LEGAL AID
AND MAORI

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TE TIRITI O WAITANGI

The Relationship between Māori and the Crown





THE BAZLEY REPORT

Legal Services Act 2011

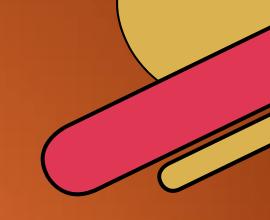
- Primary purpose is to promote access to justice by providing legal services to people of insufficient means
- Introduced a new framework for criminal legal aid – fixed fees
- Expansion of the Pubic Defence
 Service
- Introduction of a new rotation system for the allocation of counsel

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

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- Large numbers of lawyers have withdrawn from the legal aid system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

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!

