



**NEW ZEALAND**

Affiliated with the International Federation of Business & Professional Women

**BPW**  
**NEW ZEALAND**

New Zealand Federation of Business  
and Professional Women Incorporated

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19 December 2013

To the Committee Secretariat, Justice and Electoral  
Parliament Buildings  
**Wellington**

Online:

**Re: Submission on Human Rights Amendment Bill**

**Submission:**

This submission is from the NZ Federation of Business and Professional Women (BPW NZ) Inc.

**Our Organisation**

Our organisation's aims are to link professional and business women throughout the world, to provide support, to lobby for change and to promote the ongoing advancement of women. We work for equal opportunities and status for all women in economic, civil and political life and the removal of discrimination in all countries. We promote our aims and organise our operating structure without distinction as to race, language or religion.

Our structure is comprised of a National Executive, 14 branches and a number of individual members in areas where there is no branch. We are an apolitical organization.

**International Status:**

BPW International has General Consultative Status at the United Nations through the UN Economic & Social Council (ECOSOC). This enables BPW International to appoint official representatives to UN agencies worldwide and to accredit members to attend specific UN meetings.

BPW International's President is the Gender Specialist with the International Organization of Employers (IOE) and we bring the voice of women to business as an expert resource on gender diversity.

BPW International upholds the outcomes of the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW) Committee at state party level. BPW International upholds the outcome documents of the annual UN Commission on the Status of Women (CSW) which evaluates progress, identifies challenges, sets global standards and formulates policies to promote gender equality and women's empowerment worldwide.

## **Our concern for Work on Human Rights in New Zealand:**

The New Zealand Government has ratified CEDAW and every four years the Government submits a Periodic Report on the country's progress. In New Zealand BPW NZ contributes to the NGO alternate report to the CEDAW committee.

BPW NZ is currently working with the National Council of Women New Zealand (NCWNZ) on an alternate report. The targeted group and themes were among those identified by the Monitoring Committee for CEDAW in New York, 2012: *Parliamentary Oversight, Definition of Gender Discrimination and Equality, Access to Justice, National Machinery including action plan, Stereotyping (and promotion of women's rights), Violence against Women, Participation in political and public life including temporary special measures, Health, Disadvantaged Women, Marriage, and other international instruments.*

BPW NZ is the lead organization to monitor and report on the actions of the government on women's employment and women with disabilities. BPW NZ has the responsibility to monitor and report on the actions by the Government to redress these key areas of concern and the recommendations made for New Zealand women.

**Our interest in this Bill is because we are committed to ensure the human rights of all women and their families are protected and that women can lead their lives secure in the knowledge that remedies are available if their human rights are breached.**

**We have advocated for the rights of disabled persons since the release of "Without Limits 2006", the British Crime Survey that found that disabled women were twice as likely to experience domestic violence as non-disabled women, and they were likely to experience that over a longer period. In 2007 BPW NZ began developing policy, with three resolutions on women with disabilities, which gave us the power to lobby on their human rights. In 2008 we submitted a review of the Health and Disability Commissioner Act 1994 and the Code of Health and Disability Services Consumers Rights.**

We quote the BPW NZ Policy **15.8.5 CEDAW Article 26 – Discrimination against Women and Children with Disabilities**

***THAT** BPW NZ urge the New Zealand Government to request, under Article 26 of Convention for the Elimination of all Forms of Discrimination Against Women (CEDAW), that a further Article be included to address the elimination of all forms of discrimination against women and girls with disabilities. (2011)*

(Note that we have since discovered that it would not be politically prudent to open up CEDAW for insertion of further articles. Instead we pressed for General Recommendation 18 to be included in the CEDAW Periodic Reports).

We quote the BPW NZ Policy **15.8.6 Optional Protocol to UN Convention on Rights of Persons with Disabilities**

***THAT** BPW NZ urge the New Zealand Government to sign and then ratify the Optional Protocol to the United Nations Convention on the Rights of Persons with Disabilities. (2011)*

## 1.0 General Comments:

1.1 We congratulate the Select Committee on this Bill which our Federation believes will strengthen the Human Rights Commission (HRC) by supporting greater cross communication between Commissioners. We support the Bill in principle. In our submission we will include questions in areas where we believe there may be room for confusion and we make some recommendations for clarifying the intent of the Bill.

1.2 BPW NZ supports the appointment of a full-time Commissioner for Disability Rights within the Human Rights Commission (the Commission).

