



Submission of Skylight Trust to the Justice Committee on The Principles of the Treaty of Waitangi Bill

Who is Skylight Trust?

Skylight Trust provides leadership and services for tamariki (children), rangatahi (young people) and their whānau (families) who have experienced loss, grief and tough times. Our unique offering is a full spectrum of care for tamariki and rangatahi aged 5-18 with mild to moderate mental health concerns. As an Aotearoa-based Tangata-Tiriti organisation, on a journey to being Te Tiriti-based, our services and programmes are tailored to the unique cultural needs of our population and grounded in Te Whare Tapa Whā and Mana Taiohi.

In making this submission, Skylight Trust is offering a tamariki, rangatahi and mental health perspective on the implications of the Bill, while acknowledging and supporting the findings of the Waitangi Tribunal's *Ngā Mātāpono*¹ and *He Whakaputanga me Te Tiriti*² reports, and the submission of the Human Rights Commission³.

We are aware of the Rangatahi petition – which clearly demonstrates that our young people do not support the Bill. We add our voice to theirs.

We oppose the Bill

Skylight Trust **firmly opposes** the Principles of the Treaty of Waitangi Bill and regards the Bill as unnecessary, in breach of numerous human rights, children's rights and Te Tiriti o Waitangi obligations.

¹ Waitangi Tribunal *Ngā Mātāpono - The Principles - The Interim Report of the Tomokia Ngā Tatau o Matangireia – the Constitutional Kaupapa Inquiry Panel on the Crown's Treaty Principles Bill and Treaty Clause Review Policies* (Wai 3300, 15 August 2024); Waitangi Tribunal *Ngā Mātāpono - The Principles: Part II of the Interim Report of the Tomokia Ngā Tatau o Matangireia – the Constitutional Kaupapa Inquiry Panel on the Crown's Treaty Principles Bill and Treaty Clause Review Policies* (Wai 3300, 5 November 2024).

² Waitangi Tribunal *He Whakaputanga me te Tiriti: the Declaration and the Treaty* (Wai 1040, 2014).

³ Te Kāhui Tika Tangata Human Rights Commission *Treaty Principles Bill submission*

Misinterpretation of Te Tiriti

The Treaty Principles Bill is based on a fundamental misinterpretation of te Tiriti o Waitangi and is misleading. The pre-eminence of the Māori language version / Te Tiriti is well established. The text of Te Tiriti, both the Articles and the preamble, is clear and does not need further clarification.

The Bill proposes to replace the current relational approach between the Crown and Māori to meeting te Tiriti responsibilities with a new set of principles developed at the exclusion and expense of Māori, namely their tino rangatiratanga.

These principles would change how te Tiriti is interpreted and applied in child and young person's mental health, education and development.

Tangata whenua, Tangata Tiriti and Tangata-Tiriti organisations like Skylight have worked hard over many years to understand and enact practices that give life to Te Tiriti o Waitangi, and we want to ensure this hard work is not wasted.

We oppose any actions that deliberately undermine the status of tangata whenua and relinquish the Crown's obligation to uphold Te Tiriti o Waitangi.

Te Tiriti provides a framework for everyone to belong, and belonging is fundamental to our mental health and wellbeing.

Tino rangatiratanga

Skylight Trust stands firmly in support of the preamble and articles of Te Tiriti o Waitangi. We support the United Nations Declaration on the Rights of Indigenous Peoples, which affirms the right of indigenous peoples to self-determination and reinforces the guarantee of tino rangatiratanga in Article Two of Te Tiriti o Waitangi.

Rangatiratanga can be understood as Māori control over their own affairs, including tikanga, taonga, and their social and political organisation. Māori having the right to be Māori. The Bill completely misses the right of Māori to enjoy tino rangatiratanga.

Māori expression of rangatiratanga was significantly suppressed following the signing of Te Tiriti. Māori rights as equal citizens were compromised. The disastrous consequences of that suppression and compromise are felt today by Māori - worse health outcomes, including higher rates of poor mental health and suicide, higher levels of poverty, a disproportionate number of Māori in State care, and higher rates of incarceration.

The experience of intergenerational trauma continues to be reproduced and perpetuated. We see the results of this trauma in the tamariki, rangatahi and whānau Māori who use our services.

Through a concerted effort to be a Tangata Tiriti-based organisation, grounding our services in Te Whare Tapu Whā and acknowledging the inequities that exist, Skylight Trust seeks to empower tamariki, rangatahi and whānau Māori to enhance their own wellbeing, whānau and mental health.

