



Prohibition of Gang Insignia in Government Premises Bill Law and Order Select Committee

The Salvation Army (New Zealand, Fiji and Tonga Territory) Submission

1. BACKGROUND

- 1.1 The Salvation Army is an international Christian and social services organisation that has worked in New Zealand for over one hundred and thirty years. The Army provides a wide-range of practical social, community and faith-based services, particularly for those who are suffering, facing injustice or those who have been forgotten and marginalised by mainstream society.
- 1.2 The Salvation Army is strongly connected to the regions and communities around New Zealand. We have over 90 community ministry centres and churches (corps) across the nation, serving local families and communities. We are passionately committed to our local communities as we aim to fulfil our mission of caring for people, transforming lives and reforming society through God in Christ by the Holy Spirit's power.¹ Therefore, we believe we can speak effectively to this Bill because of our strong commitment and track record with local communities, and also because of our strong relationships with territorial authorities wherever our community ministry centres and corps are located.
- 1.3 This submission has been prepared by the Social Policy and Parliamentary Unit of The Salvation Army. This Unit works towards the eradication of poverty by encouraging policies and practices that strengthen the social framework of New Zealand. The Unit provides solid social research and robust policy analysis, engaging with national opinion makers in politics, government, business, media and education.
- 1.4 This submission has been approved by Commissioner Donald Bell, the Territorial Commander of The Salvation Army's New Zealand, Fiji and Tonga Territory.

2. THE SALVATION ARMY PERSPECTIVE

- 2.1 The Salvation Army does not discriminate or withhold its services to any person on any grounds. We aim to help and support people regardless of their social situation, sexuality, ethnicity, income levels or gender. Consequently, we have a long history of engaging with

¹ <http://www.salvationarmy.org.nz/our-community/mission/>

active gang members and their families through our services and also our churches (corps) located around the country.

2.2 Recently, we have been developing a relationship and partnership with the Notorious Chapter of the Mongrel Mob New Zealand via our Hauora Addiction Methamphetamine Treatment Programme.

2.2.1 Hauora is a Maori philosophy of holistic health that looks at the physical, mental, social and spiritual aspects of a person's wellbeing.

2.2.2 The Hauora programme was specifically designed by The Salvation Army in partnership with the Notorious Chapter and their whanau who wanted specific help to address addictions to methamphetamine or 'P', and to other drugs and alcohol.

2.2.3 As of 2012, we have run 5 Hauora programmes successfully with the Notorious Chapter members throughout New Zealand overcoming their addiction to 'P'. Overall, there has been an over 70 per cent success rate from those who have gone through the programme. Moreover, our data shows that the Hauora programme has reduced the re-imprisonment of participants by over 90 per cent.

Our success has been attributed to the 'Partnership' model recognising the working together of the leadership of the Notorious Chapter and The Salvation Army. The programme is strongly inclusive of Maori Te Kanga and Te Reo. This programme is also the only residential drug treatment programme in New Zealand which involves the addicted person and their whanau on the programme.

2.2.4 Despite widespread criticism from across the country, we will continue to work with groups like the Notorious Chapter. We strongly believe in providing proven, practical and culturally relevant solutions to serious social issues and addictions that many in our communities face. Through the Hauora programme, we have been able to connect these people and their families to our corps (churches) and to employment training, social work, budgeting and other social services we provide. We will continue to work with and support the Notorious Chapter families, and any other people involved with gangs, because as mentioned above, our mission is caring for *all* people, transforming *all* lives that come to us, and reforming *our* society.

2.3 We acknowledge that there are some gang members, family members and gang associates who engage in criminal activities. But we argue that membership of a gang does not automatically mean that that person is a criminal or engaging in criminal activity.

2.3.1 We want to continue to highlight our concerns about the social indicators and issues that can act as drivers for people towards gang membership and/or criminal activity. The social hazards prevalent in our communities, particularly around drug and

alcohol addictions, are leading more families that we deal with into harsh cycles of debt, unemployment, unsafe and unaffordable housing and more entrenched poverty.

2.3.2 We also acknowledge that for many people involved with gangs, the gang itself has become their source of strength, identity and belonging. For the families that have come onto our Hauora programme, the gang is often the extension of their whanau and key source of social interaction, support and identity.

2.3.3 In the same token, we acknowledge that many in our society have had their lives adversely affected by gangs and some of their activities. The Salvation Army always tries to be sensitive to all of the people we work with. For instance, many of our community ministries centres do not allow people to wear their patches or gang paraphernalia when using our social services out of respect for those who might have been affected by gangs. This balancing act is a very tough one for us to find. But we continue to strive in these matters with our families and communities.

2.3.4 We therefore submit that the Government should continue to focus on developing more effective plans and policies to address these drivers to crime and poverty rather than focus on debating and enacting this populist Bill.

3. RESPONSES TO SPECIFIC AMENDMENTS TO LEGISLATION

3.1 We are generally **opposed** to this Bill.

3.2 Clause 4

3.2.1 We believe there could be confusion with clause 4(b) as to whom this Act would apply to if it was passed. Foreseeably, and as per clause 5 of the Bill, all types of people or groups could be classified as a gang under this Act if they met the criteria set out here. For instance, a sports team could possibly meet both sets of criteria set out in clauses 5(2)(a) and (b) and therefore be defined as a criminal gang under clause 4 of the Bill and subsequently be prohibited from wearing any of their sports clubs logos in government premises. If this Bill is passed, we believe greater clarification is needed here.

