

# Tribunal releases report on Māori prisoners' voting rights

In August the Tribunal released *He Aha i Pērā Ai? The Māori Prisoners' Voting Report* in pre-publication format.



The urgency report addresses three claims that seek repeal of section 80(1)(d) of the Electoral Act 1993. It looks at the level of advice provided to Parliament and the Law and Order Select Committee and the consequent ongoing effects of the legislation on Māori, including the individual and collective exercise of tino rangatiratanga.

The Tribunal found that the manner in which Crown officials offered support and advice to the Law and Order Select Committee failed to provide sufficient information about the specific effect the legislation would have on Māori and Crown rights and obligations under the Treaty. By failing to provide adequate advice, the Crown failed to actively protect Māori rights under the Treaty and failed in its duty of informed decision-making under the principle of partnership, which contributed to the Act being in breach of the Treaty.

The Tribunal has found as a matter of fact that Māori have been disproportionately affected by section 80(1)(d) of the Electoral Act 1993, exacerbating a pre-existing and already disproportionate removal of Māori from the electoral roll. In 2010, Māori were 2.1 times more likely to have been removed from the electoral roll than non-Māori. In 2018, the number was 11.4 times more likely.

By failing to ensure any potential consequences for Māori were recognised and taken into account during the select committee process and/or by failing to propose the repeal of the provision once those effects were recognised, the Crown has failed in its duty to actively protect the right of Māori to equitably participate in the electoral process and exercise their tino rangatiratanga individually and collectively. The Tribunal finds this to be a breach of the principles of active protection and equity.

The Tribunal also found that disenfranchising Māori prisoners has continued to impact on the individual following their release from prison and that impact extends beyond the individual to their whānau and their community. The Crown, therefore, has failed in its duty to actively protect the right of Māori to equitably participate in the electoral process and exercise their tino rangatiratanga individually and collectively. By failing to take sufficient action to enable and encourage released prisoners to re-enrol, the Crown has further breached its duty of active protection.

The Tribunal also found that section 80(1)(d) of the Electoral Act 1993 is inconsistent with, and in part undermines, the purpose of the corrections system under section 5 of the Corrections Act 2004 and, therefore, prejudices the rehabilitation and reintegration of Māori prisoners; a further breach of the principle of active protection.

Having found that the Crown has acted inconsistently with the Treaty principles, the Tribunal has recommended:

- the legislation is amended urgently to remove the disqualification of all prisoners from voting, irrespective of sentence;
- the Crown start a process immediately to enable and encourage all sentenced prisoners and all released prisoners to be enrolled in time for the next general election in 2020; and
- a process is implemented to ensure Crown officials provide properly informed advice on the likely impact that any Bill, including members' Bills, will have on the Crown's Treaty of Waitangi obligations.

The Waitangi Tribunal's report is now available to download: [He Aha i Pērā Ai? \[PDF, 910 kb\]\(external link\)](#).

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