

## JUSTICE

### Vision

All New Zealanders deserve the opportunity to live in safe communities. A safe community is one in which crime levels are low and people have access to an equitable and credible justice system that is responsive to local need.

Our system of justice should be open, fair, swift, and accessible. It should enhance public safety, protect liberty, and encourage participation and accountability.

Changes to it should be based on evidence and address the causes of injustice, not merely their symptoms, and be enacted openly and only after consultation.

Labour is committed to reducing crime, helping victims, supporting those who genuinely want to turn their lives around, and enhancing public safety.

### Modernising the Constitution

A review of constitutional questions is underway. Its work is neither well-known nor well-publicised, and its mandate and terms of reference are unsatisfactory. It is unclear how it is to reach its recommendations, whether they will be made public, and how – if at all – they are to be implemented.

Labour will continue the present constitutional review, but reconstitute it so that its membership is representative, its terms of reference publicised, and its work conducted openly and with wide public consultation. We will widen its terms of reference to include questions associated with the identity of the head of state after the reign of the present Sovereign.

The recommendations from the constitutional review will be subject to a referendum.

### Making the Electoral System Fairer

The 2011 General Election will be accompanied by a referendum on the future of the electoral system.

Labour will honour the outcome of the 2011 referendum. If New Zealanders vote to change the electoral system, we will hold the 2014 referendum.

Regardless of the results of the 2011 referendum, the Electoral Commission will conduct an independent review of the MMP system (including consideration of the voting age) and recommend improvements. Labour believes that the provision that allows the party vote threshold to be waived for a party that holds an electorate seat is inappropriate and particularly requires review.

## Improving the Quality of the Work of the House of Representatives

Under the Fourth Labour Government, both the Standing Orders of the House of Representatives and the statutory and other provisions affecting the work of the House were re-written and modernised. The House was required to sit within a specified time after a general election; sitting hours were regularised, and a range of standing committees, to which nearly every bill is now sent for public input, were established.

This is the essential framework under which the House operates today, but the system needs better protection, especially when urgency is used to deprive the House of public input into important legislation. It can function more effectively, in light of the experience of the past 25 years, and given new technologies.

Labour will initiate a review of the Standing Orders of the House of Representatives, and of associated statutory and other provisions. Specifically, the Review will:

- Strengthen the requirement for a robust, publicly-available regulatory impact statement to be published by way of justification for a legislative intervention
- Provide for better consideration by the House of reports from the Law Commission that contain draft bills
- Promote the use of plain language in legislative and other public documents
- Consider ways in which the time of the House can be used more effectively
- Examine the number, terms of reference, powers, and resourcing of parliamentary committees, with a view to ensuring they work more effectively to assist the House to scrutinise legislation and the performance of the Executive
- End the practice of Ministers sitting on or chairing subject committees
- Consider more effective means to obtain public input into the legislative process, including through the use of new technologies; and
- Restrict recourse to urgency.

## Protecting Liberty

In New Zealand, certain provisions of our electoral law may be changed only by a special majority, or by referendum. This recognises the need to put them beyond amendment at the whim of the Government of the day. Yet even at a time of great strain on our liberties, ranging from the demands of the response to terrorism and organised crime through to the potential of new technologies, few other fundamentals lie beyond the reach of an ordinary parliamentary majority in our single-chamber legislature.

If changes to fundamental rights and freedoms are warranted, more than a bare majority of MPs should agree.

Labour will entrench the Constitution Act 1986 and the New Zealand Bill of Rights Act 1990.

## Enhancing Accountability

New Zealand is well-served by its independent parliamentary officers – the Ombudsman, the Controller and Auditor-General and the Parliamentary Commissioner for the Environment – in assisting the House and the public to hold the Executive to account. Other bodies have a wider purpose, while also helping to serve this function.

It is important that these bodies continue to exercise their functions effectively, despite the blurring of lines between government and private functions, and without undue resource constraints.

Labour will review the resourcing, functions and powers of statutory bodies that exist to hold the Government to account, and that facilitate or enforce the rights of individuals, with a view to strengthening those bodies. Specifically:

- The jurisdiction of the Ombudsman (including in respect of the Official Information Act) and the Controller and Auditor-General will automatically extend to bodies in which the Crown has a shareholding, and to public/private partnerships; and
- The Privacy Commissioner will have a power of decision and remedy as to complaints concerning privacy breaches.

