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Submission to the Governance and Administration Select Committee on the Crimes (Virginity Testing Practices) Amendment Bill

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 12 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 Submissions Coordination Committee. It draws on feedback from NCWNZ's membership, Safety, Health and Wellbeing Hub members, existing NCWNZ policy¹, and previous related NCWNZ submissions².

Executive Summary

4. NCWNZ is pleased to support the intent of the Crimes (Virginity Testing Practices) Amendment Bill.
5. We stand firmly in opposition to the practices of virginity testing and hymenoplasty; in that they are unscientific, harmful, based on myths and are medically unnecessary. NCWNZ members find both the concept and the act of inspection of female genitalia for

¹ National Council of Women of New Zealand, Resolutions 1896-2020: [Resolutions - National Council of Women of New Zealand](#) .

² National Council of Women of New Zealand, Submissions: [Submissions - National Council of Women of New Zealand](#) .

the purpose of ascertaining history of vaginal intercourse a gross violation, utterly deplorable, and entirely indefensible.

6. It is clear that the practice of virginity testing should be viewed as a crime, since it is a violation of a female's body, and we agree with the World Health Organisation (WHO) that it is a form of gender discrimination.³
7. The Bill will align New Zealand law with other international jurisdictions that have criminalised virginity testing, and with international human rights conventions and health organisations that have called for a global ban of virginity testing practices.
8. NCWNZ acknowledges the lack of firm evidence about the number of virginity testing procedures being carried out in the country. However, we note that the Helen Clark Foundation's *Addressing Sexual Violence in New Zealand* report indicates that the practice is likely to be happening locally.⁴
9. NCWNZ members wish to highlight the issue of consent, knowing that there are current discussions in New Zealand about the definition of consent, and acknowledging that consent, from an individual who is part of a community where virginity testing takes place, may not be considered freely given.
10. We accept that, in cases where there has been no consent given, or an individual has been coerced into undergoing virginity testing, the procedure may reach the definition threshold of sexual violation in Section 128 of the Crimes Act 1961.
11. NCWNZ supports wholeheartedly Sections 204 D (2) (a) and (b) that remove consent, or belief of consent granted, as a defence.
12. In addition to the criminalisation of the practice of virginity testing, NCWNZ wishes to see the Bill expanded to make it a crime to offer or advertise virginity testing.
13. We understand that virginity testing is a cultural practice, and not affiliated to religion or country. We urge care and caution in the enactment of the Bill to prevent the singling out and potential demonising of certain cultures and communities, and to avoid the promotion or embedding of harmful stereotypes.
14. However, we acknowledge that the practice of virginity testing takes place in cultures and communities that are patriarchal, that rely on submission of girls and women, and where there is a clear gender-based power imbalance.
15. Based on the above points, NCWNZ believes information and education is key to bringing about an elimination of the practice of virginity testing. The proposed legislation, accompanied by open discussion, information and awareness-raising, will

³ World Health Organization. 17 October 2018. United Nations agencies call for ban on virginity testing. <https://www.who.int/news/item/17-10-2018-united-nations-agencies-call-for-ban-on-virginity-testing>

⁴ Helen Clark Foundation. 2 December 2025. Addressing Sexual Violence in New Zealand. <https://www.helenclark.foundation/research/addressing-sexual-violence-in-new-zealand>

provide clear direction for medical professionals, and act as a preventative means to alert individuals to the potential harm and unscientific nature of what is a totally unnecessary procedure.

