



Submission on Principles of the Treaty of Waitangi Bill

Hohou Te Rongo Kahukura – Outing Violence: 6 January 2025

About us: Hohou Te Rongo Kahukura

[Hohou Te Rongo Kahukura](#) is a charitable trust focused on preventing and addressing violence experienced by Takatāpui and Rainbow people, including structural, institutional and interpersonal violence including sexual and partner violence. Our work is underpinned by an acknowledgment of Te Tiriti o Waitangi and the impact of colonisation on understandings of sex, sexuality and gender diversity in Aotearoa New Zealand.

We operate with a Te Tiriti structure, are survivor-led and include people with many different sexualities, genders, ethnicities, class and disability belongings, including allies. We take a community development and research-based approach to prevent violence, improve responses after people have experienced violence and promote wellbeing for people in Takatāpui and Rainbow communities across the lifespan. This includes:

- offering support and recovery services specifically for Takatāpui and Rainbow survivors of sexual harm in Aotearoa, where our identities are treated as the taonga they are, and sexual harm is understood within our community contexts
- co-ordinating the Rainbow Wellbeing Network, which brings together kaimahi, volunteers and researchers with an interest in the Takatāpui and Rainbow wellbeing for peer support, particularly in the Waikato, to increase knowledge of services and gaps and grow shared understandings of violence towards Takatāpui and Rainbow communities.
- offering Club Kahukura, a healthy relationships programme for adults who are newly questioning their gender or sexuality, or new to Rainbow community
- several advisory roles across government in relation to family, partner and sexual violence and elder abuse
- holding the only social work role in Aotearoa with a focus on family violence in Takatāpui and Rainbow communities, via the Integrated Safety Response in the Waikato. We accept referrals to this role solely from New Zealand Police family violence callouts

Over the last 12 months, we have also trained nearly 400 kaimahi working for more than 40 different specialist family violence and sexual violence response services around Aotearoa. We developed Rainbow Safe as Te Tiriti informed training in response to requests from NZ Police and family and sexual violence services seeking to improve their responsiveness to Takatāpui and Rainbow communities.

This submission is informed by:

- our violence prevention and response work inside our communities
- our research programme, which explores the causes and experiences of violence within Takatāpui and Rainbow communities
- our training experiences, working with family and sexual violence services

Our language: Takatāpui is an ancient Māori term to embrace culture, spirituality, and connection to whakapapa. It has many meanings for iwi and hapū, traditionally meaning “intimate partner of the same sex.” In contemporary times Takatāpui has been reclaimed to denote all those with diverse sex characteristics, gender identities and expressions and sexualities as well as Tangata Whenua identity.

Rainbow is the umbrella term we use for sex, sexuality and gender diversity. We use Rainbow because it is recognised inside our communities, avoids listing English initials which leave out some identities, and allows for fluid diversity. In Aotearoa it can be inclusive of Māori, Pacific and ethnic identities.

Tangata Tiriti are the words we are using to describe everyone with citizenship to, or resident within Aotearoa who is not Māori or Tangata Whenua. These words explicitly reference the rights and responsibilities of people who were welcomed here through Te Tiriti.

Summary

Hohou Te Rongo Kahukura **strongly opposes** the Principles of the Treaty of Waitangi Bill. We urge the Justice Select Committee to ensure this Bill **does not proceed**.

We agree with the Waitangi Tribunal’s interim report, that this Bill distorts the text of Te Tiriti o Waitangi, is based on inaccurate and disingenuous understandings of our history, and would effectively end the distinct legal status of Māori as the indigenous people of this country.¹

It would be the worst, most comprehensive breach of the Treaty/te Tiriti in modern times. If the Bill remained on the statute book for a considerable time or was never repealed, it could mean the end of the Treaty/te Tiriti.

¹ 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, August 2024.

² 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, November 2025.

Honouring and upholding Te Tiriti o Waitangi is foundational to upholding human rights in Aotearoa. This Bill breaches Te Tiriti, undermines Māori rights as Tangata Whenua and is contrary to our international obligations. It should never have been introduced and must not progress any further.

We recommend:

- the Principles of the Treaty of Waitangi Bill does not proceed
- the treaty clause review process stops immediately
- the Crown develop processes in partnership with Māori to implement UNDRIP and Matike Mai Aotearoa
- the Crown honour Te Tiriti o Waitangi, He Whakaputanga o te Rangatiratanga o Nū Tirenī and all global human rights obligations
- mandatory consultation with Māori before imposing any change to all legislation within New Zealand

Te Tiriti o Waitangi

In 1835, He Whakaputanga o te Rangatiratanga o Nū Tirenī ratified indigenous (Māori) sovereignty over the lands, waters and people of Aotearoa through intergenerational occupation. This was endorsed by the then British government.

