

# Ngā uakitanga mō te tuketuke i te māhie me te toihara: he puka whakarāpopoto

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E matea ana e Te Tāhū o te Ture (Te Tāhū) ō urupare ki ngā uakitanga e ono mō te panonitanga o te ture e hāngai ana ki te tuketuke o te māhie me te toihara.

E rāhuitia ana e te Human Rights Act 1993 te kōrero e tuketuke ana (e tutū ana) i te whakatetenga mātāwaka. E rāhuitia ana hoki te toihara ki tētahi tangata nā tētahi āhuatanga ōna.

Nā muri ake mai i tētahi arotakenga a te Tāhū, me ngā marohitanga a te Komihana Pakirehua ki te ngaunga whakatumā ki ngā whare Irahira ki Ōtautahi i te 15 o Māehe 2019, e uaki ana te Kāwanatanga i ngā panonitanga kia whakakaha, kia whakamārama hoki i ēnei tautiakitanga.

E auaki ana hoki te Kāwanatanga i ngā panonitanga whānui ā-ture ki ngā whakaritenga toihara.

He iwi whakaehu a Aotearoa. E matea ana te whakakaha i te kotahitanga e te Kāwanatanga, e haumaruru ai a Aotearoa ki te katoa. Mā te whakawhanake i ngā tautiakitanga ki te kōrero e tuketuke ana i te māhie, me ngā tautiakitanga ki te toihara, tēnei e tautoko.

He uara hirahira ki Aotearoa te mana whakaputa reo. He wāhanga nō te New Zealand Bill of Rights Act 1990, waihoki ko te mana kia kaua e whakatoiharatia. Ko te whāinga o ngā uakitanga panonitanga ā-ture kia tautiaki ake i ēnei mōtika, tae rā anō ki te whakatūturu i te āheinga o ngā tāngata e rongorongo ana i te kōrero māhie kia whaimana kia whakaputa reo. He whaiwāhitanga nō te Bill of Rights Act e whakaae ana i ngā ārai ki ngā mōtika, me te whakataurite ki ngā mōtika me ngā manakotanga o ētahi atu.

Kua whakaae mātāpono te Kāwanatanga ki ngā uakitanga e ono. Ko te tikanga o tēnei, e whakapae ana te Kāwanatanga he panonitanga pai ēnei, engari e pīranga ana kia mōhio pēnā e tutuki ana i ō te pāpori kawatau ā mua i te whakataurite tūturu kia panonitia te ture, me pēhea hoki te panoni. Ka panonitia pea ēnei uakitanga kei te āhua o te uruparenga ka riro mai.

Ko whakarārangihia ngā uakitanga ki raro iho nei. Hei whakarāpopototanga, ko te whāinga kia:

- whakatupu i te rahinga tāngata e tautiaki ki ngā whakaritenga tuketuke
- whakamārama ake i te momo whanonga e kore nei e whakaaetia e te ture, me te whakakaha hoki i ngā whiunga ina takahia te ture
- whakawhanake i ngā tautiakitanga ki ngā rōpū i te toihara whānui.

E oti i a koe te kite i te roanga atu o te ture o nāianei, ngā uakitanga panonitanga, me ōna take ki te puka wānanga katoa: E wātea ana *Ngā uakitanga mō te tuketuke i te māhie me te toihara* ki [www.justice.govt.nz/proposals-against-incitement-of-hatred-and-discrimination](http://www.justice.govt.nz/proposals-against-incitement-of-hatred-and-discrimination).

## E mate ana mātou kia rongō i āu urupare

E matea ana ō urupare (tononga) e te Kāwanatanga e whakatau ai pēnā me whakatūturu rānei i ngā panonitanga kua uakina nei, kia panoni i ētahi wāhanga, kia koke rānei ki ara kē atu.