Background

16. NCWNZ has an extensive history - dating from 1896 - of advocating for the rights of women and girls, and especially for the protection of human rights, for safety, health, and wellbeing of all women and girls in Aotearoa New Zealand.
17. In NCWNZ's recent submission on the Women's Health Strategy⁵, we refer to the health needs and services associated with women's biological reproductive role and acknowledge the social and cultural expectations associated with the provision of health services.
18. We also note the potential obstacles to accessing health services faced by migrant, refugee, and other women who do not have English as their first language or whose culture or religion inhibits discussion of personal health needs. We acknowledge these women may face additional difficulties explaining symptoms, having to rely on male interpreters, and managing cultural norms about male health practitioners or mixed hospital wards.⁶
19. NCWNZ strongly supported the Crimes (Definition of Female Genital Mutilation) Amendment Bill, noting that female genital mutilation (FGM) "violates the most basic rights of women and girls – to life, health, safety, and control over their bodies and reproductive rights." NCWNZ strongly supports legislation to update the definition of female genital mutilation to ensure all types of FGM are illegal in line with international best practice and our international obligations.⁷
20. We acknowledge from the Bill's explanatory note the practice of virginity testing violates human rights and is associated with adverse outcomes for individuals in terms of physical, psychological, and social wellbeing. It is also a source of fear, humiliation, and trauma for individuals who undergo the procedure.
21. We note the sentence in the Bill's General Policy Statement: "Women and girls are often coerced or forced into this honour-based abuse against their will," and recommend expansion of the term "honour-based" along with further explanation to give a clear

⁵ National Council of Women of NZ. 2023. Submission to Ministry of Health on the Women's Health Strategy. https://assets.nationbuilder.com/ncwnz/pages/1026/attachments/original/1680397922/S23.07_Women's_Health_Strategy_.pdf?1680397922

⁶ ibid

⁷ National Council of Women of NZ. 2020. Submission to the Health Select Committee on the Crimes (Definition of Female Genital Mutilation) Amendment Bill. https://d3n8a8pro7vhmx.cloudfront.net/ncwnz/pages/1026/attachments/original/1585623968/S20.01_Crimes_%28Definition_of_Female_Genital_Mutilation%29_Amendment_Bill.pdf?1585623968

understanding of the gendered religious and cultural factors at play in terms of males policing the sexual behaviour of females.

Separate Legislation

22. NCWNZ invites the Committee to further examine the need for separate legislation that criminalises virginity testing.
23. Some NCWNZ members believe that separate legislation is not required for virginity testing. Their position is that the practice can and should fall under current legislation around sexual violence and abuse, and ought not to be treated as a separate offence. In light of this, NCWNZ members urge a careful approach, recommending that the threshold for banning specific health or medical procedures through legislation needs careful consideration, including whether legislation is the most appropriate mechanism.
24. At the same time, there are NCWNZ members who believe that specifically criminalising virginity testing will provide legislative clarity for the guidance of medical professionals and for the understanding of the general public
25. If the practice of virginity testing is classed as sexual violation, then the specific offence could easily be included in existing legislation, accompanied by guidance notes.
26. We are also pleased to see the proposed law also makes it an offence for a citizen or resident of New Zealand to carry out the practice of virginity testing on individuals outside New Zealand, or to remove individuals from New Zealand for the purpose of carrying out virginity testing overseas.

Inclusion of Offering or Advertising Virginity Testing as a Crime

27. NCWNZ recommends an expansion of the Bill to include additional grounds for prosecution for those who offer or advertise virginity testing services.
28. We believe such an addition would strengthen the existing law. In seeking to intervene before harm occurs by introducing a preventative measure is infinitely preferable to charging and prosecuting offenders once a virginity testing procedure has been carried out.
29. The availability, promotion or offering of virginity testing or hymenoplasty can contribute to the normalising of harmful beliefs about women's and girls' bodies and sexuality; therefore, it makes good sense to criminalise the offering and advertising of said practices.

Consent is Not a Defence

30. NCWNZ firmly endorses the inclusion of Sections 204 D (2) (a) and (b) that remove consent, or belief of consent obtained, as a defence.
31. We believe this is an important issue to highlight. While consent must always be free and full, affirmative, and not inferred, questions arise about the possibility of such

consent being possible in cultures where the rights of females are restricted. Where control and coercion especially by male relatives occur, we consider it inconceivable that freely given consent is possible.

32. An example of a coercive environment is given in the employment court case *Pilgrim v Attorney General*⁸, where the testimony of forensic psychiatrist, Julie Norris, found that women at Gloriavale do not have a genuine choice in almost all aspects of their lives. Norris stated: “Women living in a coercive or socially entrapped environment have restricted autonomy and are disempowered from making independent choices and decisions.”
33. NCWNZ believes that the same constraints apply to women living in communities where virginity testing takes place; thus, obtaining consent from women and girls to undergo the procedure is not possible.
34. We suggest that declaring in that legislation that consent, or belief of consent obtained, may not be used as a defence would completely remove ambiguity, and would prevent protracted legal debates about what might reasonably be considered consent in each case that comes before a court.