Thus, in 1840, Te Tiriti o Waitangi simply formalised the acknowledged existence of Māori sovereignty and required the British Crown to take up the responsibility to control their people living in Aotearoa. It was a bilateral treaty between nga Rangatira Māori and the British Crown.

Hohou Te Rongo Kahukura recognises Te Tiriti o Waitangi, in te reo Māori, as the principal and authoritative text. International law of contra proferentem supports this, and the majority of rangatira signed the Māori text, as did Hobson the chief British negotiator.³ Te Tiriti does not have the same meaning as the Treaty of Waitangi, in English. They are not different ‘versions’ as sometimes described; they are different **documents**. This fundamental issue is at the core of significant misinformation within Tangata Tiriti communities.

“What the Treaty actually offers, I think, is a shared sense of home: it gives people from somewhere else a chance to make a home in this land. It gives people a chance to discover what the poet Allen Curnow said is “the trick of standing upright here”.”

Moana Jackson⁴

³ O’Sullivan, D., Came, H., McCreanor, T., & Kidd, J. (2021). A critical review of the Cabinet Circular on Te Tiriti o Waitangi and the Treaty of Waitangi advice to ministers. *Ethnicities*, 21(6), 1093-1112.

⁴ <https://e-tangata.co.nz/comment-and-analysis/moana-jackson-what-it-means-to-be-at-home-in-this-land/>

Te Tiriti o Waitangi provides a place for us all to belong; for respectful relationships to flourish; a just foundation for how we can make decisions together, in partnership. For Aotearoa to realise the promise of a ‘shared sense of home’ requires the New Zealand government to behave as an honourable partner. The broken promises of the Crown provide the context for family and sexual violence in Aotearoa, including for Takatāpui and Rainbow communities.

In many ways, Te Tiriti o Waitangi is a document about consent between two parties in relationship. Just like all relationships, consent is impossible when unequal power dynamics mean one party makes the decisions and the other party cannot fully participate, express themselves or say no. These dynamics are familiar within family and sexual violence.

Since 1840, the Crown has not respected the mana of nga iwi Māori and has repeatedly behaved in ways that suited their own interests – and often that of many Pākehā. However, this Bill significantly worsens this situation. **There is no longer even a pretence that consent is being sought.** Māori were not consulted about the Bill.⁵ The opposition to the Bill is unprecedented, as evidenced by hikoī, petitions and submission writing workshops all over Aotearoa, and it comes from Māori and non-Māori, people of all ages, living all over Aotearoa. Most New Zealanders want a shared sense of home. This Bill undermines that shared sense, by undermining consensual processes.

Impacts of colonisation

It is impossible to understand the context within which violence is enacted towards Takatāpui and Rainbow communities today without recognising colonisation and the impacts of embedded structural oppressions in the state’s legal, economic and social systems.⁶ This colonisation had specific harmful impacts on whānau, hapū, iwi and Takatāpuitanga in particular, embedding harmful attitudes, laws and social practices influenced by Victorian British values.

After colonisation, for the first time in Aotearoa, men who were intimate with other men were criminalised in 1858, via the English Laws Act. The penalty for Takatāpui and other sexuality diverse men was death. This law was not fully overturned until 1986, with Homosexual Law Reform, and this and subsequent laws criminalised and restricted rights in a multitude of ways and form the cultural scaffolding, today, of violence towards Takatāpui and Rainbow people.⁷

⁵ Wai 3000 Waitangi Tribunal Report 2024.

⁶ Pūao-Te-Ata-Tu, (1988); He Whaipāanga Hou (1988), Jackson; He Waka Eke Noa 2023; Violence within whānau and mahi Tūkinō – a litany of sound revisited (2023), Wilson et al; Seventh report | Pūrongo tuawhītu : a duty to care | Me manaaki te tangata (2022), Family Violence Death Review Committee.

⁷ Dickson, S., Bennett, T., Bramwell, N., Brown, O., Cook, C., Divakalala, C., Fraser, B., Hickey, H., Matheson, L., Miller, K., Monise, M., Munroe, H., and Rodriguez, M., (2023). Uplifting Takatāpui and Rainbow Elder Voices: Tukua kia tū takitahi ngā whetū o te rangi.

