



NEW ZEALAND COUNCIL OF TRADE UNIONS
Te Kauae Kaimahi

Submission of the

**New Zealand Council of Trade Unions
Women's Council**

to the

Ministry of Justice

on

**Strengthening New Zealand's Legislative
Response to Family Violence**

CTU Women's Council Convenors:

EHartshorn-Sanders@ppta.org.nz

Sheryl.Cadman@firstunion.org.nz

For enquiries: contact eileenb@nzctu.org.nz

September 2015

1. Introduction

- 1.1. The CTU Women's Council is a representative body of the New Zealand Council of Trade Unions, Te Kauae Kaimahi (CTU) comprising of women members of the various affiliates that make up the CTU. Women comprise approximately 57% of the CTU membership accounting for a total membership of 185,250 women.
- 1.2. The goals of the CTU Women's Council include the promotion of working women's issues and work rights for women with a particular focus on pay and employment equity, collective organisation and representation of women workers and leadership development for women union members.
- 1.3. The CTU Women's Council has led and supported measures to reduce the very high levels of domestic violence in this country and has raised the issue of domestic violence at a national union level resulting in domestic violence now being recognised as a core union and CTU concern. As well as attending workshops and education programmes, we have encouraged and promoted initiatives for trade union leaders to take a leadership role in activities to reduce domestic violence.
- 1.4. We recognise that this review is principally to develop policy to review legislation relating to family violence. As a Council representing the interests and concerns of many women workers and family members of workers in New Zealand, we welcome this first principles review of domestic violence legislation.
- 1.5. This submission outlines our concerns with the limited scope of the review, responses to the question areas in the discussion document, and our recommendations for changes. But there has to be work on many policy fronts if we are to reduce our shocking domestic violence rates. This submission also draws attention to the vital importance of employment measures by unions and workplaces in reducing domestic violence rates.
- 1.6. The CTU Women's Council endorses the submission of the Public Service Association (PSA) on the discussion document.

2. The Review

- 2.1. The statistics provided on pages 4 and 5 of the discussion document (Ministry of Justice, 2015) serve to highlight the widespread amount of domestic violence that we continue to tolerate in New Zealand. That women are disproportionately represented in the statistics highlights the gendered nature of violence. But this is only part of the story. We know that most domestic violence goes unrecorded or never even sees the light of day.
- 2.2. The CTU Women's Council were represented at a meeting with representatives from the New Zealand Women's Refuge and TOAH NEST (amongst other NGO groups) ahead of writing this submission and are concerned that they were not able to be more involved in the development of the review to properly inform the scope and linkages, and critically, the problem definition, that is essential for any comprehensive review.

- 2.3. Our understanding is that the current legal framework in respect of the Domestic Violence Act 1995 (“the Act”) is, in general, world-leading and inclusive (although our comments on recommended changes are outlined below). We would oppose changes that in any way weakened either the coverage of the people that are able to be protected through the legislation or that undermined the effectiveness of the current tools available to help.
- 2.4. The real problem is the enforcement and implementation of the Act; appropriate and secure resourcing for support agencies; and the impact of related changes or laws, which have the effect of revictimising women or leaving them without appropriate support. For example, the cost of seeking a protection order (even one which is undefended) is prohibitive for many women, and access to legal aid has been restricted.
- 2.5. As one of the most significant social issues in New Zealand, domestic violence cannot be seen in isolation. While the discussion document recognises this review sits alongside other streams of work, there is real concern that it is siloed and the recommendations or initiatives are not developed consistently or have overlapping / conflicting outcomes.
- 2.6. To gain a deep understanding of the problem requires a comprehensive approach – such as tracing a domestic violence victim through the system to examine the structural and cultural problems experienced by domestic violence victims that need to be addressed.
- 2.7. Significantly, maintaining a support network and financial independence through the workplace is an essential component in helping a victim to leave an abusive relationship and to seek the help they need.