Absence of Evidence is not Evidence of Absence

35. NCWNZ is aware that virginity testing is not a scientifically accurate means of ascertaining whether an individual has had penetrative sexual intercourse. In the same way, we understand that an intact hymen does not indicate virginity, and that hymenoplasty may cause injury or harm. We note that hymenal repair has been likened to female genital mutilation.⁹
36. We acknowledge the work of the Helen Clark Foundation, especially its investigation and presentation of research of the practice of virginity testing in New Zealand. We further reject the practice of virginity testing because it reinforces stereotypes, perpetuates a gender power imbalance, and places “an unscientific and discriminatory burden of proof exclusively on women and girls.”¹⁰
37. We note the same lack of documented evidence was the case when the Crimes (Definition of Female Genital Mutilation) Amendment Bill was being developed, yet there was cross-party support for the Bill to ensure all types of FGM were outlawed in Aotearoa New Zealand.

⁸ *Pilgrim v. Attorney-General*, 2023 (NZEmpC 105, EMPC 85/2022).
<https://www.employmentcourt.govt.nz/assets/Documents/Decisions/2023-NZEmpC-105-Pilgrim-Ors-v-Attorney-General-rs-Judgment.pdf>

⁹ Helen Clark Foundation. 2 December 2025. Addressing Sexual Violence in New Zealand.
<https://www.helenclark.foundation/research/addressing-sexual-violence-in-new-zealand>

¹⁰ *ibid*

38. NCWNZ strongly supported the Crimes (Definition of Female Genital Mutilation) Amendment Bill. In the same way, we accept the lack of documented data on virginity testing practices and endorse the Bill banning virginity testing in this country. As one member points out: “We are clear the uncertainty about prevalence does not diminish the need for legislative clarity. The Bill would send a strong and unequivocal message that the procedure is illegal, providing absolute certainty in statute.”

CEDAW

39. The Bill will provide a positive response to the concluding observations of CEDAW’s eighth and ninth periodic reports of New Zealand, in terms of addressing gender-based violence against women, and eliminating harmful practices such as female genital mutilation, which can include virginity testing. CEDAW’s closing observations regarding legal and community measures to combat female genital mutilation included the following points:

“24. The Committee recommends that the State party adopt a comprehensive strategy to eliminate discriminatory stereotypes regarding the roles and responsibilities of women and men in the family and society ... in order to create an enabling environment that is supportive of gender equality. It further recommends that the State party:

(b) Continue to combat harmful practices, in particular female genital mutilation, early and forced marriages, the use of dowry payments, polygamy and crimes in the name of so-called “honour”, and systematically collect data disaggregated by age and ethnicity on those harmful practices” (2018).

21. Recalling General Recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19, the Committee recommends that the State party:

(a) Assess and develop policies to address the root-causes and compounding factors of gender-based violence against women, including economic violence;

(b) Adopt and implement legislation to specifically criminalize stalking;

(c) Continue to adopt measures based on systematic data collection and analysis to strengthen prevention of gender-based violence against women and reduce revictimization and reoffending rates;

(d) Allocate adequate human, technical and financial resources for the provision of victims’ support services and ensure the effective participation of civil society, victims’ representatives and social workers in decision-making on the delivery of protection, social and rehabilitative services;

(e) Strengthen protection from gender-based violence against women, including through enhanced law enforcement, for disadvantaged groups of women, including Māori and Pacifica women, ethnic and religious minority women, and women with disabilities” (2024).

Human Rights

40. NCWNZ is clear that virginity testing is a violation of human rights. The World Health Organisation (WHO) and the UN Human Rights Office state that virginity testing violates the rights of equality, privacy, health, and the freedom from torture, cruel and degrading treatment.¹¹
41. UN Human Rights, UN Women and the World Health Organisation (WHO) have made a joint interagency call to eliminate virginity testing and ensure that the rights of all women and girls are upheld.¹²
42. We believe that the Bill would reinforce provisions of the New Zealand Bill of Rights Act 1990 (NZBORA) that protect bodily autonomy and dignity. Part 2 of the NZBORA specifically mentions the right not to be subjected to torture or cruel treatment, the right not to be subjected to medical or scientific experimentation, and the right to refuse to undergo medical treatment.¹³

Sustainable Development Goals (SDGs)

43. NCWNZ acknowledges the Bill will align with the goal and targets of Sustainable Development Goal 5 to Achieve gender equality and empower all women and girls, in particular Target 5.3: “Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation.”