Te Aorerekura, New Zealand’s national strategy to eliminate family and sexual violence, centres Te Tiriti and recognises colonisation underpins other forms of violence.

"The Treaty of Waitangi | Te Tiriti o Waitangi, te ao Māori, and whānau-centred approaches ... provide a unique perspective for Aotearoa New Zealand about how family violence and sexual violence can be eliminated and how safety and wellbeing can be realised for all people."⁸

We will not reduce or eliminate family and sexual violence in Aotearoa by pretending colonisation did not occur, or by failing to recognise the historical context and impacts today on people in our communities. Colonisation and the Victorian British values underpinning it do not just make violence more likely for Māori and other communities, they make help-seeking more complex because the systems have not been set up to respond to us safely.

For Takatāpui and Rainbow communities, it is harder to report violence to a police force that has criminalised us; feel safe inside care and protection systems that have punished our sexuality and gender; or indeed even find community support that is resourced by the state, despite the fact that we experience some of the very highest rates of violence in Aotearoa.

Through reframing Te Tiriti without consent of Māori, and by suggesting legislative ‘principles’ that are not based in the discussed and agreed principles of Te Tiriti that have formed since it was signed, this Bill continues and accelerates colonisation.

Conversations in Aotearoa about Te Tiriti

One of the disturbing consequences of the Principles of the Treaty of Waitangi Bill has been the ways in which it has already significantly undermined social cohesion in Aotearoa. Te Kāhui Tika Tangata | Human Rights Commission warns this Bill will increase racist rhetoric and behaviour, reflecting patterns elsewhere.⁹ Yet the Bill has been justified, repeatedly, by the need for a ‘conversation’ about Te Tiriti.

This is deeply disingenuous and could even be described as gaslighting. New Zealanders have been in conversation about Te Tiriti since 1840 in every sphere of public life, including social services, healthcare, education, legal systems, sport and faith groups. Local government, in many parts of Aotearoa, establish meaningful relationships with mana whenua in order to ensure communities thrive.

⁸ Te Aorerekura | The enduring spirit of affection: The National Strategy to Eliminate Family Violence and Sexual Violence. (2021)

⁹ Te Kāhui Tika Tangata | Human Rights Commission, Principles of the Treaty of Waitangi Bill, November 2024.

These conversations have allowed us to explore what it truly means to respect differences and support aspirations of communities without assuming we are all the same.

Within the family and sexual violence sectors, talking about Te Tiriti and what it means is an everyday part of responding and preventing violence, and has been since the 1970s. The Women's Refuge and Te Kākano o te Whānau/Rape Crisis movements grew in response to growing community awareness of the nature, scale and impacts of family and sexual violence. Both movements were actively concerned with social justice in response to women and whānau experiencing violence, and in acknowledging the centrality of colonisation to violence inside Aotearoa. Inside the National Collective of Independent Women's Refuges, this included significant development of governance, funding and practice arrangements that sought to honour Māori as Tangata Whenua, reflecting Te Tiriti.¹⁰ Māori collective Te Kākano o te Whānau and Rape Crisis similarly developed in parallel in the 1980s. Their first funding conversation with central government in 1985 proposed an equal funding split between the two collectives to honour Te Tiriti o Waitangi and support culturally specific responses to violence.¹¹

There has also already been a national conversation within Te Ao Māori about constitutional arrangements. The Matike Mai Aotearoa report (2016) led by Moana Jackson and Margaret Mutu, commissioned by the Iwi Māori chairs, clearly articulates Māori aspirations in relation to He Whakaputanga o te Rangatiratanga o Nū Tirenī and Te Tiriti, based on 252 hui with Māori communities.¹²

These are just three examples. There is a need for ongoing conversation within Aotearoa about how to justly share power in this land, in the context of the harmful impacts of colonisation, but those conversations must be informed by the past; must centre mana motuhake and tino rangatiratanga for Māori as Tangata Whenua; and must consider the wellbeing of Te Taiao and everyone who lives in Aotearoa.

Family and sexual violence responses

He Waka Eke Noa was the first comprehensive study of violence centring kaupapa and mātauranga Māori. The findings describe Crown failures to uphold Te Tiriti o Waitangi as a structural reason underpinning whānau exposure to generations of violence.

¹⁰ McCallum, T. (1993). *National Collective of Independent Women's Refuges 1981-* in A. Else (ed.), *Women together: a history of women's organisations in New Zealand*. Wellington: Historical Branch, Dept of Internal Affairs and Daphne Brasell, 1993.