Exercising tino rangatiratanga supports positive wellbeing outcomes for tamariki, rangatahi and whānau Māori, now and in the future. It is not something to be afraid of. Embedding tino rangatiratanga throughout our health, education and social systems so Māori and non-Māori can achieve collective wellbeing is something to aspire to. It is a core component of our programmes at Skylight aimed at improving the resilience of our tamariki and rangatahi. Self-determination, culture, identity, belonging and social connection are at the core of our mental wellbeing. They are known to be protective factors against mental health issues.

The Bill's unilateral denial of tino rangatiratanga is a breach of Te Tiriti, human rights and international commitments.

The right to equality

Principle 3, the 'right to equality', bears no resemblance to the texts and meaning of Article 3. As drafted it is a breach of the principles of partnership, equity, and active protection.

The Crown's promises were made to Māori, not 'everyone'. People have different rights because of agreements that are entered into. In addition, the right to equality is only one of the rights promised to Māori as the rights and privileges of British subjects and is already protected by the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993. These rights are not threatened by the rights guaranteed to Māori under Te Tiriti. The Bill however is a threat to rights and freedoms of Māori as indigenous people.

We do not see the Crown's protection accurately reflected in Principle 3 as drafted. Māori face barriers to equality that others do not. Many of these barriers stem from the Crown's historic actions. These barriers must be removed. Equitable treatment is required to ensure outcomes that are more equal. We note the Tribunal found "Equality without equitable treatment does not capture the promises made in Article 3 or in the meaning of the Treaty / te Tiriti as a whole."⁴ Why? Equal treatment does not necessarily create equal outcomes.

To achieve equality, people do need to be treated differently. This is clear in law and policy. It is explicitly provided for in the New Zealand Bill of Rights (known as affirmative action). "Research indicates cultural understandings of people's health and wellbeing

⁴ Waitangi Tribunal *Ngā Mātāpono - The Principles: Part II of the Interim Report of the Tomokia Ngā Tatau o Matangireia – the Constitutional Kaupapa Inquiry Panel on the Crown's Treaty Principles Bill and Treaty Clause Review Policies* (Wai 3300, 5 November 2024).

can significantly impact equitable access to healthcare for Māori (Wepa & Wilson, 2019; Wilson, 2008).”⁵

We are not an equal society. As above, the inequities faced by Māori in areas such as healthcare have been shown by the Waitangi Tribunal, researchers etc to be a direct result of the influence of colonisation and the subsequent treatment of Māori. Child poverty, care, protection, mental health and suicide statistics demonstrate the ongoing impacts of these inequities on tamariki and rangatahi Māori today. The horrific abuse outlined in Whanakatia disproportionately impacted Māori children and young people.⁶

Treaty principles of equity and active protection require the Crown to make every reasonable effort to eliminate inequitable outcomes. “Culturally relevant and meaningful approaches to health care service delivery are critical for improving equity in Indigenous and other ethnic groups.”⁷ Legislating these principles away will not create equal outcomes and will not improve the mental health of our vulnerable children and young people.

We are also concerned about the intersecting forms of discrimination experienced by Māori - Māori girls and young women, Māori rainbow youth, Māori non-binary individuals and Māori young people with disabilities. The right of Māori to self-determination and participation in decision-making, and the failure to uphold such rights in the Bill and the Bill’s development, exacerbates intersectional vulnerabilities experienced by Māori, particularly for those that are 5-18 years old. These young people deserve to reach their potential even if this does mean different treatment is required.

We note that the Bill undermines substantive equality – that is equality of outcomes⁸, Aotearoa | New Zealand’s support for the United Nations Declaration on the Rights of Indigenous People (UNDRIP) and our commitment to the United Nations Convention on the Rights of the Child (UNCROC). Opposition to the Bill from Māori, legal professionals, academics, researchers, education professionals, public health groups, youth, faith groups, societal groups, protest march participants and others demonstrates a serious misalignment between the Bill’s intentions to emphasise formal equality and the public’s desire for maintaining and enhancing substantive equality.

The Committee on the Rights of the Child has routinely expressed its deep concern that discrimination persists against children in situations of vulnerability, including Māori children. This Bill does nothing to prevent that discrimination. It continues their

⁵ Wilson D, Moloney E, Parr JM, Aspinall C, Slark J. *Creating an Indigenous Māori-centred model of relational health: A literature review of Māori models of health*. J Clin Nurs. 2021;30:3539–3555. <https://doi.org/10.1111/jocn.15859>

⁶ Royal Commission *Whanaketia – through pain and trauma, from darkness to light*.