E wātea mai ana ngā uruparenga mai i te 25 o Hune ki te 6 o Ākūhate 2021. E oti i a koe te tuku i tō tono mā te pae tukutuku Citizen Space <https://consultations.justice.govt.nz>, mā te īmēra [humanrights@justice.govt.nz](mailto:humanrights@justice.govt.nz), mā te pōhi rānei ki Ngā Mōtika a te Tangata, Te Tāhū o te Ture, SX10088, Te Whanganui ā Tara.

Mō te roanga atu o ngā kōrero e hāngai ana ki te pūnaha, tae rā anō ki ngā mōhiohio mō te tūmataiti me ngā mōhiohio matawhaiaro, tirohia te puka wānanga i tō mātou pae tukutuku: [www.justice.govt.nz/proposals-against-incitement-of-hatred-and-discrimination](http://www.justice.govt.nz/proposals-against-incitement-of-hatred-and-discrimination)

Tirohia te whārangi 6 o te Puka wānanga e kite ai i ngā taipitopito mō te tūmataiti me ngā mōhiohio matawhaiaro. Me mātua pānui tēnei ā mua i tāu urupare mai.

## E ono ngā uakitanga

<p><b><i>Uakitanga tuatahi: Kia panoni i te reo i ngā whakaritenga tuketuke i te Human Rights Act 1993 e tautiaki ake ai i ngā hunga anō e pāngia e te kōrero māhie.</i></b></p>	<p>E hāngai noa iho ana ngā whakaritenga tuketuke ki te kōrero e whiua ana ki tētahi hunga nā te tae o tōna kiri, te mātāwaka, te whakapapa rānei. Ko pāngia hoki ētahi atu rōpū e te kōrero māhie, tae rā anō ki ngā rōpū nā te whakapononga, te ira, te hōkakatanga, me te hauātanga. Mā tēnei uakitanga e panonitia ai te ture kia hāngai hoki pēnā i tuketuke i te māhie ki tētahi hunga nā ngā āhuetanga whānui ake. Ka tae rā anō pea ki ētahi, ki te katoa rānei, o ngā tikanga rāhui o te toihara e kōrerotia nei i te wāhanga 21 o te Human Rights Act (ko whakatakotohia tēnei wāhanga ki te Āpitianga Tuatahi o te Puka Wānanga). E rapu ana mātou i ngā huatau mō ngā hunga me tautiaki ki te panonitanga nei. Kei te whārangi 17 o te Puka Wānanga te roanga atu o ngā kōrero.</p>
<p><b><i>Uakitanga Tuarua: Kia whakakapi i te whakaritenga taihara o nāiane i te Human Rights Act 1993 ki tētahi whakaritenga taihara hōu i te Crimes Act 1961 e mārāma ake ana, e whaihua ake ana hoki.</i></b></p>	<p>Hei tā tēnei, ka takahia te ture e te tangata e takune ana ki te tuketuke, te tutū, te pupuru, te whakamāori rānei i te māhie ki tētahi hunga kua tautiakina pēnā i mahi i tēnā mā te kapatau, te whakamanioro, te takahi mana rānei, tae rā anō ki te tuketuke i te taikaha. Ka hāngai tēnei ahakoa pēhea nei te hanga o te kapatau, te whakamanioro rānei, tae rā anō ki te tuku ā-waha, ā-tuhi, ā-tuihono rānei. Mō te roanga atu o ngā kōrero mō ngā hunga me tautiaki, tirohia te Uakitanga Tuatahi. Kei te whārangi 18 o te Puka Wānanga te roanga atu o ngā kōrero.</p>