We note that the need for Commission work in the area of disability discrimination has been long standing. In the HRC's newsletter Tirohia Issue 3/2001 were statements that:

- Discrimination because of disability tops the list of unlawful discrimination complaints and enquiries received by the Commission as 21% of the enquiries to the Commission in the year to 30 June 2001 related to disability discrimination
- The prohibited ground of discrimination most often cited in complaints, is disability. There were 148 breaches of the Act on this ground in the year to 30 June 2001.

With the New Zealand Government's ratification of the UN Convention on the Rights of Persons with Disabilities, and signaling its intention to accede to the Optional Protocol to the UNCPRD, there is a requirement for the Human Rights Commission to monitor and report on discrimination and impediments experienced by people with disabilities. The HRC also has the responsibility to monitor the implementation of the New Zealand Disability Strategy (2001).

Further to this, the HRC launched a complaint resource for disabled people and their families at the 3<sup>rd</sup> National Disability Conference in June 2013. Titled "Your Human Rights and Making Complaints". Therefore there is an even greater need than previously to appoint a full-time Disability Commissioner.

1.3 Our Federation is mindful of the need to separate the perception of the role of the Deputy Commissioner – Disabilities and the Disability Rights Commissioner within the Human Rights Commission. It is important that the separate roles are widely understood. The Health and Disability Commissioner is an independent agency set up to:

- (i) promote and protect the rights of consumers who use health and disability services
- (ii) help resolve problems between consumers and providers of health and disability services and
- (iii) improve the quality of health care and disability services.

The Health and Disability Commissioner's jurisdiction is restricted to the quality of care; it does not cover issues of funding or entitlement to a service.

1.4 Our Federation strongly recommends the widening of the Equal Employment Opportunities portfolio to include issues related to CEDAW (The Convention on the Elimination of All Forms of Discrimination Against Women) and women's rights.

- 1.5 Our Federation welcomes the Bill's focus on ensuring both proposed and existing legislation protect New Zealander's human rights within the framework of United Nations Covenants and Conventions as we have been concerned with this issue for many years.

We quote the BPW NZ Policy **16.11 Statutory Duty**

*“THAT the New Zealand Federation of Business and Professional Women Inc:*

*URGES the government to reinstate the statutory duty of the Human Rights Commission and the Race Relations Conciliator under the Human Rights Act 1993, to examine New Zealand's acts, regulations, policies and administrative practices and to report to the Minister of Justice on any conflict with the Human Rights Act. (1998)*

*Rationale:*

*The introduction of legislation with respect to Consistency 2000 and the altered process, weakens the protection of Human Rights of New Zealanders within the framework of United Nations Covenants and Conventions.*

## 2.0 Comments specific to Part 1, Amendments to Human Rights Act 1993

### 2.1 Section 5, Functions of Commission

We suggest that Section 5 (2) (d) be amended by adding “to promote the rights of women” so that the clause would now read:

‘(d) to promote equal employment opportunities (including pay equity) and promote the rights of women; and

We welcome Section 5 (3) (c) which clearly states a key function of the Commission is to make public statements about human rights as affirmed in New Zealand or international law. The extension to include statements commenting on the position of the Government in relation to that matter is particularly helpful in progressing full human rights in New Zealand.

Our Federation believes Section 5 (3) (ca) needs further strengthening. We suggest that the seven International Human Rights instruments we are signatories to, be included by name, with wording that enables future instruments to be added:

- The International Covenant on Civil and Political Rights (ICCPR)
- The International Covenant on Economic, Social and Cultural Rights (ICESCR)
- The International Convention on the Elimination of All Forms of Racial Discrimination (CERD)
- The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
- The Convention on the Rights of the Child (CRC)
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
- The Convention on the Rights of Persons with Disabilities (CRPD)

We would question whether the UN Declaration on the Rights of Indigenous Persons (UNDRIP) should also sit alongside these other instruments. It does not have the same

legal power as the Covenants and Conventions but our understanding is that the Declaration is reported on by the Commission and complaints that relate to UNDRIP would be made through the Commission complaints process.

On further considering Section 5 (3) (ca) our Federation sees promoting an understanding of, and compliance with, this Act or the New Zealand Bill of Rights Act 1990 as vital to the health of the nation and while making public statements are useful we do not believe this is enough to ensure understanding and compliance particularly in the new area of disability consumer's rights. We would ask whether a function of the Commission might be to oversee a school programme to widen understanding and compliance. As stated above in 1.2, the Human Rights Commission launched a complaint resource for disabled people and their families at the 3<sup>rd</sup> National Disability Conference in 2013, 'Your Human Rights and Making Complaints'

We quote the BPW NZ Policy **12.18 Code of Health & Disability Consumer's rights in School Programmes**

*"THAT the New Zealand Federation of Business and Professional Women Inc:*

*URGES the Ministers of Education and Health to ensure that the Code of Health and Disability Consumer's Rights is included in school health education programmes for students in years 11 and above.*  
**(2010)**

We do understand that the Health and Disability Commissioner is the agency to receive complaints on the Code but see an opportunity for this agency and the Human Rights Commission to jointly promote disability rights through school health education programmes.

