



Human Rights
Commission
Te Kāhui Tika Tangata

11 May 2010

The Secretary
Justice and Electoral Committee
Private Bag 18041
WELLINGTON 6160

Dear Sir

PRISONERS' AND VICTIMS' CLAIMS (EXPIRY AND APPLICATION DATES) AMENDMENT BILL

I write in response to your letter of 3 May in which you ask for comments by the Human Rights Commission on the Prisoners' and Victims' Claims (Expiry and Application Dates) Amendment Bill.

Given the limited nature of the Bill which is designed simply to bridge the gap between the expiry of the current regime and the introduction of a further Bill in 2012, the Commission recognises that there is little of substance that can be said at this point. We would, however, reiterate our concern about the way in which compensation is awarded under the present Act.

Although the Commission is not averse to the plight of victims, it also considers that concern about the victims of crime should not override the importance of ensuring that prison conditions respect minimum human rights standards. The best way of achieving this is by ensuring that people are detained in safe and humane conditions and their rights respected, but that appropriate remedies are available if those rights are breached. The current system allows prisoners to claim compensation in cases of abuse by public officials but the compensation is susceptible to a claim by their victims. This does not, in our opinion, amount to an effective remedy in terms of Article 2 of the International Covenant on Civil and Political Rights.

As we noted in our submission to the Human Rights Committee in March, the increase in the prison population is likely to result in a capacity crisis in the near future. Proposals to deal with this include cost cutting in the construction of new facilities and accommodating prisoners two to a cell (double bunking). These are relatively short term remedies and likely to give rise to a number of human rights issues such as the mixing of remand and sentenced prisoners and increased periods of lock down. This makes it more necessary than ever that compensation is available, otherwise the State faces few adverse consequences when it fails to meet its obligations to prisoners.

The Commission therefore agrees with the current proposal on the assumption that there will be a full review of the Prisoners' and Victims' Compensation Act - and amendment where necessary - to ensure the legislation is more compatible with Art.2 by 2012.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Rosslyn Noonan', with a long, sweeping horizontal stroke at the end.

Rosslyn Noonan
Chief Commissioner
Te Amokapua