<p><b><i>Uakitanga Tuatoru: Kia whakakaha ake i te whiunga ki te taihara e hāngai pū ake ki tōna rahirahi.</i></b></p>	<p>Ko te whiunga o nāiane e tae rā anō ana ki te whakaherenga mō ngā marama e toru, ki tētahi utunga tae rā anō ki te \$7,000 rānei. Hei tā te uakitanga, me whakakaha ake te whiunga kia tae rā anō ki te whakaherenga mō ngā tau e toru, ki tētahi utunga rānei tae rā anō ki te \$50,000. Kei te whārangi 19 o te Puka Wānanga te roanga atu o ngā kōrero.</p>
<p><b><i>Uakitanga Tuawhā: Kia panoni i te reo o te whakaritenga ā-marea mō te tuketuke kia ōrite ki ngā panonitanga e whakatūturu ana ki te whakaritenga taihara.</i></b></p>	<p>Mā tēnei e tāpiri te 'tuketuke/tutū, pupuru, te whakamāori rānei i te māhie' hei hoa haere mō ngā kupu o nāiane i te whakaritenga ā-marea (wāhanga 61). Nau mai hoki ngā urupare mō ngā ara anō e whanaketia ai tēnei whakaritenga. Kei te whārangi 21 o te Puka Wānanga te roanga atu o ngā kōrero.</p>
<p><b><i>Uakitanga Tuarima: Kia panonitia te whakaritenga ā-marea e whakahēngia ai te 'tuketukenga kia whakatoihara' e te ture.</i></b></p>	<p>Ka panonitia te ture kia rāhui i tā te tāngata tuketuke, kōrori rānei i ngā tāngata anō kia whakatoihara i ērā hunga e tautiakina e te whakaritenga mō te tuketuke i te māhie (tirohia te Uakitanga Tuatahi). Mā tēnei e whakaaetia ai ngā tohe ki te Kāhui Tika Tangata mō tēnei momo whanonga. Kei te whārangi 22 o te Puka Wānanga te roanga atu o ngā kōrero.</p>
<p><b><i>Uakitanga Tuaono: Kia tāpiritia he kōrero anō ki ngā tikanga toihara i te Human Rights Act e whakamārama ai i te tautiakitanga ki ngā hunga irawhiti, ira whakaehu, me te taihemahemarua i te toihara.</i></b></p>	<p>Kua kore nei e whakaaetia te whakatoihara i ngā tāngata mō te ira te take. E whakapae ana te Kāwanatanga e tae rā anō ana tēnei ki te toihara e hāngai ana ki te tuakiri te whakaputanga rānei ā-ira, ngā āhukatanga taihemahema, te tūnga taihemahemarua rānei. E marohi ana hoki tēnei uakitanga kia whakamāramatia ake te ture kia hāngai ai ki tēnei. Kei te whārangi 23 o te Puka Wānanga te roanga atu o ngā kōrero.</p>

## He aha te kōrero tuketuke?

Ko te 'kōrero māhie' tētahi karangatanga whānui e kore e kitea ki te ture ki Aotearoa. I te nuinga o te wā, ko kīia he kōrero e huaki ana i tētahi tangata, tētahi hunga rānei nā tētahi āhukatanga noa ōna, hei tauira, te mātāwaka, te whakapono, te hōkakatanga rānei.

E hāngai pū ana ngā uakitanga e ono o runga nei ki ngā kōrero e tuketuke ana i te māhie ki tētahi hunga. Ko te kōrero e tuketuke ana i te māhie he mea whakamanioro, he mea kapatau rānei, e tutū ana i te puehu ki tētahi hunga (kaua kē ki te tangata kotahi), ā, e hāngai ana ki tētahi āhukatanga o rātou. Koia tēnei te take e kōrero ana mātou mō te 'kōrero māhie', te 'tuketuke i te māhie' me ngā 'whakaritenga tuketuke'.

Kāhore ēnei uakitanga e aro ana ki ērā atu momo taihara māhie anō. E wātea ana te roanga atu o ngā kōrero mō ngā mahi anō e kore e meinga e ngā uakitanga nei, ki te whārangi 25 o te Puka Wānanga.

## He mea whakamamae te kōrero tuketuke

E tino whakamamae ana te kōrero e tuketuke ana i te māhie. He pānga ngākaukino ki ngā hapori e pāngia ana, me te aha hoki, ka ara ake pea te taikaha. Ka pā kino mai te tuketuke i te māhie ki tō tātou pāpori mā te tutū i te puehu, me te whakararu i te kotahitanga o te hapori. Ka hora hoki i te kore-whakapono, me te whakawehe i tō tātou hapori katoa puta noa i Aotearoa

Mā te whakawhanake i ngā tautiaki ki te tuketuke māhie, e whakatairangatia ai ngā hapori haumaruru, e whakatūturutia ai hoki te kōrero e kī nei he mahi kino te tuketuke i te māhie e whakamamae ana, ki tā te pāpori titiro.

