

20 October 2023

To the Justice Committee

Manaaki Tāngata Victim Support's submission on Victims of Sexual Violence (Strengthening Legal Protections) Legislation Bill

Introduction

Manaaki Tāngata Victim Support is a non-government organisation that has been offering emotional support, practical assistance, information, and criminal justice system support to victims of crime and traumatic events for more than 30 years. Last year Victim Support helped more than 48,000 people affected by crime, suicide and traumatic events in the immediate aftermath, through the justice process, and beyond.

Victim Support supports the intent of the Victims of Sexual Violence (Strengthening Legal Protections) Legislation Bill and proposed legislative changes to the *Crimes Act 1961* and *Criminal Procedure Act 2011*. We support the proposed changes to the *Crimes Act 1961*, which reduce the risk of child victims of sexual violence being questioned about consent to sexual activity and the maximum penalty for section 132(1) increasing to 20 years' imprisonment. This would help reduce harm and protect child victims of sexual violence.

However, Victim Support wishes to advocate for victims in two key areas regarding the legislative changes to the *Criminal Procedure Act 2011*, which require courts to consider victims' views about name suppression in sexual violence cases:

1. Requiring true autonomy for victims
2. The importance of not revictimising victims.

1. Requiring true autonomy for victims

The proposed legislative change is a step in the right direction for victims, however, is still insufficient in ensuring victims have true autonomy over their name suppression in sexual violence cases. The bill proposes that courts must only "take into account" any views of the complainant regarding name suppression. This means courts can still decide against the views of the complainant, thereby disregarding victims' views.

True autonomy for sexual violence victims is particularly important as sexual violence is one of the most personal abuses of autonomy one can experience.¹ Enabling victims to be the decision maker regarding their name suppression will promote and help restore this autonomy.² This may also promote further autonomy by enabling victims to share their stories publicly using their own name, which can help their healing and encourage other victims to report crime and engage in the criminal justice process.³

It should be noted that other jurisdictions, including South Australia, give victims full control over their name suppression in that victims (not the court) are able to decide whether their name is publicised.⁴

2. The importance of not revictimising victims

Given that only eight percent of sexual violence is reported in New Zealand⁵ and that it's well documented that sexual violence victims find the court process revictimising,⁶ any changes that make it easier for victims to report and engage in the justice process should be encouraged.

Since this bill proposes that courts only “take into account” the views of the complainant regarding name suppression, this itself could be revictimising if victims' wishes are denied. Many victims of sexual violence already struggle with the court process for numerous reasons,⁷ including court delays and feeling they are not listened to or are victim-blamed.⁸

These impacts are only amplified when victims then have to fight for their voice to be heard around name suppression. A recent example of this in New Zealand shows victims may experience further psychological and emotional impacts such as trauma and prolonged lack of mental wellbeing.⁹

¹ Benton-Greig, P. (2011). The Needs of the Victims in Sexual Offence Trials. *Canterbury Law Review*, 88-95.

² Legal Aid New South Wales. (2023). *Current and proposed sexual consent laws in Australia*. <https://www.legalaid.nsw.gov.au/content/dam/legalaidnsw/documents/pdf/about-us/law-reform/law-reform-submissions-2023/Legal%20Aid%20Submission%20Current%20and%20proposed%20sexual%20consent%20laws%20in%20Australia.pdf>

³ Harcourt, A. (2019). *Sexual abuse survivor fights to lift name suppression* [Video]. <https://www.renews.co.nz/sexual-abuse-survivor-fights-to-lift-name-suppression/>

⁴ Legal Service Commission South Australia. (2018). *Sexual Offences*. <https://lawhandbook.sa.gov.au/print/ch12s09.php>

⁵ Ministry of Justice. (2022). New Zealand Crime and Victims Survey. <https://www.justice.govt.nz/assets/Cycle-4-Core-Report-v0.20-20220628.pdf>

⁶ Lorenz, K., Kirkner, A., & Ullman, S. E. (2019, May 20). A qualitative study of sexual assault survivors' post-assault legal system experiences. *Journal of Trauma & Dissociation*, 20(3), 263-287.

⁷ Ibid.

⁸ Ibid.

⁹ Burns, A. (2023, May 26). Mama Hooch sexual assaults: Name suppression lift 'important' for victims, one says. *NZ Herald*. <https://www.nzherald.co.nz/nz/crime/mama-hooch-sexual-assaults-name-suppression-lift-important-for-victims-one-says/XLM6MOKSTBBLDDPQSCQ7DTHLRM/>

Additionally, there can be financial repercussions associated with attempting to lift a name suppression decision.¹⁰ This could result in victims finding themselves in debt or being deterred to continue fighting a name suppression decision. It may even deter victims from engaging in the justice system in the first place. Many victims find these financial repercussions result in further psychological and emotional impacts, creating a vicious cycle for victims of sexual violence.¹¹

Conclusion

Given that victims of sexual violence are a vulnerable population and that sexual violence is underreported, recognising their autonomy is an important tool in reducing the risk of revictimisation and encouraging criminal justice system engagement. Victim Support therefore urges policy-makers to give complete control to victims, rather than the court, in decisions around name suppression.

¹⁰ Coster, D. (2018, August 13). Advocate: sex abuse victims shouldn't have to pay to get name suppression lifted. *Stuff*. <https://www.stuff.co.nz/national/crime/106211394/advocate-sex-abuse-victims-shouldnt-have-to-pay-to-get-name-suppression-lifted>

¹¹ Funnell, N. (2020, August 25). #LetUsSpeak: Victoria blocks sexual assault victims from using real names. *The Chronicle*. <https://www.thechronicle.com.au/news/letusspeak-victoria-blocks-sexual-assault-victims-from-using-real-names/news-story/821647419aee0cdbba5f89678c5a6a14>