



Lawyers and Conveyancers (Employed Lawyers Providing Free Legal Services) Amendment Bill Justice Select Committee

Te Ope Whakaora – The Salvation Army New Zealand, Fiji, Tonga, and Samoa Territory

Executive Summary

1. The Salvation Army is **strongly supportive** of the passing of this Bill. It is a practical Bill that can have huge positive impacts with many of the people, whanau, and communities that we work with around Aotearoa.

Background

2. **The mission of The Salvation Army is to care for people, transform lives and reform society through God, in Christ and by the Holy Spirit's power.** The Salvation Army is a Christian church and social services organisation that has worked in New Zealand for over one hundred and thirty years. It provides a wide range of practical social, community and faith-based services around the country.
 - a. The combined services of The Salvation Army provided support to around 120,000 people per year. These services included over 57,000 food parcels to more than 28,000 families and individuals, providing some 2,400 people with short-or long-term housing, nearly 7,000 families and individuals supported with social work or counselling, just over 17,000 addictions counselling sessions, more than 5,500 families and individuals helped with budgeting, other practical assistance to over 6,000 families and individuals, 6,500 hours of chaplaincy support, and some 9,000 victims, defendants and families supported at court.
3. This submission has been prepared by the Social Policy and Parliamentary Unit (SPPU) of The Salvation Army. The SPPU works towards the eradication of poverty by encouraging policies and practices that strengthen the social framework of New Zealand. This submission has been approved by Commissioner Mark Campbell, Territorial Commander of The Salvation Army's New Zealand Fiji Tonga, and Samoa Territory.

Improving Access to Legal Justice in New Zealand

4. The Salvation Army strongly supports this Bill. The issues raised and covered by this Bill is part of a much larger conversation happening globally and in New Zealand about the rule of law and improving people's access to legal justice. For example, the United Nations states: *The rule of law relates to and furthers each of the three pillars of United Nations work; peace and security, development and human rights.*ⁱ One of the key parts of this rule of law work area is improving access to justice; *access to justice is a basic principle of the rule of law. In the absence of access to justice, people are unable to have their voice heard, exercise their rights, challenge discrimination or hold decision-makers accountable...taking all necessary steps to provide fair, transparent, effective, non-discriminatory and accountable services that promote access to justice for all.*ⁱⁱ We contend that this Bill, if appropriately used by the

law firms and Law Society, could massively help improve access to legal justice for many in our communities.