Ko rāhuitia te tuketuke i te māhie e ai ki ngā tiriti mōtika o ngā tāngata ā-motu, nā reira, mā te panoni i te ture e tutuki ai i a tātou ngā hiahia mōtika tangata ā-motu.

## Te ture o nāiane

He whakaritenga taihara, he whakaritenga ā-marea hoki o te Human Rights Act 1993. E tae rā anō ana te ture ā-marea ki ngā tohe tūmataiti i waenga i ngā tāngata, ngā umanga, ā, i ētahi wā, te kāwanatanga ā-rohe, ā-motu rānei. Ko tā te pūnaha taihara mahi he tautuhi, he rāhui hoki i te momo mahi e rahirahi ake ana, e mamae ake ana hoki, mā te whiu i ngā tāngata kua takahi i te ture.

E meinga nei e te whakaritenga ā-marea (wāhanga 61) kua takahi te tangata i te ture pēnā ka whakamahi, ka whakaputa, ka pāpāho, ka toha i ngā tuhinga, ka whakamahi kupu rānei e pēnei ana:

1. e kapatau ana, e whakamanioro ana, e whakaparanga ana rānei, ā,
2. e tinga ana ka tuketuke i te taraweti, ka meinga te whakapuwheho ki tētahi hunga nā te tae o te kiri, nā te mātāwaka, nā te whakapapa rānei.

E oti i te tangata te tohe atu ki Te Kāhui Tika Tangata ina whakapae ana ia ko takahi tētahi i te ture.

E ai ki te whakaritenga taihara (wāhanga 131), he mea taihara te tuketuke i te whakatetenga mātāwaka mā te whakaputa, te pāpāho, te toha i ngā tuhinga, te whakamahi kupu rānei e pēnei katoa ana:

1. e kapatau ana, e whakamanioro ana, e whakaparanga ana rānei, ā,
2. e tinga ana ka whakahihiko i te taraweti, te kikino rānei, ka tutū i te whakapuwheho, te tāwai ki tētahi hunga, nā te tae o te kiri, te mātāwaka, te whakapapa rānei, me te aha hoki,
3. e kawatau ana ka whakahihiko i te taraweti, te kikino, te whakapuwheho, te tāwai rānei.

Ko te whiunga mō tēnei e tae rā anō ana ki te herenga mō ngā marama e toru, ki te utunga \$7,000 rānei.

## **E tautiakitia ana te mana whakaputa reo, engari e herea ana ki ngā āraitanga whai tikanga**

He pou nō tō tātou pāpori te mana whakaputa reo, engari ehara i te mea he mana tō te tangata kia meinga tāna e hiahia noa nei. Pēnei i ngā mōtika me ngā mana ki te Bill of Rights Act, e taea ana te ārai te mana whakaputa reo mā te ture, e whakatūturu tonu ai ki tētahi pāpori manapori, e whaimana ana hoki.

He rāhuitanga parahau tō ngā whakaritenga tuketuke o nāiane ki te mana o te whakaputa reo. Ka waihanga i tētahi ara taurite e whaiwhakaaro ana ki te rahirahi o te kōrero māhie me te kaha o te whiunga. Ko tā ngā whakaritenga tuketuke he aro ki te kōrero e whakapakepake ana i ngā tāngata kia whakaponu ki te whakaaro ko te pāpori kua waihangatia ki ngā iwi rerekē, ka mutu, tē taea e ēnei whakaritenga te ora pai. Ko te whāinga o te momo kōrero nei kia pakanga ngā tāngata, kia whakawehe i ngā hapori.

