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**Submission to the Justice and Electoral Committee on the Children, Young Persons, and Their Families (Youth Courts Jurisdiction and Orders) Amendment Bill**

The National Council of Women of New Zealand (NCWNZ) is an umbrella organization representing 50 nationally organised societies and national members. NCWNZ has 26 branches throughout the country attended by representatives of those societies and some 150 other societies. The Council's function is to serve women, families and the community through research, study, discussion and action.

This submission has been prepared by the Justice and Law Reform Standing Committee after consultation with members by means of the Circular, our monthly newsletter. Responses were received from branches across the country, member individuals and organisations.

NCWNZ has, in the course of over 113 years of existence, made numerous submissions on the treatment of young offenders. We reiterate our statement in a submission in 2006 that "In general, NCWNZ has sought for the rehabilitation of offenders and for sufficient funding for the early recognition and care of children at risk, including for the provision of education in parenting."

NCWNZ recognises the complexity of the issues, and that there are no simple solutions. Members recognise this Bill seeks more wide reaching measures, including parents' responsibilities. NCWNZ supports a reconsideration of the definition of a "serious offence" and the "add on" provisions designed to actually change behaviour rather than punish.

**Specific comments: Part 1**

**Clause 4 (a) (i) Age of accountability**

Responses were mixed, but with general agreement that 12 and 13 year olds should be held accountable for their actions and are capable of distinguishing right from wrong. The difficulty arises in how accountability should be implemented. Some believe that 12 and 13 year-olds should be held accountable for serious offences other than murder or manslaughter, while others believed that the status quo be retained, i.e. that 10-13 year olds be dealt with by the Family Court, and 14-16 year olds by the Youth Court.

One branch commented on real life extreme violent behaviour in a local preschool, including a four year old who tells another boy to kill a young girl, and starts kicking her, calling her a "F...ing bitch". Behaviour such as this is learned and reflects the extreme situations in which some children live. Lowering the age of accountability to 12 years will not address this.

#### **Clause 4 (a) (ii) Definition of a “serious offence”**

Many NCWNZ members responded that offences causing personal injury, including rape should be considered “serious”. Some supported a broadening to include violence, use of a weapon, holding hostage and terrorising, home invasion, trafficking of drugs and trafficking of people. Some members supported maintaining the status quo.

#### **Clause 15 Increased sentencing provisions**

Once again responses to the proposed changes were mixed. Some supported extending the length of supervision coverage, maintaining that there should be a concentration on the offender’s education in order to facilitate rehabilitation including basic car maintenance, building and computer training. It is essential that they leave the institution able to read and write adequately in order to survive in the adult world. A few members supported “Boot Camp” style programmes.

However, a greater number did not support increasing sentencing, quoting evidence that increasing sentences does not achieve a reduction in the crime rate, nor does it stop people from re-offending. Much more use should be made of diversion by the police and the courts so that young people are not confined to prison or other forms of supervision. Family courts, restorative justice and culturally appropriate methods such as marae-based justice should be used as much as possible.

One branch quoted Professor John Werry, child and adolescent psychiatrist from Auckland, who wrote in a letter to the *Listener* magazine (28/3/09), *“Despite the current system being unscientific, underfunded, amateurish and unable to cope with the current load, the Government is proposing to double the length of time of sentences and to extend the lower age limit from 14 - 12, creating a fourfold increase in demand.*

His point, that the changes proposed in the Bill will create an increase in demand for facilities and social worker support which will require increased funding, is endorsed.

#### **Broadening of sentencing options available**

In general, NCWNZ supports the broadening of sentencing options available, as listed in the proposed “Hierarchy of Court’s responses”, including the provisions for parents or guardians of offenders to take responsibility in making restitution (g) , or attend a parenting programme (ja).

Most responses maintained that current provisions **do not** deal adequately with the underlying causes of offending. Social workers say that offending is a legacy of intergenerational poverty. Increasing levels of drug and alcohol abuse in the wider community are also cited as a contributing factor to increasing youth offending.

The Bill is addressed to the hard core of young offenders and is not intended to address the underlying causes of offending. However the Bill does introduce a new range of sentencing orders and new options for dealing with repeat offenders which are aimed at assisting the offenders and their families.

Generous resourcing is the key to the successful rehabilitation of young offenders. School, parenting, community links, training and work experience, policing and the voluntary sector, are known to help 'turn around' marginally at risk children and young people. However, resourcing includes time, commitment, funding, research, ongoing monitoring, evaluation and reporting on the lives of offenders (and their victims) as they learn to display a level of civic responsibility.

Suggestions include: early intervention in high-risk communities, making available more infant health and welfare services (including parenting programmes), extending current services, providing

parenting programmes and support in culturally-appropriate settings delivered by culturally-appropriate methods. One branch lamented the uneven funding of programmes that have proven to be successful, e.g. the HIPPY programme.

Much more effort needs to be put into finding other ways of dealing with young offenders and preventing young people from offending in the first place. It is possible that a number of these potential offenders are able to be identified before they get into serious trouble and this is when something needs to be done by way of intervention. Earlier intervention is vital even at preschool level. At school, mentors should be found for disruptive children who are removed from classes or expelled from school to show that they are really interested in him/her as a person and want to help him/her learn and behave.

Special help needs to be provided to schools and parents where children are identified as needing it, including more truancy officers. There should be increased and uncontested resources provided to Group Special Education. Literacy and numeracy skills should be achieved by all school students and this may require a lot more teacher assistance. Classroom numbers should be reduced - teachers are not miracle workers - so that there is sufficient time for necessary pastoral care by teachers and principals in schools. Although expensive, it would be a lot cheaper than the cost caused by the offences and the subsequent cost of dealing with offenders, and helping the victims.

All schools should have a programme to deal with bullying and should work with children and staff in mediating conflict. There are some very good programmes such as *Cool Schools*.

Other ways of dealing with the causes of anti-social behaviour need to be addressed such as poverty and the acknowledgment of cultural differences.

### **Additional Comments**

Several members noted that the proposal in the Bill, to reduce the age in serious offences are dealt in Youth Courts, breaches the United Nations Convention on the Rights of the Child to which New Zealand is a signatory. NCWNZ affirms the stance taken by Unicef NZ which asserts that the Bill would constitute a backward step in New Zealand's response to young offenders. "It will not reduce youth offending since it does not deal with the source of the problem. Further, it would take New Zealand in the opposite direction to that proposed by international and national experts on criminality and human rights" (*Unicef Summary Position Paper Oct 2008*).

### **Conclusion**

In general, NCWNZ supports the principle that young people of aged 12 and 13 should be held accountable for their actions, but opposes the lowering of the age under the jurisdiction of the Youth Courts. However, NCWNZ supports a widening or measures, including increased funding, to deal with offenders and their families. The root causes of youth offending go beyond the individuals themselves, and relate to intergenerational issues, poverty, and wider community attitudes towards drugs, alcohol, violence and women. It stands to reason that a more broad-based approach is needed to reduce the rate of youth offending.

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