## Affirming Equality

All New Zealanders are entitled to freedom from unjust discrimination. Reviews have been conducted from time to time in the past of statutory provisions that offend this principle. These reviews should continue and their results should be actioned.

Labour will review laws and practices that offend s19 New Zealand Bill of Rights Act 1990. Specifically, we will:

- Modernise the law relating to the care of children to ensure that the widest pool of suitable adults is lawfully available to provide care to children in need
- Review and update relationship and relationship property law
- Implement the 2007 Report of the Human Rights Commission Report, *To Be Who I Am*; and
- Amend s3 Family Protection Act 1955 to end discrimination against children of an earlier relationship raised as a child of the family but not formally adopted or still of dependent age.

## Requiring Evidence-Based Law-making

Reforms to our laws should be based on the evidence, and address causes of injustice, not their symptoms.

Labour will repeal the ill-considered and ineffective aspects of National's criminal justice legislation passed during the term of the present Parliament.

Labour will identify weaknesses in existing legislation and policy. Those areas are the law concerning the sale of second-hand goods, the law regulating loan-sharks, current alcohol law reform proposals, and sentencing and parole law.

Labour will review and close the consumer protection loopholes in the law relating to the sale of second-hand goods.

Labour will end the current benign regulatory environment enjoyed by loan-sharks. See Labour's Consumer Affairs policy

Labour will seek to implement those recommendations contained in the Law Commission report *Alcohol: Curbing the Harm* that have not been included in the Government's legislation. These include:

- Minimum pricing for alcohol
- Restricting alcohol advertising
- Lowering the drink-driving tolerance.

Labour will keep the appropriateness of rules concerning bail, parole and sentencing under review.

## Promoting Access to Justice

Access to justice is being eroded in New Zealand through contradictory and ill-thought-out legislative half-measures; denying resources to those who cannot afford to take or defend a court case; an antiquated and disjointed approach to the delivery of services; a slowness to take up available technology; and the failure of the Executive to identify where the needs of New Zealanders are not being met by the system, and to address these failures. A system that is responsive to need; based on modern, workable statutory provisions; robust, well-resourced; independent; and accountable, is needed.

Labour will enact reforms to promote access to a rational system that delivers uniform justice to all New Zealanders. Specifically, we will:

- Place a 12 month moratorium on the implementation of National's cuts to legal aid, the introduction of contestability in the funding of community legal services, and related changes
- During that moratorium, work to create a nationwide level of quality service to support those who need to participate in the justice system, but who cannot finance all or part of that participation

- Update and implement the work undertaken by the Law Commission in its 2004 report, *Delivering Justice for All: A Vision for New Zealand Courts and Tribunals*
- As part of this implementation exercise, revise the jurisdiction thresholds for civil courts to take proper account of contemporary circumstances; rationalise the existing system of tribunals, with a view to providing swifter and more cost-effective justice at this tier of the system; make available at first instance a form of alternative dispute resolution in all civil litigation; and maximise the efficiencies offered by new technologies
- Implement evidence-based interventions, such as neighbourhood justice centres, therapeutic courts, and restorative justice, where community support exists for these interventions
- Enhance the transparency and independence of the operation of New Zealand's courts, ensuring that judicial officers have sufficient information available to promote a consistent approach to the administration of justice to be taken nationwide, including by reconstituting the Sentencing Council abolished by National in 2009.

## Rationalising the Purchase of Government Legal Services

The State spends significant resource every year on its own legal services. Many hundreds of millions of dollars every year fund the work of the Crown Law Office and the counsel it briefs under the Cabinet Directions for the Conduct of Crown Legal Business, the work of Police prosecutors, the work of warranted crown solicitors and their staff, and the spending by departments and crown entities on legal services not covered by the Cabinet Directions. Reviews are currently underway into procurement by departments generally, and into the work of crown solicitors. But no general overview of the efficiency and effectiveness of the overall spend by the state on legal services exists.

Labour will review total public expenditure on the procurement of legal services. We will ascertain whether there are efficiencies and other public benefits that can be derived from rationalising this expenditure. Providers of any significant volume of legal services to the state may fairly be expected to offer:

- a discounted fee; and
- *pro bono* services such as assistance with the operations of a community law centre.