⁷ Wilson D, Moloney E, Parr JM, Aspinall C, Slark J. *Creating an Indigenous Māori-centred model of relational health: A literature review of Māori models of health*. J Clin Nurs. 2021;30:3539–3555. <https://doi.org/10.1111/jocn.15859>

⁸ Te Kāhui Tika Tangata Human Rights Commission [Treaty Principles Bill submission](#)

exposure to higher risks of suicide, school bullying, and mental distress. Structural discrimination and barriers to success must be eliminated. We must, as the Committee has advised –

“address inequalities of mental health outcomes for Maori, Pasifika and lesbian, gay, bisexual, transgender and intersex children” ... and ... “Address the racism, discrimination, stigma and bias experienced by Maori and Pasifika children in school”...⁹

The Committee has observed that “To ensure that measures taken to end child poverty are ... specifically prioritizing groups disproportionately impacted by poverty, including Maori children, Pasifika children and children with disabilities”¹⁰.

When Māori thrive, Aotearoa thrives. We must remove inequity. Only then will we have true equality.

Other

The Bill is divisive, potentially fostering a less inclusive society. This could impact the social environment in which children and young people grow up, leading to increased tensions and a less supportive community for all tamariki and rangatahi. A less supportive community is the antithesis of what Skylight Trust and others working in the children and young person’s mental health space are trying to achieve.

“What is good for Māori children is good for all Aotearoa’s children,” Associate Professor Mere Skerrett (Ngāi Tahu, Ngāti Rakiāmoa, Ngāti Ruahikihiki, Ngāti Māhuta, Ngāti Unu, Ngāti Maniapoto, Ngāti Pīkiao, Ngāti Te Rangiuuora, and Ngāti Pūkeko).

The Select Committee process is an entirely inappropriate way to engage and consult with Māori. The basic idea of any treaty is that it is a binding agreement between equal parties, and that one treaty partner cannot change what the agreement means by themselves. Treaties are created by mutual agreement and should only be changed by mutual agreement. Te Tiriti is a founding document for Aotearoa New Zealand. It is the basis of the partnership between tangata whenua and the Crown. This Bill and the process for its development denies the inclusion of tangata whenua in decision making regarding a treaty they are partner to. This must be a breach of Te Tiriti itself.

The proposed referendum, should the Bill be enacted, forecloses the opportunity for children and young people under 18 to have their say – which goes against ensuring youth voice is heard – and subjects Māori and Māori rights to a majority view. The subject matter – the constitutional foundation of Aotearoa – is inappropriate for a

⁹ Committee on the rights of the child [g2302344.pdf](#)

¹⁰ Ibid

simplistic yes / no binary vote¹¹ and denies the history of Te Tiriti and its original signatories – Crown and Māori.

Conclusion

Considered as a whole, Skylight Trust believes the new principles discriminate against Māori. We are not alone. The Waitangi Tribunal - the established experts on the interpretation of te Tiriti - found that:

“This [Bill] would be the worst, most comprehensive breach of the Treaty/te Tiriti in modern times.” ... “In a bizarre twist, the concepts of democracy and equality are being advanced to take away rights and discriminate against Māori.”¹²

We are concerned that the Treaty Principles Bill undermines Māori rights by undermining the articles of the Te Tiriti. This in turn weakens protection and rights for Māori, and may lead to increased feelings of marginalisation and disempowerment among Māori children and youth. The Bill is likely to exacerbate the existing mental health challenges they face – challenges that can be linked to historical and ongoing injustices which have already contributed to higher rates of mental health issues within Māori communities. Far from creating equality – the Bill’s approach exacerbates existing inequity.

Recommendations

That the Select Committee

- abolish/halt the Bill.
- recommends the Bill goes no further.
- recommends a genuine, respectful and informed conversation about Te Tiriti and the Treaty of Waitangi occurs.



Dr Nicole Coupe

Chair



Kathryn Ross

Chief Executive Officer

¹¹ As seen with The Vote in Australia

¹² Waitangi Tribunal [Ngā Mātāpono - The Principles: Part II of the Interim Report of the Tomokia Ngā Tatau o Matangireia – the Constitutional Kaupapa Inquiry Panel on the Crown’s Treaty Principles Bill and Treaty Clause Review Policies](#) (Wai 3300, 5 November 2024).