



Submission: Contraception, Sterilisation, and Abortion (Safe Areas) Amendment Bill

About the New Zealand Council for Civil Liberties

1. The New Zealand Council for Civil Liberties (Council) is a watchdog for rights and freedoms in New Zealand. The Council is a voluntary not-for-profit organization that works through education and advocacy to promote a rights-based society and prevent the erosion of civil liberties.

2. We do not wish to make an oral submission before the Committee.

Introduction

3. The New Zealand Council for Civil Liberties supports the Contraception, Sterilisation, and Abortion (Safe Areas) Amendment Bill. The Council finds it provides an acceptable balance between necessary controls and civil liberties.

4. The Council welcomes the introduction of the Contraception, Sterilisation, and Abortion (Safe Areas) Amendment Bill to provide pregnant people with the right to make their own choices about their reproductive health without harassment. The Council believes on principle that abortion should be the pregnant person's uncoerced choice.

Regulations on Safe Areas

5. The Council supports the right to protest. The Council was founded in response to the 1951 waterfront lockout of workers during an industrial dispute. While our concerns have broadened, supporting the free right to protest has remained a focus.

6. Article 21 of the International Covenant on Civil and Political Rights¹, to which New Zealand is a signatory, states:

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

¹ <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

7. The Council has considered the regulations to allow safe areas to be established around specific abortion facilities as a protection against harassment by demonstrators. We have concluded that on balance the right of pregnant people and medical practitioners to be free from harassment outweighs the right of individuals to protest in the immediate vicinity of a facility providing health services. Individuals who oppose abortion may still protest outside designated safe areas. The Council notes that article 21 of the International Covenant on Civil and Political Rights supports public health as a reason for minor restrictions on protest. The Council supports the right to protest outside of designated safe areas.

8. The Council supports the use of regulations to define safe areas.

9. The Council believes that uneven application of law is a source of injustice. This bill gives both the Governor General and Minister of Health discretion to prevent the creation of safe areas. Declaring a specified area to be a safe area should be a quick process, not one requiring work in Parliament.

10. The Council recommends replacing *may* with *shall* in clause 5 *Regulations: safe areas*, to read

(1) The Governor-General shall, by Order in Council made on the recommendation of the Minister of Health after consultation with the Minister of Justice, make regulations for the purposes of section 13A prescribing as a safe area—

(a) any specified premises at which abortion services are provided; and

(b) an area around those premises that is an area having a boundary of not more than 150 metres from any part of the premises.

(2) The Minister shall make regulations under subsection (1) where the Minister is satisfied that prescribing a safe area—

(a) is necessary to protect the safety and well-being, and respect the privacy and dignity, of persons—

(i) accessing abortion services:

(ii) providing, or assisting with providing, abortion services:

(iii) seeking advice or information about abortion services:

(iv) providing, or assisting with providing, advice or information about abortion services; and

(b) can be demonstrably justified in a free and democratic society as a reasonable limitation on people's rights and freedoms.

Recommendation

11. The New Zealand Council of Civil Liberties recommends that the Contraception, Sterilisation, and Abortion (Safe Areas) Amendment Bill be passed with the amendment that regulations for safe areas should be required not discretionary.