¹¹ Harvey, A. & Moon, M. (1993). *National Collective of Rape Crisis and Related Groups of Aotearoa 1986 -* in A. Else (ed.), *Women together: a history of women's organisations in New Zealand*. Wellington: Historical Branch, Dept of Internal Affairs and Daphne Brasell, 1993.

¹² Matike Mai Aotearoa. (2016). *He whakaaro here whakaumu mō Aotearoa*. <http://www.converge.org.nz/pma/MatikeMaiAotearoaReport.pdf>

*Honouring, enacting and upholding Te Tiriti o Waitangi is considered a critical part of the solution to the underlying systemic issues that sustain violence.....Honouring Te Tiriti o Waitangi will begin to unlock the appropriate frameworks and models for good partnership and decision making that will support whānau wellbeing.*¹³

In our violence prevention work, Te Tiriti is crucial, because Victorian British values about relationships, families, children, bodies and sex underpin many of the ways in which Takatāpui and Rainbow people are mistreated today. Violence is experienced in specific cultural contexts, and recovery services need to have cultural expertise, including the ability to recognise one size does not fit all. Most services in New Zealand are not appropriate for Takatāpui and Rainbow communities, because they have not been designed with our communities in mind, just as western models of violence prevention do not work for Māori, because they have not been designed with Māori in mind.

Preventing violence must start with being embedded within and listening to communities about what works well for them, and it must bring prevention expertise to the table. This Bill clearly does not prevent further violence from colonisation – in fact, it is clear the Bill has significantly disrupted the slow progress made since the establishment of the Waitangi Tribunal.

New Zealand’s international obligations

Te Tiriti o Waitangi aligns with core human rights principles including fundamental rights to self-determination, equality and non-discrimination, participation in decision-making, and cultural and property rights. United Nations bodies recognise the status of Te Tiriti and its correlation with upholding human rights in Aotearoa and have consistently and repeatedly made recommendations to successive governments to recognise the fundamental right to Māori self-determination; progress constitutional protection for Te Tiriti in partnership with Māori; ensure Māori participation in decision-making; implement Waitangi Tribunal recommendations, and ultimately uphold obligations under Te Tiriti.¹⁴

New Zealand is a signatory to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). UNDRIP recognises that “treaties, agreements and other constructive arrangements, and the relationship they represent, are the basis for a strengthened partnership between indigenous peoples and States”. Therefore, this Bill is inconsistent with our global human rights obligations and seems to actively seek to undermine – or fundamentally change – our international reputation and progress under generalist and indigenous specific human rights mechanisms and protections.

¹³ He Waka Eke Noa 2023.

¹⁴ Te Kāhui Tika Tangata | Human Rights Commission, Principles of the Treaty of Waitangi Bill, November 2024.

Evidence and advice to government

We would like to close this submission by noting that not only has there been considerable public opposition to this Bill from across the political spectrum, but that advice from state and state-adjacent organisations all strongly advise against the approach this Bill is taking.

The Bill purports to seek to create greater certainty and promote a national conversation about the principles of the treaty, create a more robust conception of our constitutional arrangements, and build consensus, legitimacy and social cohesion about those arrangements. There is no available evidence that the Bill will achieve these objectives. All available evidence suggests the Bill will make things worse than the current situation. This includes but is not restricted to advice provided in the following key documents:

- The Regulatory Impact Statement: Providing certainty on the Treaty principles. Ministry of Justice (28 August 2024) from Treasury
- The Ministry of Justice Departmental Disclosure Statement: Principles of the Treaty of Waitangi Bill (24 October 2024)
- Waitangi Tribunal. (2024). 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), Parts I and II
- Te Kāhui Tika Tangata | Human Rights Commission, Principles of the Treaty of Waitangi Bill, November 2024

Conclusion

In conclusion, we agree there are some parts of our society that have not yet engaged in these conversations and there are parts of society in Aotearoa that hold racist views. This is a legacy of Tangata Tiriti not being educated about the impact of colonisation on Māori, and the harms of colonisation being actively obscured by the state and many Pākehā.

Beginning conversations about Te Tiriti within communities that have not participated in the many, many ongoing conversations we discussed earlier must happen with people with these views, but it must happen safely – it is akin to addressing violence with perpetrators of harm, which are specialist interventions. It must start with everyone living in Aotearoa developing a shared – and accurate – understanding of the impacts of colonisation and our history. It is dangerous and inappropriate to engage a Bill such as this, as a mechanism for starting these conversations.