

## **BACK IN THE MISTS OF FEAR.**

**A PRIMER ON THE ALLEGATIONS OF TERRORISM MADE  
DURING THE WEEK 15-19 OCTOBER, 2007.**

- **Moana Jackson.**

*“I weep for what has just happened at Maungapohatu in Tuhoe. The Police raid seems to be about punishing Kenana for questioning the Crown and will only take us back in the mists of fear and doubt...I wonder if we will ever stop worrying when it might happen again”.*

- *Karaitiana Rarere, Ngāti Kahungunu, 1916.*

## **ABSTRACT:**

The events that have unfolded since the recent “anti-terrorist” Operation Eight in Tuhoe and elsewhere have left many whānau and communities confused, hurt and traumatised.

Politicians have urged people to withhold comment or criticism until the judicial process has been played out but the flaws in the process to date plus the very real hurt that has been caused, particularly in the Māori community, calls for some clarification.

Indeed the fact that the Crown and other agencies such as the Police Association have continually made self-serving and often inaccurate comment has increased the confusion and made the need for clarity even more pressing.

This Primer therefore attempts to address the concerns of many people, Māori and Pākehā, and to clarify some of the major issues involved. It accepts the need to be vigilant against the prospect of genuine harm to the community but questions the veracity and motives for labelling Māori and other activists with the fear-laden term “terrorist”.

## **THE QUESTIONS:**

### ***Is there a law about terrorism in New Zealand?***

Yes.

After the attacks of 9/11 the government followed United Nations resolutions and passed the Terrorism Suppression Act, 2002.

Amendments which expand some of the definitions of terrorist organisations are due in Parliament this month.

### ***Are “terrorists” defined in the Terrorism Suppression Act?***

Yes.

Under Section 22 of the Act the Prime Minister may name or designate certain individuals or organisations as a terrorist entity.

### ***What does a person or group have to do to be on the list?***

The Act defines terrorist activity as terrorising a population, bombing, and other acts of violence.

### ***Are there any Māori or other people in New Zealand on that list at the moment?***

No.

***What kind of people are on the list?***

The list mainly consists of groups such as Al Qaeda and similar organisations or people like Sulaiman Jassem Sulaiman Abo Ghaith, a spokesperson for Al Qaeda.

***How did Operation Eight become an “anti-terrorist action” then?***

The Crown chose to call it an anti-terrorist operation in initial press releases and politicians and most sections of the media then uncritically did the same.

***Did the Police actually use any of the procedures under the terrorism legislation?***

No.

Under the legislation Police must get approval from the Attorney General to lay any terrorism charges and a logical three step process would appear to have been in order

1. Gather the appropriate “terrorist” evidence to warrant charges being laid.
2. Present that evidence to the Attorney General.
3. Charge people accordingly.

***What happened instead?***

Almost the opposite.

Most search warrants were granted under the Summary Offences Act and most arrests were made under the Firearms Act.

People are now being held in custody while cases are prepared for the Attorney General.

Such an approach raises serious legal and ethical issues including whether detention is being used merely so that the authorities can “fish” for proof of terrorism. It also smacks of holding for an undisclosed or dishonest cause which has raised some comparisons with Guantanamo Bay.

***Are breaches of the Firearms Act normally labelled as “terrorist” actions?***

No.

People are charged nearly every day with breaches of the Firearms Act but for the first time ever the Crown chose to label these particular arrests with the term “terrorist”.

***Why did the Authorities label them as terrorist?***

The Police maintain that the Operation has uncovered a series of camps in Tuhoe over the last eighteen months which amount to “credible intelligence” of terrorist activity.

The Police also announced that they needed to enter the Ruatoki Valley fully armed because intelligence on potential terrorists had warned of possible resistance, although

the claim does appear to contradict another statement that they decided to launch the raid on Monday morning after participants at a weekend camp had left for home.

Some media have been critical of the process and the limited evidence disclosed to date but others have betrayed the historic bias of their reporting on Māori issues. Indeed their willingness to accept the term “Māori terrorist” is similar to the ease with which they label Māori as the majority of child abusers when the evidence actually proves otherwise.

The willingness of many politicians to also characterise the raids as “anti-terrorist” is a regrettable act of fear-mongering and many Māori sympathise with the comedian Mike King’s comment that low poll ratings prompted the need to “bash some more Māori”.

***What are some of the concerns raised by the operation?***

The arrests raise fundamental human rights issues because they seem to equate activism with terrorism and thus have the potential to inhibit a basic democratic right.

The briefing given by the Security Intelligence Service to the Leader of the Opposition also rekindles an earlier concern that the expanded definition of “threat to national security” in the SIS Amendment Act could become a mandate to limit political dissent.

The fact that most of those arrested are Māori and the nature of the incursion into Tuhoe raises particular concerns.

It was only in Tuhoe that the Police chose to blockade and lock down an entire community. Although only four arrests were made, Ruatoki was in fact subjected to a quasi-military dawn raid that did not occur anywhere else.

As the mother of one young Tuhoe family stated, her inability to leave the area and the appearance of the black-garbed officers “was like being terrorised when we were innocent”.

The result has been a particular trauma and suspicion which now has the very real potential to damage broader race relations.

The blurring in official accounts of what transpired is also of concern because it can be seen as a minimising of the hurt done to innocent parties. For example the denial by officials that armed officers boarded a vehicle carrying Tuhoe children dismisses the evidence of the whānau and driver involved and thus belittles the extent of the trauma.

The experience and perception of injustice is consequently increased among the people concerned and adds to the historical burden of grievance.

### *Are there historical parallels?*

Yes.

Māori see symmetries between the Terrorism Suppression Act and the 1863 Suppression of Rebellion Act. The targeting of mainly Māori as “terrorists” in fact mirrors the earlier legislative labelling of those Iwi who resisted the land confiscations as “rebels”.

Tuhoe see particular parallels with the fatal Police raid on Maungapohatu in 1916. The unthinking or deliberately provocative setting up of the latest Police roadblock on the confiscation line simply added to the grievance and the sense of colonising déjà vu.

Indeed there is a sad resonance in the submission made in the Urewera claim before the Waitangi Tribunal that even though Tuhoe never signed the Treaty of Waitangi they have always known that any questioning of the Crown would be met with a “harsh and prejudicial whim...that has characterised them as treasonous enemies”.

### *Where to now?*

The court process will unfold and claims may also be laid with such bodies as the Human Rights Commission and the UN Special Rapporteur on the Rights of Indigenous Peoples.

The possible human rights abuses may also be linked to the Crown’s failure to support the Declaration on Indigenous Rights to encourage international opposition to the government’s lobbying for a seat on the UN Human Rights Council.

### *Conclusion –*

Regardless of whether any substantive evidence of terrorism is uncovered the operation has created division and unnecessary upset for hundreds of ordinary people.

As Tariana Turia has noted, many commentators also worry whether the operation is merely a softening up exercise for even more hard-line security measures and greater infringement of human rights. That is untenable in terms of the Treaty of Waitangi, and unacceptable in terms of good relationships between Māori and others.

Vigilance and genuine security should never be at the expense of human rights, and concerns about any Māori activity should never be used to justify the overt use of colonising power.

Sir James Henare once said that Māori have come too far not to go further, and there is no justice in forcing our people back into the old mists of fear and doubt.