custodial measures to women within the criminal justice system are critical to transforming outcomes. Too many women offenders do not pose a risk to society or are incarcerated for minor crimes. Imprisonment reinforces social reintegration difficulties.
22. NCWNZ is concerned about the slow progress on reducing the number of women, especially wāhine Māori, in the prison system and on finding alternatives to incarceration. Initiatives to address this slow progress must be designed and run by Māori, to address Māori needs in culturally appropriate ways.
23. Other structural issues such as violence against women, secure housing and employment opportunities contribute to incarceration rates. Comprehensive prevention and reintegration programmes must include attention to these systemic factors.
24. Much greater attention is needed to be given to the impact of imprisonment of mothers. There are physical, emotional, social, and psychological needs of incarcerated women with babies and young children.
25. If incarceration is deemed necessary as a last alternative, then the treatment must be humane and respect mana wāhine, as well as enabling these women to recover and make a new life for themselves on leaving prison.

Best-practice operations in prisons

26. A fundamental principle relating to the treatment of prisoners is that their treatment should be humane and respect the inherent rights and dignity of the human person⁹.
27. An investigation into the management of three maximum security women at Auckland Women's Prisons¹⁰ detailed findings of the deeply egregious use of segregation and force. The treatment endured by two prisoners from Corrections staff were described as degrading, cruel and inhumane.
28. Therefore, NCWNZ welcomes the subsequent Department of Correction Office of the Inspectorate Thematic Report: The Lived Experience of Women in Prison¹¹. This report provided insights into the vulnerabilities and specific needs of women, providing a blueprint for addressing women prisoners' unique needs.
29. Given that human rights and prison environments are closely linked and the experience of the Auckland Women's Prison report and practices¹², it is imperative to ensure that there is an increased understanding and training of human rights treaties and the rights under these treaties. The importance of staff training in line with international human rights guidance is pivotal in changing practices and in understanding and recognising basic prisoner rights.
30. The placement and experience of transgender, intersex and non-binary people in prisons is also a critical issue for human rights and best practice operations. The Yogyakarta Principles¹³ are a key human rights standard that identifies State obligations that recognise the centrality of gender to each person's dignity. Human rights training should incorporate these Principles.
31. The design of prison units and access to basic items (such as clothing) influences women's wellbeing. Women's prisons need to provide space – currently lacking – for all the activities available and to different categories of prisoner (for example, remand or high security prisoners).

⁹ International Covenant on Civil and Political Rights. 1996. Article 10. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.

¹⁰ Inhumane treatment at Auckland Women's Prison - time for courageous leadership. 2021. <https://www.justspeak.org.nz/ourwork/inhumane-treatment-at-auckland-womens-prison-time-for-courageous-leadership>

¹¹ Department of Corrections | Ara Poutama Aotearoa. Office of the Inspectorate | Te Tari Tirohia. 2021. Thematic Report: The Lived Experience of Women in Prisons. <https://inspectorate.corrections.govt.nz/reports/thematic-reports/thematic-report-the-lived-experience-of-women-in-prisons>

¹² Department of Corrections | Ara Poutama Aotearoa. Office of the Inspectorate | Te Tari Tirohia. 2020. Auckland Region Women's Corrections Facility Announced Inspection June 2020. https://inspectorate.corrections.govt.nz/_data/assets/pdf_file/0004/42538/ARWCF_inspection_report_FINAL.pdf

¹³ The Yogyakarta Principles plus 10: Additional principles and state obligations on the application of international human rights law in relation to sexual orientation, gender identity, gender expression and sex characteristics to complement the Yogyakarta Principles. http://yogyakartaprinciples.org/wp-content/uploads/2017/11/A5_yogyakartaWEB-2.pdf

32. The Bill refers to changes in body searching. For most women, strip searching is traumatizing and degrading. Instituting body scanners to maintain prison security and prisoner dignity instead of invasive physical body searches is supported.

Conclusions

33. NCWNZ supports the specific aims of this Bill, to improve safety, improve rehabilitation and reintegration outcomes and ensure Te Tiriti recognition in the Corrections system.

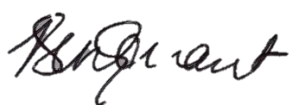
34. NCWNZ is concerned about the slow progress in reducing the number of women, especially wāhine Māori, in the prison system, on finding alternatives to incarceration and to end of the over representation of Māori in the prison system.

35. Women prisoners are a vulnerable group with specific needs and requirements. There is a need for more attention to the key problems and needs women and wāhine Māori face and the ways in which these problems can be addressed.

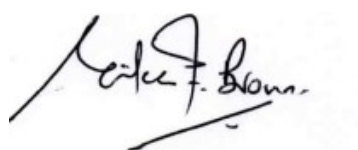
36. We also acknowledge the discrimination and vulnerability that transgender, intersex and non-binary people face in the prison system and the need for protections to ensure safety and uphold human rights.

37. The major issues that NCWNZ raise are whether the Bill goes far enough to:

- advance equality outcomes for all women in the prison system, in particular wāhine Māori.
- address the recommendations of the review following the inquiry into extremely disturbing treatment practices at Auckland Women's Prison in 2018.
- meet the human rights obligations in international treaties, and in particular, the concerns raised by CEDAW.



Dr Betty Ofe-Grant
NCWNZ Board



Eileen Brown
Safety, Health & Well-being Action Hub