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S10.05

Submission to the Education and Science Select Committee on the Education (Freedom of Association) Amendment Bill

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

Education, especially for women, has been one of the major concerns of NCWNZ since the Council's inception in 1896. NCWNZ has made two previous submissions in 1994 and 1997 to the Education and Science Select Committee on Tertiary Students' Association Voluntary Membership Bills. The majority of our members at those times did not support the proposals of the Bills. However the Education Standing Committee of NCWNZ has canvassed our nationwide membership again with regards to Sir Roger Douglas's Bill and has asked them to respond to the following questions which appeared in our monthly *Circular*.

1. Should student association membership be voluntary? Yes /No. Give reasons.
2. What do you consider are the advantages of voluntary membership?
3. What do you consider to be disadvantages of voluntary membership?
4. "Having a steady revenue stream of income and predictability will enhance the students' associations' abilities as an organisation" (CEO Rick Ede, Unitec). Do you agree with this statement? If not, why not?
5. "Compulsory student unionism forces students to pay but they don't bother to exercise their rights." By moving to completely voluntary unionism, will the ability of particular groups of students to 'capture' the organisation increase?

Responses were received from 11 Branches, 5 individual members of Branches and members of the Education Standing Committee. Their answers are incorporated into the following comments on the Bill. The submission has also been reviewed by a member of the NCWNZ Board and the Parliamentary Watch Committee. In general, responses in 2010 reaffirmed the members' stance in the earlier Bills.

Clause 4:

The purpose of this Bill is to uphold students' rights to freedom of association, by removing any requirement for students to join students' associations which are independent, autonomous Incorporated Societies. Two thirds of all the responses stated that the membership of associations of students should be *compulsory* rather than voluntary. Current legislation already provides choice regarding an individual's membership of a students' association. Section 229A of the Education Act 1989 allows for students to be exempt from membership of their association due to financial hardship. Also any individual who objects to membership on moral, religious or ethical grounds can conscientiously object to membership.

Students at a number of tertiary institutions (such as Auckland University and many polytechnics), have chosen to have voluntary associations, while others have consistently chosen to remain compulsory. Some that have been voluntary, have subsequently recognised the significant benefits of compulsory membership, particularly in the areas of advocacy, services and representation and have made the change back (Waikato Students Union, Unitec students' Union).

If student association membership became voluntary, the many important, wide-ranging services currently provided for students would disappear – welfare and academic advocacy, faculty and class representatives, financial assistance, legal help, counselling services, student social events including orientation, student clubs, student societies (Law Students' Association, Medical Students' Association, Pacific Island Students' Association, Maori Roopu, Massey University Extramural Students' Society), campus recreation facilities, student crèches, and university sports.

Many women, in particular Maori and Pasifika women, start their tertiary education later in life after they have established families. They often face additional barriers while studying. They need access to flexible learning hours, accessible and affordable childcare on campus, protection from harassment, poor teaching and unprofessionalism, health and safety services and support, and financial support from student associations, their institutions and the government. This would also disproportionately affect women, many of whom are second chance learners.

If the students' associations become financially unviable or unable to plan beyond the current academic year/intake of students, the universities themselves will have to provide the crucial services that students' associations currently provide. Many of these are not a matter of "nice to have" but are vital for the well-being of students, for the Quality Management System of the institution and for students to have a voice in governance. At Otago University, for example, apart from advocacy, mediation and support, food bank, flatting and hardship advice, lost property, student radio, *Critic* and other publications (student diaries, student telephone directory), ethnic sub-associations: Maori, Samoan, Fijian, Tongan. OUSA also owns the University Book Shop, the Unipol Gymnasium, and Clubs and Societies (Building and Programme). If associations were not able to do all the above, the universities would need to fulfil most of these functions. To do this, they would need to significantly increase standard charges to students across the board - and these **would** be compulsory. It is unlikely they would be able to deliver a comparable product. Students would not be in control of how their money is being spent.

Students are currently represented on a range of university committees and on the University Councils. Voluntary unionism could mean that the Student Association could become a minor voice, which would not be representative of the student demographic. Voluntary unionism will have a significant financial impact on the Student Associations. An inevitable decline in revenue will occur and this may limit the ability for student leaders to participate in these roles, for which they are currently financially recompensed from the student fee. Reduction of revenue with voluntary membership will mean that services currently provided by the Student Association will need to be withdrawn, or move to a user pays basis, which may not be as cost efficient. Students make a valuable contribution to the discussion on university business matters, are a key stakeholder group, and a potential loss of their involvement at this level would be detrimental to the university as a whole. Students are currently enjoying or benefiting from services provided (or advocated for) by their Student Associations, and it would seem unfair that a few, at considerable cost, would have to carry this responsibility, when the benefit is clearly enjoyed by all students.

Clause 6 & 7 - New section 229 Voluntary Membership of Students' Associations

The New Zealand Universities' Association and the Aotearoa Polytechnic Students' Union obtained a legal opinion in 1997 from Sir Geoffrey Palmer which concluded that "the right to freedom of association, recognised in the New Zealand Bill of Rights Act 1990 and the Universal Declaration of Human Rights and International Covenant on Civil and Political Rights, is not breached by the existing system of universal membership of students' associations." The Public Law Group and the

Office of Legal Counsel have also prepared advice on the new section 229 (1) of Clause 6 of the amended Bill to the Attorney-General. This states that “the new section does not unduly restrict the freedom of expression as affirmed in section 14 of the Bill of Rights Act.” Clause 7 of the Bill repeals sections 229A to 229D of the Act. These sections require Councils to conduct a referendum, if petitioned by 10% of students, to decide if all students will be required (or continue to be required) to be members of a students’ association. If the majority of students support compulsory membership, then individual students must join the association.

If this is considered purely from a human rights perspective then membership of students’ associations should not be compulsory. However, there are compelling reasons stated above as to why the status quo should remain. Generally, most people in democratic, responsible communities compulsorily pay taxes, rates and levies for a wide range of facilities, goods and services that they will never use. Their (human rights) freedom within this system is that, if they don’t like how the money is being spent, there are clear processes by which they can change the decision makers. The same situation applies to membership of students’ associations.

Several respondents commented that current students are generally quite apathetic. They pay student fees, and use the student association provided services, but are rarely involved in student issues. AGMs are poorly attended, as are protests regarding fee increases. Voluntary unionism will diminish even further the pool of students actively involved in matters that concern them. However, if students were sufficiently annoyed about something, or perceived that their rights were being infringed in some way, they would quickly mobilise and protest irrespective of student association membership being voluntary or otherwise. Thus, it is argued, voluntary membership would have little effect on matters of significance to the student body.

Students’ associations have lobbied government on several tertiary education policy issues to ensure that women students get a fair education (issues such as interest on student loans and the graduate gender pay gap). They also carry out important research on women’s issues such as the needs of student parents on campus and the experiences of women in postgraduate study and in leadership positions within the university. Student’s Associations value the involvement of female students and often have a Women’s Rights Officer position which demonstrates the value they place on developing women’s leadership and ensuring that women’s voices are heard. If this Bill is implemented, student associations will no longer have the infrastructure, resources or people to continue this important human rights work.

Conclusion:

Over two thirds of the responses the National Council of Women received did not support a change to voluntary membership of students’ associations because of the integral nature of the services they provide for all students. It is up to the students to make the decision about the membership and role of the association within the tertiary institution.

Given that this Bill will have a disproportionate impact on female students and will have a huge impact on the services and representation that students’ associations provide, NCWNZ opposes the introduction of this Bill.

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