

LEGAL AID AND MĀORI

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TE TIRITI O WAITANGI

The Relationship between Māori and the Crown





THE BAZLEY REPORT

Legal Services Act 2011

- Primary purpose is to promote access to justice by providing legal services to people of insufficient means
- Introduced a new framework for criminal legal aid – fixed fees
- Expansion of the Public Defence Service
- Introduction of a new rotation system for the allocation of counsel

MĀORI AND THE CRIMINAL JUSTICE SYSTEM

Statistics

- Māori feature in disproportionately high numbers throughout the criminal justice system
- Māori comprise 15% of the general population
- Māori make up:
 - 42% of all Police apprehensions
 - 43% of all convictions
 - 51% of all imprisonments
- Māori women account for 60% of the female prison population




ACCESS TO JUSTICE?



The Legal Services Act 2011 - Six years on

Clients


- **Eligibility test doesn't capture all the people with real issues**
 - **Denied the right to choose their own lawyer**
 - **Forced into a self-representation situation**
 - **Tighter repayment rules**
 - **Interest is now charged – 8%**
 - **Closure of six of the eight legal aid centres**
 - **Waiving legal professional privilege**
 - **User charge of \$50 for most civil and family applicants**
 - **Income thresholds are too low**
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ACCESS TO JUSTICE?



The Legal Services Act 2011 - Six years on

Counsel

- **Large numbers of lawyers have withdrawn from the legal aid system**
 - **Pay rates and fixed fees are inadequate**
 - **Lack of young lawyers electing to do legal aid work**
 - **Availability of legal aid lawyers in some parts of the country**
 - **Burdensome administration**
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BARRIERS FACED BY MĀORI

- **Unfamiliar with entitlements to legal aid**
- **Cultural values are disregarded by the justice system**
- **Young people will plead guilty to a charge without understanding the full implications of doing so**





BARRIERS FACED BY WOMEN

- **Over-represented in part-time work and in low paid occupations**
- **Make up 57% of beneficiaries**
- **Potentially highly negative impact of legal aid debt recovery**
- **Legal aid thresholds can exclude women with minimal income**
- **Ineligibility may force women to self-represent in family cases**
- **Court processes are open to abuse**

WAITANGI TRIBUNAL LEGAL AID

- **Financial circumstances aren't considered**
- **No repayment requirement**
- **Treaty claims are big cases and are among the most expensive legal aid cases**
- **Tight restrictions and discretionary decision-making**
- **Low hourly rates for lawyers– less than half the normal market rate**
- **The number of Treaty lawyers is declining**
- **Appear to be trying to reduce spending in this area**
- **Contrast this regime with the funding matrix for High Court proceedings for the Marine and Coastal Area Act – approximately \$30 million for 202 applications**



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Tēnā koutou katoa!