E rāhui ana te ture i te tuketuke o ēnei whanonga nā te kore hāngai pū ki ngā mōtika tangata, me ngā uara manapori ki Aotearoa. Kei te tūāpapa o ngā whanonga nei ko te whakaaro he mana iho o ētahi hunga nā tētahi āhukatanga o rātou (pēnei i te mātāwaka, te whakapononga, te hōkakatanga rānei). He whakapononga pea me kua ēnei hunga e whai i ngā mōtika ōrite, me rerekē te manaaki, me awere hoki/rānei i te pāpori whānui

Me mōhio mārika hoki, e kore nei ēnei uakitanga e whakahakahaka iho i te taumata e taihara ai i te kōrero, e karo rānei i te tohetohe ā-marea i ngā take hirahira.

Ko te whāinga o ēnei uakitanga panoni ture kia whakatūturu i te tautiaki i o te katoa mōtika, e oti i ia tangata te whakaputa i tōna ake reo me te kore e matakū.

## **Ko tautuhia ngā raruraru o te ture**

I arotakengia te ture e te Tāhū i te 2019, ā, i tautuhia ētahi raruraru. I tautuhia hoki ētahi marohitanga panonitanga e te Komihana Pakirehua ki te ngaunga whakatuma ki ngā whare karakia Ihirama ki Ōtautahi i te 15 o Māehe 2019.

E toru ngā kaupapa matua i tautuhia:

1. Ko kore e tino mārama nei ngā kupu ki te whakaritenga taihara, me te whakaritenga ā-marea. I marohitia e te Komihana kia whakatakotoria anō ngā kupu ki te whakaritenga taihara.
2. He tokomaha ake ngā hunga e pāngia ana e te kōrero e tuketuke ana i te māhie i ērā e tautiakina ana ināiane. E tae rā anō ana ngā whakaritenga ki ngā momo mātāwaka, te iwi, me te tae o te kiri. E whā noa iho ēnei o ngā 'tikanga rāhuitanga o te whakatoihara' tekau mā toru ki te wāhanga 21 o te Human Rights Act.

3. E hanga hakahaka ana te whiunga mō te mahi taihara ina whakataurite ana ki te rahirahi o te kapatau kia tuketuke i te māhie.

E matea ana e mātou ō urupare ki ngā uakitanga e ono kia whakatau i ngā raruraru o te ture o nāiane.

## Ngā whai whakaarotanga mō te Tiriti o Waitangi

E whai tikanga ana te Tiriti o Waitangi ki ngā whakaritenga tuketuke me ngā tautiakitanga ki te whakatoihara i te Human Rights Act me ngā uakitanga whakaaetanga mātāpono. E oti i te Māori te rongō i te kōrero māhie, ā, e whaimana ana i tēnei wā e ai ki ngā whakaritenga tuketuke mō ngā tikanga ‘mātāwaka’, ‘whakapapa’ rānei. Ko tō ēnei uakitanga whāinga he tautiaki ake i ngā hunga, tae rā anō ki ngā Māori, i te kōrero e tuketuke ana i te māhie. Ka whakakahatia ake ngā tautiakitanga e noho ai ngā Māori ki te mana o ngā tikanga rāhui o te toihara, hei tauira, te takatāpui (ko ngā Māori e tautuhi ake ana ki ngā ira me ngā hōkakatanga whakaehu).

## Ngā pātai hei uruparenga ki ngā uakitanga

He pātai whānui ō te Puka Wānanga e hāngai katoa ana ki ngā uakitanga, me ngā pātai e tautuhi ana ki ia uakitanga. Ko whakarārangihia ēnei pātai ki raro iho.

Ko ētahi pātai e toru e oti i a koe te whakamahi kia whāngai i tō urupare ki ngā uakitanga ko ēnei:

- Kei te kite rānei koe i ētahi tūraru, i ētahi tukunga iho rānei e kore nei e kawatau ana, ka mutu, he aha ēnā?
- He ara e whakapai ake ai ēnei uakitanga?
- Haere ake nei, he pānga ake ō ēnei uakitanga ki te Tiriti o Waitangi hāunga i ngā mea ko meinga kētia?