BPW NZ welcomes Section 5 (5) (ka), (kb) and (kc)

## **2.2** Section 6, Membership of Commission

We believe a number of changes are necessary to this section to provide clarity:

- Although the Disability Rights Commissioner (and the other Commissioners) is described as full-time in the Explanatory note of the Bill, in the Digest, in the Regulatory Impact Statement and in the First Readings this is not stated in the Bill.
- We agree with the requirement for full-time Commissioners but believe there should be room for flexibility to ensure the best person is appointed even if for some reason that person cannot work full time. We believe a 0.8 full-time equivalent is reasonable, whereas any less will weaken the focus of the position.
- We are concerned with the titles of the Commissioners. We note that under different legislation New Zealand already has a Privacy Commissioner, a Retirement Commissioner, a Childrens Commissioner and a Disability Commissioner (working with the Health and Disability Commissioner). There is considerable room for confusion. We would advocate for the people appointed as Commissioners under the Human Rights Act, with a role also in monitoring and promoting the New Zealand Bill of Rights, be known as Human Rights Commissioners with their area of responsibility following

that title. We believe that incorporating their priority area in the title strengthens their authority and the importance of their public statements.

Accordingly we would suggest amending Section 6 to read as follows:

- ‘(1) The Commission consists of the following Human Rights Commissioners:
  - “(a) the Chief Commissioner; and
  - “(b) not less than 3 and not more than 4 other full-time Commissioners; and
  - “(c) flexibility be granted to allow hours not less than 0.8 full-time equivalent
- ‘(1A) There must be a Commissioner, other than the Chief Commissioner, appointed to lead the work of the Commission in each of the following priority areas:
  - “(a) disability rights
  - “(b) equal employment opportunities (including pay equity) and women’s rights
  - “(c) race relations
- ‘(1B) The titles of the priority area Commissioners to be:
  - “(a) Human Rights Commissioner – Disability Rights
  - “(b) Human Rights Commissioner – EEO and Women’s Rights
  - “(c) Human Rights Commissioner – Race Relations
- ‘(1C) As per original “(1B)

### **2.3** Section 11, new section 15 substituted, Functions of Chief Commissioner

We are pleased to see that “15 “(a) allows for the Chief Commissioner to lead discussions of the Commission except when it is the function of a Commissioner to do so under s.16(a). This gives power to the Chief to initiate and lead discussions in other areas that may be emerging and potential new significant issues or areas that may not be covered by a FTE Commissioner.

### **2.4** Section 12, new section 16 substituted, Additional functions of Commissioner appointed or designated to lead work of Commission in priority areas

Our Federation welcomes Section “16 ‘(1) “(a) which provides power to a designated Commissioner to lead discussions with the Commission, so that all other Commissioners have input to the work in hand. In the interests of strengthening the work of the Commission and to ensure that each priority area does not work in a vacuum this cross area discussion is to be welcomed.

BPW New Zealand is pleased to see in Section “16 “(1) “(c) that a key function of a Commissioner is to contribute to the public debate on matters in a priority area. We would advocate strongly that the leadership skills and promotional skills required to fulfill this function are the most important criteria in the selection process for a Commissioner. Changes in attitudes in civil society will primarily come from raising the profile of human rights issues.

### **3.0 Additional work within the human rights area**

- 3.1** The most recent report from the CEDAW Monitoring Committee recommended:  
“The Committee urges the State party to consider establishing a Human Rights Select Committee in Parliament to strengthen Parliamentary oversight on human rights generally and especially on women’s rights and gender equality.”

BPW NZ urges the Justice and Electoral Select Committee to recommend the formation of such a select committee.

**We wish that the following appear before the committee to speak to our submission:**

*Carolyn Savage, President BPW NZ*

Daytime contact number 021 1179261 or 027 2927510 and email is [president@bpwnz.org.nz](mailto:president@bpwnz.org.nz)

We wish that the following also appear in support of our submission:

*Dianne Glenn, Past President BPW NZ.*

Daytime contact number (09) 2385352, mobile 027 428 4779 and email is [dglenn@ihug.co.nz](mailto:dglenn@ihug.co.nz)

Thank you for the opportunity to speak to our submission and we hope that our comments are of use to you.

*On behalf of*  
***New Zealand Federation of Business and Professional Women Inc.***



**Carolyn Savage**  
**President**



**Vicky Mee**  
**Vice President, Issues**