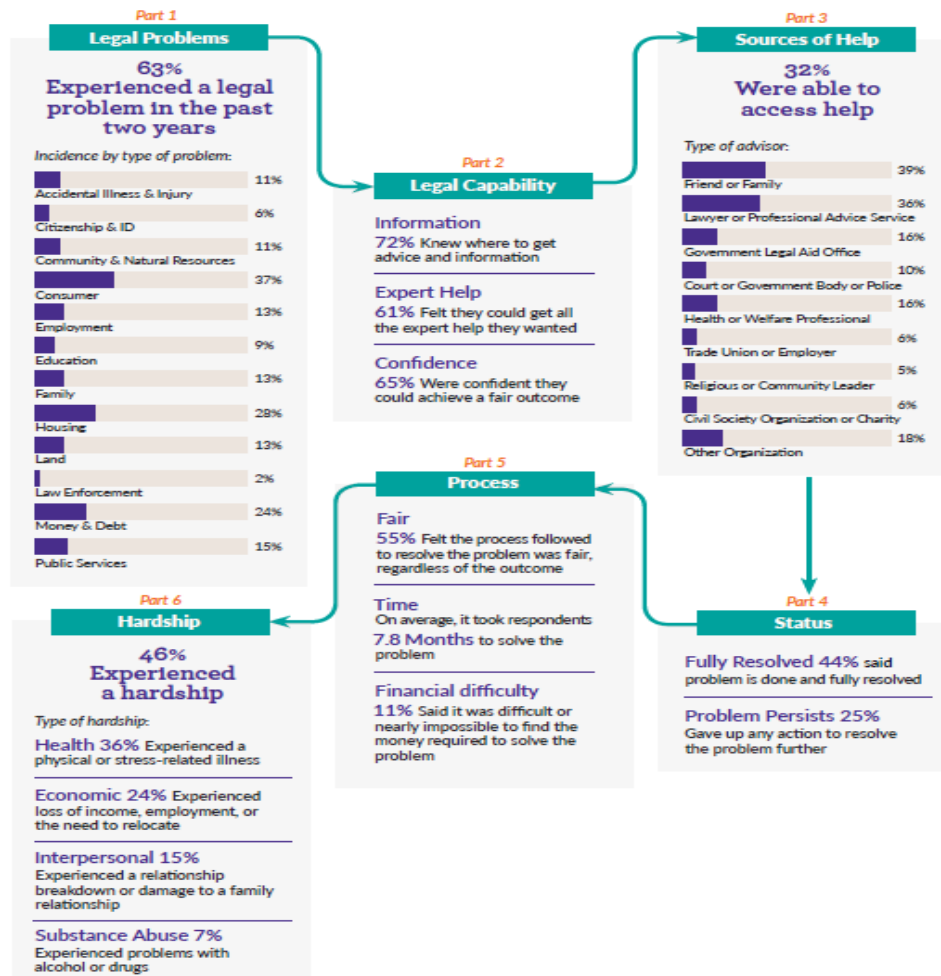
5. The Salvation Army is *not* a provider of legal services in New Zealand. But many of those using our various social and Christian spiritual services are facing multiple issues often involving a legal issue. The Salvation Army in New South Wales provides a free community legal service called Salvos Legal.ⁱⁱⁱ This service works alongside other providers of free or affordable legal services in their communities. Salvos Legal works in migration and refugee law, Police matters, family and children's law, human rights and public interest law. The service survives of generous donations from the public and volunteering from lawyers, interns, and paralegals. The Salvation Army in New Zealand has previously explored a similar model here to help improve access to legal justice and services, particularly for the more vulnerable people we work alongside. We are also currently undertaking a research and review of these critical access to legal justice issues with the support of the Borrin Foundation.

6. There are several initiatives in New Zealand trying to improve access to justice. This includes the Equal Justice Project^{iv} and early discussions of the impactful McKenzie Friend movement for New Zealand courts.^v But the bulk of enhancing access to legal justice in our communities falls on the national Community Law Centre (CLC) network, and the Legal Aid and Public Defence Service (PDS). The Salvation Army greatly supports and appreciates the valuable work done by CLCs throughout New Zealand. But we also understand the pressures on their services. For instance, the CLC CEO Sue Moroney stated in June 2019 that CLC's *current resources only allow us to get our services to 30% of low-income people with unmet legal need*.^{vi} There are clearly access to justice gaps in our nation, particularly for lower-income New Zealanders. Most of the public funding for legal services goes to the PDS, with CLC's receiving some public and private funding for their work. In our view, greater government support is needed for CLCs to increase their capacity and reach with more vulnerable people and whanau.
 - a. In 2006, a *National Survey of Unmet Legal Needs and Access to Services* estimated about one third of people in New Zealand with serious problems had unmet legal needs.^{vii} Unfortunately, this survey has not been repeated by the Law Society since 2006.

 - b. The Law Society did publish in 2020 *Access to Justice: Stocktake of initiatives* which continued the discussion about improving access to legal justice.^{viii} This report provided an extremely helpful diagram depicting how New Zealanders navigate through this often-complex legal system. This is reproduced below.

New Zealand

Paths followed by people in New Zealand to deal with their everyday justice problems, summarising the incidence of legal problems, respondents' legal capability, access to sources of help, problem status, assessment of the resolution process, and problem impact.