Patriarchal Culture; Repressive Attitudes

44. NCWNZ believes that the legislation should also address the patriarchal nature of cultures in which the practice of virginity testing takes place. Members also believe it would be helpful to have an explanation or definition of “honour-based abuse” to make clear the gendered mechanism underlying the practice of virginity testing.
45. As one member explains, “There can be religious or cultural justifications which are not, or not simply about, honour, but power and control or a genuine belief that it is best for the woman.”
46. Other members point out specific issues with the Bill’s wording: “The NZ wording mentions that “Women and girls are often coerced or forced into this honour-based abuse against their will”, but the UK wording goes further, explaining that the practice stems from patriarchal and repressive attitudes towards women, and that it reinforces the idea that women's value is connected to sexual purity”...“The UK wording makes express reference to the wider gender based discrimination and attitudes towards

¹¹ United Nations. Harmful Practices: OHCHR and women’s human rights and gender equality.

<https://www.ohchr.org/en/women/harmful-practices>

¹² World Health Organization. 17 October 2018. United Nations agencies call for ban on virginity testing.

<https://www.who.int/news/item/17-10-2018-united-nations-agencies-call-for-ban-on-virginity-testing>

¹³ Ministry of Justice. New Zealand Bill of Rights Act 1990. 30 August 2022.

<https://www.legislation.govt.nz/act/public/1990/109/en/latest/#DLM225507>

women, and also frames (virginity testing) as a control over women's sexuality and body autonomy, which reinforces discrimination and gendered scrutiny"... "Although NZ wording references "honour-based abuse", it doesn't explain what that means nor the implications for women. It should make the gendered mechanism clearer - for example: "Virginity testing may be demanded in contexts where a woman's or girl's perceived virginity is linked to family or community honour, marriageability or social standing. Women and girls may therefore be subjected to testing as a means of policing their sexuality and behaviour."

Education is Key to Eliminating Virginity Testing

47. NCWNZ accepts that legislation alone is not sufficient as a means of eliminating the practice of virginity testing. Our members believe that "health professionals and communities where the practice may occur should have access to information and guidance that virginity testing should never be undertaken, that virginity testing has no medical or clinical basis, that it is a human rights violation, and all health professionals and health workers should refuse to carry out this harmful practice"... "Any legislative ban should be accompanied by education, support, and consultation with communities where the practice may be occurring or at risk of occurring. Provided that education and consultation accompany the legislative change, the case for banning virginity testing in New Zealand law is supported."
48. One member also commented that "I think it is an advantage that there are (probably) very few instances of virginity testing in NZ at present, so we can take preventative action and send a very clear message to those thinking of coming to NZ who support this practice. If there is open discussion and information, women will be more likely to report abuse or intended abuse and we can monitor and put measures in place to avoid unintended consequences."
49. Additionally, the Office of the United Nations High Commission for Human Rights (OHCHR) declares: "The elimination of this practice requires comprehensive action through legal prohibition, professional guidelines, and community-level mechanisms to dismantle the cultural norms that sustain it."¹⁴

Conclusion

50. NCWNZ supports the intent of the Bill that seeks to ban virginity testing.
51. We recommend additions to the Bill that create an offence for offering or advertising virginity testing services.
52. NCWNZ invites the Committee to give further consideration to the need for separate legislation to cover the offence of virginity testing.

¹⁴ United Nations. Harmful Practices: OHCHR and women's human rights and gender equality. <https://www.ohchr.org/en/women/harmful-practices>

53. We recommend that weight is given in the legislation to the patriarchal and repressive culture in which virginity testing takes place.
54. NCWNZ also recommends that - hand-in-hand with criminalising the practice of virginity testing - information, education, and awareness-raising of the harmful, unnecessary, and unscientific nature of virginity testing is made available to medical professionals and to communities where the practice is known to take place.



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