

Methodist Church Te Hahi Weteriana - Public Issues

SUBMISSION FAMILY COURT PROCEEDINGS REFORM BII JUSTICE AND ELECTORAL SELECT COMMITTEE

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Tena Koutou - Greetings

This is a brief submission on the Family Court Proceedings Reform Bill .

Lawyers in our parishes have brought this Bill to our attention and provided us with material from which to make a submission.

We make some points of grave concern to bring to the attention of the Select Committee. We wish to clarify that these points are more matters of principle and are not well developed legal arguments .

Methodist Public Issues is a network of approximately four hundred members and over two hundred parishes involved in public issues. Members are made up of the constitutive synods of the Methodist Church: Te Taha Maori and Tauwiwi which is comprised of Sinoti Samoa, Vahefonua Tonga and Wasewase, and Pakeha. There are ecumenical groups associated with the Public Issues Network as well.

We would like the opportunity to attend the select committee hearings in person if this opportunity is available.

Warm regards

Betsan Martin
Co-ordinator, Methodist Public Issues

Family Court Proceedings Reform Bill

This submission expresses Methodist concerns for the wellbeing of children and families, and our commitment to ensuring that these groups have appropriate legal representation in matters involving the endeavour to resolve family disputes and in court.

We bring to your attention the very short time frame between the first reading of the Bill, 4 December 2012, and the date for submissions. This does not allow adequately for democratic participation.

Proposed changes

We understand that some legal concerns are addressed satisfactorily in the Bill. We simply not one of these:

A matter of favour

The intention of the Bill to better supports vulnerable people, is commended, especially in relation to improving responsiveness to domestic violence. We support the change which expands the definition of psychological abuse in the Domestic Violence Act 1995 to include financial and economic abuse.

Beyond this we restrict our comments to specific matters that have been raised with us.

1. New Section 7.

This denies people in the early stage of a Family Court process, the right to legal representation.

Families are before the Court because they are not able to resolve issues of access to children themselves. The new arrangement will require the families themselves to arrange to sign documents, file documents and accept the service of documents. Families with adequate incomes may engage a lawyer, but as our interests include low income families, we note that this means that low income people will be discriminated against.

The changes also mean that lawyers may not appear for parties unless the parties have made application which is commenced without notice, or been directed by a Judge to proceed to a hearing.

The new Section 7A (7) allows for lawyers to give legal advice to the family parties, but there will be no legal aid to access legal advice.

The Public Issues Network of the Methodist church strongly affirms a principle of non-discrimination in access to legal advice. It is imperative that all people have access to information, in particular with regard to the interests of children, and in support of fair access to legal information for parents, and to the procedures of preparing legal

documents. Many disputes that reach to Family Courts may have issues of family violence which stand in the way of amicable or fair agreements.

Furthermore, women are likely to be further unfairly disadvantaged. If, through separation they are on Domestic Purposed Benefits they will not have the means to seek legal advice. A further aspect of discrimination on the basis of low income is likely to be for Māori and Pasifika families. Our knowledge of disproportionate poverty in these communities gives another profile of disadvantage in these changes. The Methodist church is a bicultural, Treaty based church with very strong Pasifika membership. We draw these concerns to the attention of the Select Committee.

We note that a lawyer often has a mediating role in providing a bridge across which parties may come to agreement. It is possible that children become the real victims of the fraught processes associated with contact and access arrangements.

Changes to Family Disputes Resolution Service (FDR)

We also understand that the changes to the FDR will require mandatory use of the Family Disputes Resolution Service, and that this will entail a fee . We acknowledge the wisdom of a resolution process. The requirement of a fee, that, if not able to be paid means the case will not be heard by a judge, further underlines a discriminatory effect of the provisions we identify in this Bill.

Conclusion

We reiterate the point that low income people are being severely disadvantaged by being denied access to legal aid. The right to access legal advice and representation is a cornerstone of justice in New Zealand society, and these provision undermine this democratic and legal safeguard.

One of the parish members who has raised concerns about proposed changes in the Bill notes the stress of relationship breakups and the risks of denying legal support to families ‘I believe the frustration of unresolved family disputes will lead to more domestic violence’

Methodist Public Issues opposes the changes in the Bill that deny legal advice and representation to parties who are unable to afford lawyers.

With respect

Betsan Martin