3. Domestic Violence and the Workplace

- 3.1. In 2014 the PSA commissioned a project to examine the impact of workplace protections on domestic violence victims, other staff and colleagues, employers and overall productivity. (Kahui, S, Ku, B, and Snivley, S, 2014). The economic analysis that formed part of this report found that domestic violence costs employers \$368 million a year which could be avoided through workplace protections.
- 3.2. The report found that providing women with support and workplace protections increases productivity and saves employers costs in recruitment, retention, retaining, health and safety. It estimated that for every woman whose experience of violence is prevented through workplace protection, employers can avoid an average of \$3,371 in production costs in a particular year.
- 3.3. The report reiterated that the body of research about domestic violence over the last 30 years finds conclusively, that staying in employment is critical to reducing the effects of violence. The report identified that there are barriers to the implementation of workplace protections and these are due in part to current attitudes towards health and safety training which can overstate the costs and understate the benefits from lower costs of recruitment, retention and retraining.

- 3.4. The report made a substantial number of recommendations on the implementation of a framework to examine the cost of workplace protections and the productivity gains, the implementation of protocols and training and policies on effective workplace protections. It can be found here: http://www.ituc-csi.org/IMG/pdf/workplace_productivity_improvements_for_dv_21_may_2014.pdf
- 3.5. This research supported the 2014 Bill by Green MP, Jan Logie, Domestic Violence-Victims Protection Bill which provided measures to:
- Protect victims from discrimination on the basis of domestic violence,
 - Allow victims of domestic violence to request flexible working arrangements from their employer if needed,
 - Allow victims of domestic violence to take up to 10 days leave a year related to the violence, and
 - Clarify that domestic violence is a hazard in the workplace that needs to be managed like other hazards.
- 3.6. There is a valuable framework provided in that Bill that is relevant for the current review.

4. CTU Policy and Action on Domestic Violence

- 4.1. At the CTU Biennial conference in 2009 the following remit was passed:

“That the CTU affiliated unions endorse and support the campaign to eliminate violence against women in all its forms, including sexual harassment and bullying, and calls particularly on male trade union leaders to lead and support union-endorsed activities to eliminate violence against women”.

- 4.2. The CTU and affiliated CTU unions have had a close relationship with an Australian initiative called the Domestic Violence Workplace Rights and Entitlements Project with its goal to reduce the impact of family violence on working women by achieving better workplace rights that support domestic violence victims to stay safely in their jobs and homes.
- 4.3. This project is based on the fundamental premise that staying in employment is critical to reducing the effect of domestic violence. By supporting women to remain in paid employment, workplaces can assist women on their pathway out of violence and keep the whole workplace safer. The project aimed to:

- Brief a broad range of unions and employers nationally on the issue of family violence as a workplace issues, the adoption of family violence provisions in employment agreements and other workable instruments
- Develop with unions and employers a set of model workplace information and training resources for general staff , human resource personnel, union delegates and supervisors
- Produce model policies and safety plans to assist in the informed introduction of family violence clauses.

5. Domestic Violence and Collective Employment Agreement Clauses

5.1. Australia now has over 1.6 million workers are covered by collective agreements with domestic violence clauses containing the following key provisions:

- Dedicated additional and paid family and domestic violence leave;
- Confidentiality of employee details must be assured and respected;
- Workplace safety planning strategies to ensure protection of employees should be developed and clearly understood by the parties concerned;
- The agreement should provide for referral of employees to appropriate domestic violence services ; nominated / contact person(s) must be provided with appropriate training and paid time off to facilitate this role;
- Employees entitled to family and domestic violence sleeve should also be able to access flexible working arrangements where appropriate;
- Employees must be protected against adverse action or discrimination on the basis of their disclosure of or experience of, family and domestic violence.

5.2. This Australian- based project was supported by the CTU and affiliated CTU unions and influenced domestic violence being recognised as a workplace and union issue in New Zealand. Union organisers and members attended workshops and training sessions delivered by the then leader of the project, Luda McFerran.