- c. In 2014, the Canterbury CLC released a report titled *Access to Justice for Beneficiaries: A Community Law Response*.^{ix} The paper identified several critical points in the legal or social service processes where beneficiaries required good legal support. This included appearances at the Medical Appeals Board, Benefit Reviews Committee hearings, Social Security Appeals Authority hearings, and benefit fraud investigations from MSD. The report noted; *Other significant barriers to accessing legal help are the cost of lawyers' services, limits on the availability of legal aid and apparent barriers to accessing legal aid. Awareness levels of community law centres, their services and who is eligible to access them were found to be low. Across the legal sector, there is a low level of knowledge of welfare law and little involvement of lawyers. This means the legal sector contributes little external scrutiny of the benefit system.*^x Clearly, improving access to legal justice and services, especially for beneficiaries and low-income earners, remains a significant challenge for our legal system.

Specific Responses to the Legislation

7. Again, we support the passing of this Bill into law. That is not in question. However, we have questions about how this Bill will practically be applied and rolled out. We have tried to

indicate above the major access to legal justice issues currently existing in New Zealand. And without strong interventions, we foresee these access issues to worsen, particularly for poorer New Zealanders. Innovative and effective application of this Bill is vital.

- a. **Clause 6/New section 10A** – this is a positive clause. However, we sincerely hope that the application of this provision, particularly subsections 6(a) and (b) do not restrict or hinder the ability for lawyers who want to engage in external pro bono work. Will it be the role of the Law Society to monitor this change in the Rules and ensure the intended changes of the Bill are taking place? Ensuring that the lawyers allocated pro bono hours are effectively used and not wasted at the end of the financial year is extremely important. Therefore, support from the firms is vital.
- b. Another practical question we have is about how this pool of lawyers wanting to engage in this pro bono work will become aware or notified of the current needs in the community. We assume that the first point of contact would be with CLCs which is positive. But what about other organisations working with people who require legal support and advice?
- c. We propose that there be some form of system or data base, managed by the Law Society, where organisations can register their access to justice needs (e.g. direct advice or consultation, legal opinions, representation in Court or Tribunals), and their lawyers can survey the needs and commit to a project or case. This system could include length of involvement, a summary of the case, and the key areas of law related to the case. For example, our Salvation Army clients have specific legal needs, often related to problem debt, immigration, or housing issues. If there were pro bono lawyers able to support in these areas, then connecting with them would be crucial. On the other hand, lawyers could also identify their areas of expertise on this system and organisations could connect with them around the appropriate areas of law. Furthermore, it might be that specific firms want to officially partner with community organisations around pro bono hours and work. If this was the case, this could streamline the engagement between lawyer, client and the community organisation providing the wrap-around support to the client. There are other key considerations, like language, culture, areas of law and so on. But developing a strong system to act as a clearing house for these legal issues would be a huge boost to improving access to legal justice in our nation.

ⁱ Retrieved from <https://www.un.org/ruleoflaw/thematic-areas/>

ⁱⁱ Retrieved from <https://www.un.org/ruleoflaw/thematic-areas/access-to-justice-and-rule-of-law-institutions/access-to-justice/>

ⁱⁱⁱ Retrieved from <https://www.salvationarmy.org.au/about-us/our-services/salvos-legal/>

^{iv} Retrieved from <https://www.equaljusticeproject.co.nz/pro-bono>

^v Retrieved from <https://www.lawsociety.org.nz/news/lawtalk/issue-923/mckenzie-friends-theres-more-of-them-but-what-do-they-actually-do/>

^{vi} Retrieved from <https://www.scoop.co.nz/stories/PO1906/S00351/better-funding-needed-for-community-law.htm>

^{vii} Retrieved from <https://www.lawsociety.org.nz/news/lawtalk/issue-929/legal-information-for-the-people/>

^{viii} Retrieved from <https://www.lawsociety.org.nz/about-us/significant-reports/access-to-justice-stocktake-of-initiatives/#:~:text=Our%20next%20challenge%20is%20to,justice%20for%20all%20New%20Zealanders.>

^{ix} Retrieved from <http://www.communityresearch.org.nz/wp-content/uploads/formidable/Access-to-Justice-online-edition-11-Dec.pdf>

^x Ibid, page 14.