3.2.2 If this Bill is passed, we believe the definition of 'gang insignia' in clause 4 needs more clarification. In our experience, we have found that the tattooing of gang insignia is becoming more popular with gang members and associates. These tattoos can sometimes be deemed more intimidating than any insignia attached to any item of clothing. Moreover, the colours that are attached with a gang can become more noticeable in the public than any gang insignia attached or printed on clothing. For example, it is widely known by the Police and

some in the public that the colours red, blue, black and yellow are associated to specific gangs.

Consequently, if this Bill is passed, gang members and associates could easily represent their gang through their tattoos and the colour of their clothing and thereby fall outside the parameters of this Bill, thereby rendering the Bill ineffective.

3.3 Clause 5

3.3.1 We have already mentioned our concern about the provisions in this clause in the discussion above.

However, we do want to mention that if this Bill is passed, then we believe that the Governor-General should consult more than just the Minister of Police when considering passing regulations as per clause 5(1) of the Bill. We believe the Police's view, although very valid, should be heard in balance with other views to ensure that groups are not arbitrarily classified as a gang under this Bill. We humbly offer our own vast expertise and experience in these areas to the Minister and the Governor-General if required as they consider any regulations.

3.4 Clause 6

3.4.1 We are unsure about what *display* actually means under this Bill, especially as per clause 6(1) of this Bill. This word has not been defined in clause 4 of the Bill. If this Bill is passed, we submit that this needs more clarification. For instance, is a person *displaying* gang insignia in breach of this Bill if the insignia is on a t-shirt that is only partly visible underneath a jersey or jacket? What if the insignia is a gang patch but the wearer has, as is common practice, turned the jacket inside out so the patch is not clearly visible? Greater clarification is necessary here.

3.5 Clause 7

3.5.1 We believe the potential extension of Police powers, particularly under clause 7(1)(b), could be very dangerous. We submit that giving the power to the Police to *seize and remove gang insignia (by the use of force if necessary)* would likely escalate situations and create confrontation with the person wearing the insignia rather than calm them down. These potential confrontations could be very disruptive, particularly if it is on a government premises. We advocate for a policing strategy and practice that can de-escalate any potential powder-keg situations.

3.5.2 Additionally, we are interested in what type of awareness gangs will have of these potential law changes if this Bill passes. We believe some information sharing with either the gangs themselves, or those working with these gangs, would

go a long way in decreasing the likelihood of any serious incidents by ensuring these groups were aware of these requirements under law if this Bill was passed. Also, the older members of these groups would hopefully help ensure any younger ones are aware of these changes and do not seek any confrontations with Police.

- 3.5.3 We believe clauses 7(2) and (3) could be seen as highly antagonistic for gangs. Often their insignia is a symbol of huge pride, history and identity for that person. Any forfeiture and destruction of these symbols might serve to only infuriate these people more and could lead to unhealthy responses or actions. Again, if this Bill is passed, we believe there must be better ways in which the Police can work alongside these groups if there have been infringements to this law.

3.6 Clause 8

- 3.6.1 We submit that the Police powers conferred by clause 8 of the Bill are entirely inappropriate and unnecessary. The purpose of the Bill talks about prohibiting gang insignia on *government premises*. 'Government premises' is clearly defined clause 4 of the Bill as essentially temporary or permanent structures. The extension of Police powers under clause 8 to possibly enforce this Bill *after* they have left these government premises that this Bill focusses on is unnecessarily adversarial and provocative.
- 3.6.2 Clause 8(4) could be seen to contradict section 21 of the New Zealand Bill of Rights Act 1990 around unreasonable search and seizure. Under clause 8(4), a search of a stopped vehicle is permitted. But what happens if illegal items are found in this search that has nothing to do with the original purpose of stopping the vehicle which is to arrest someone for breach of this Bill or to seize the gang insignia? Does this search and seizure then become unreasonable if other illegalities are subsequently unearthed after this stopping power has been exercised?
- 3.6.3 We submit that if this Bill is passed, then the Police can only exercise their powers of arrest and seizure of the insignia if the person is still on the government premises in question. Furthermore, we submit that there needs to be better policing to ensure people are not arbitrarily arrested. For instance, could the Police give a warning before arrest and/or seizures are made?

4. CONCLUSION

We believe that any legislation should concentrate on the individual members of society who engage in criminal activity. They should be dealt with fairly under the law. However the associations a person makes, and how that association is identified, is not a crime. This Bill would seek to criminalise people who may not be involved with criminal activity.

For the reasons above, we want to state our opposition to this Bill. We gratefully thank the Law and Order Select Committee for the opportunity to submit to this Bill. We wish you all the best with this process.

Thank you and God bless.

Major Campbell Roberts
National Director, Social Policy and Parliamentary Unit
The Salvation Army New Zealand, Fiji and Tonga
+64 27 450 6944 | + 64 9 261 0883 (DDI)
campbell_roberts@nzf.salvationarmy.org