5.3. The result of involvement with this project was to progress the negotiation of domestic violence clauses into collective agreements in New Zealand as well as raise this as a workplace issue of relevance for unions. Women’s Refuge and Community Law workplaces, who have collective employment agreements with the PSA, were two of the first workplaces to contain in their collective employment agreements clauses relating to domestic violence.

5.4. The CTU Women’s Council has promoted the importance of domestic violence clauses in collective employment agreements to victims of domestic violence. We stress the importance of clauses in collective employment agreements because of the impossibility of individuals advocating this for themselves. Secondly, it means that when a crisis arises, there is immediate support. Such a model clause in New Zealand is below:

5.5. **PSA Family Violence Model Employment Agreement Clause:**

Family violence may impact on an employee's attendance or performance at work. The (employer) will support staff experiencing family violence. This support includes:

- *For those experiencing family violence, up to 10 days of paid leave in any calendar year to be used for medical appointments, legal proceedings and other activities related to family violence. This leave is in addition to existing leave entitlements and may be taken as consecutive or single days or as a fraction of a day and can be taken without prior approval.*
- *To support safety planning and avoidance of harassing contact, the (employer) will approve any reasonable request from an employee experiencing family violence for:*
 - *changes to their span or pattern of working hours, location of work or duties;*
 - *a change to their work telephone number or email address; and*
 - *any other appropriate measure including those available under existing provisions for flexible work arrangements*
- *Employees experiencing family violence will have direct access to the Employee Assistance Programme.*

An employee who supports a person experiencing family violence may take domestic leave to accompany them to court, to hospital, or to mind children.

All personal information concerning family violence will be kept confidential and will not be kept on the employee's personnel file without their agreement.

Proof of family violence may be requested and can be in the agreed form of a document from the Police, a health professional or a family violence support service. Family violence means domestic violence as defined by s2 of the Domestic Violence Act 1995.

- 5.6. The PSA, in the last two years, has worked to get state sector employers to adopt a 10 days leave clause for victims of domestic violence. So far only the Government Communication Security Bureau (GCSB) has done so.

6. International Labour Organisation

- 6.1. The CTU is the New Zealand member of the International Trade Union Confederation (ITUC). At an international level trade unions are taking action on gender based violence (GBV) and there is a campaign for a new international labour convention to tackle the various forms of violence that occur in the world of work.
- 6.2. Domestic violence is an international issue. International instruments are critical tools to assist governments, employers and unions bring change in policy and law. There is a call at the

International Labour Organisation (ILO) for a new international Convention on gender-based violence at the workplace and to put the topic on the ILO's Governing Body (ILO GB) agenda as soon as possible. We urge the Ministry of Justice to support this international ILO development.

7. Recommendations

- 7.1. That the scope of the review is widened. This should include enforcement and implementation of the Domestic Violence Act 1995; training and education for the judiciary and officers on the Act, appropriate and secure resourcing for support agencies; and an examination of the impact of related changes and laws.
- 7.2. That the recommendations from this review will examine and consider employment protection to people experiencing domestic violence and support provisions in workplace employment agreements for domestic violence protection.
- 7.3. That the Private Members Bill by Green MP Jan Logie introduced in 2014 - Domestic Violence Victim's Protection Bill – is accessed and examined as a resource
- 7.4. for the current review.
- 7.5. That the New Zealand Government, New Zealand employers and union representatives who attend the ILO Congress will support a new international ILO Convention on GBV.

8. References

Kahui, S, Ku, B, and Snivley, S. (2014). *Productivity Gains from Workplace Protection of Victims of Domestic Violence*. Wellington, N.Z.: Public Service Association. Retrieved from http://www.ituc-csi.org/IMG/pdf/workplace_productivity_improvements_for_dv_21_may_2014.pdf

Ministry of Justice. (2015). *Strengthening New Zealand's Legislative Response to Family Violence*. Retrieved from https://consultations.justice.govt.nz/policy/family-violence-law/user_uploads/fv-consultation-discussion-document-v2.pdf