Ngā pātai e pā ana ki te Uakitanga Tuatahi:

- E whakaae ana koe, mā te whakawhānui i ngā whakaritenga tuketuke pēnei e tautiakina ake ai ēnei hunga?
  - He aha ai, he aha e kore nei rānei?
- Hei tāu, ko ēhea ngā hunga me tautiaki e te panonitanga nei?
- E whakapae ana koe he hunga e rongō ana i te kōrero māhie e kore e tautiakina e tēnei panonitanga?

Ngā pātai e pā ana ki te Uakitanga Tuarua:

- E whakaae ana koe, mā te panoni i ngā kupu o te whakaritenga taihara e mārama ake ai, e ngāwari ake ai hoki te mārama?
  - He aha ai, he aha e kore nei rānei?
- Hei tāu, e tae rā anō ana tēnei uakitanga ki ngā momo whanonga me takahi i te ture, e ai ki te taihara hōu?



Ngā pātai e pā ana ki te Uakitanga Tuatoru:

- Hei tāu e tika mārika ana tēnei whiunga mō te rahirahi o te taihara?
  - He aha ai, he aha e kore nei rānei?
- Pēnā e whakahē ana koe, he aha ngā taihara hei tauritenga tika?

Ngā pātai e pā ana ki te Uakitanga Tuawhā:

- E tautoko ana koe i te panonitanga o tēnei reo ki te wāhanga 61 (te whakaritenga ā-marea)?
  - He aha ai, he aha e kore nei rānei?
- Hei tāu, he wāhanga anō ō te reo o nāianei ki te whakaritenga ā-marea me panoni?

Ngā pātai e pā ana ki te Uakitanga Tuarima:

- E tautoko ana koe i te āpitihanga o te rāhuitanga o te tuketuke kia whakatoihara ki te wāhanga 61?
  - He aha ai, he aha e kore nei rānei?

Ngā pātai e pā ana ki te Uakitanga Tuaono:

- E whakaae ana koe ki te tika o ēnei kupu?
- Hei tāu e tae rā anō mārika ana tēnei uakitanga ki ngā hunga me tautiaki i te toihara e ai ki te Human Rights Act?
- Hei tāu e tautiaki pai ana tēnei uakitanga i ngā tutuhinga ira ā-ahurea, pēnei i te takatāpui?

## **Ngā mea e oti i a koe pēnā e rangona ana te kōrero, te whanonga tuketuke rānei**

Pēnā e whakapae ana koe he tūraru ki a koe, whakapāngia ngā Pirihimana. Pēnā he mea ohotata, waea atu ki 111. Pēnā kāore e mōrearea i tēnei wā tonu, waea atu ki 105.

Mō ngā kōrero e pā ana ki ngā āwhina a te Kāhui Tika Tangata, tirohia:

<https://www.hrc.co.nz/enquiries-and-complaints/how-make-complaint/>

Mō ngā kōrero e pā ana ki te whakatīwheta ā-mātāwaka:

<https://www.hrc.co.nz/enquiries-and-complaints/faqs/racially-offensive-comments/>.

Mō te whakamanioro tuihono: <https://www.netsafe.org.nz/>

Pēnā e matea ana koe kia kōrero ki tētahi mō ō aurongo, waea atu, pātuhi atu rānei ki 1737.

## **Ngā mōhiohio anō**

**E oti i a koe te pānui i te roanga atu o te puka wānanga ki:**

[www.justice.govt.nz/proposals-against-incitement-of-hatred-and-discrimination](http://www.justice.govt.nz/proposals-against-incitement-of-hatred-and-discrimination)

**He mōhiohio anō hoki e wātea ana ki te pae tukutuku a Te Tāhū o Te Ture, ki:**

[www.justice.govt.nz/proposals-against-incitement-of-hatred-and-discrimination](http://www.justice.govt.nz/proposals-against-incitement-of-hatred-and-discrimination)

