



Submission on the Principles of the Treaty of Waitangi Bill The Justice Committee

**Submitted by Social Service Providers Te Pai Ora o Aotearoa (Te Pai Ora SSPA)
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Introduction & Background

1. Social Service Providers Te Pai Ora o Aotearoa (Te Pai Ora SSPA) welcomes the opportunity to submit on the Principles of the Treaty of Waitangi Bill.
2. Te Pai Ora SSPA does not support this proposed Bill.
3. Our submission is informed by our member organisations. These organisations are working everyday with children and whānau in community care settings – many of whom are Māori. Our submission brings a legislative, policy and practice perspective to this discussion.
4. Te Pai Ora SSPA would welcome the opportunity to speak to this submission at the Committee.

About Te Pai Ora SSPA

5. Social Service Providers Te Pai Ora o Aotearoa (Te Pai Ora SSPA) is a membership-based national organisation, comprised of over 240 community-based social service organisations from around Aotearoa New Zealand, based in both rural and urban locations.¹ Our membership makes up a vast majority of the service delivery to children and rangatahi in community social services.
6. Among our members are local and national social service providers, large national care providers, kaupapa Māori and Iwi social service organisations and Pacific providers. Te Pai Ora SSPA members work across the full spectrum of community-based social services with a central focus on supporting the positive outcomes of children, rangatahi, families and whānau.
7. Te Pai Ora SSPA full members are funded by government to deliver social services in our communities every day, with a predominant focus on children, rangatahi, families and whānau (the majority of member organisations are s.396 and/or s.403 providers). Our affiliate members are organisations that deliver social services for these people, and organisations and individuals who work in areas aligned to the interests of children, rangatahi, whānau or communities.
8. Te Pai Ora SSPA's vision is that Aotearoa's community-based social services are sustainable, able to make a positive impact every day in our communities, supporting children, rangatahi and whānau to thrive now and into the future. Te Pai Ora SSPA works to strengthen Aotearoa's social sector through advocacy and engagement, learning and development, relationships and sector leadership.

¹ Find out more about Te Pai Ora SSPA at www.sspa.org.nz. Our strategic plan 2023-2026 can be found [here](#)



9. Te Pai Ora SSPA is a co-governed organisation, demonstrating our commitment to Te Tiriti in how we operate and work alongside government.

Te Pai Ora SSPA's position on this Bill

10. Te Pai Ora SSPA strongly opposes the Principles of the Treaty of Waitangi Bill and recommends that the Bill is withdrawn.
11. The Bill undermines The Treaty of Waitangi/Te Tiriti o Waitangi (the Treaty/te Tiriti). Its proposed changes misrepresent the Treaty/te Tiriti and its principles, disregarding decades of legal and social progress. The Ministry of Justice's RIS² states that the policy proposal is not consistent with the Treaty/te Tiriti. Similarly, the Waitangi Tribunal found that the Treaty Principles Bill policy is unfair, discriminatory, and inconsistent with the principles of the Treaty, contrary to the article 2 guarantee of tino rangatiratanga and will be significantly prejudicial to Māori.³
12. This submission outlines critical concerns about the Bill's legal, procedural, and socio-political implications and advocates for the retention of the existing framework.

Undermines necessary obligations to Te Tiriti o Waitangi

13. The proposed Bill attempts to redefine the Treaty principles and, in doing so, seeks to rewrite the Treaty's meaning and intent. Such actions undermine the mutual obligations established in 1840. Te Tiriti o Waitangi is an agreement between Māori and the Crown, granting authority expressed as kāwanatanga (governance) to the Crown while guaranteeing that Māori would retain their own authority expressed as tino rangatiratanga (self determination/authority in relation to their communities, lands and taonga).
14. The Bill's introduction of three new principles to replace the principles currently used contravenes decades of jurisprudence and statutory development, including the Treaty of Waitangi Act 1975, subsequent court precedents, the work by the Waitangi Tribunal and successive Governments. In these processes, over time, are now established principles including but not limited to: partnership and reciprocity; active protection; equity; options and redress. These principles are used to identify policy issues, guide decision-making and through applications in practice have driven transformative change to improve outcomes in a number of policy areas, including for children and rangatahi and their families and whānau.
15. The Bill's attempt to redefine these principles as set out in clause 6 in this Bill is an unprecedented and unilateral move that disregards this established constitutional framework and substantial body of law from the courts which identifies and applies treaty principles. The proposed Bill is inconsistent with the views of the Waitangi Tribunal as expressed in the findings of the *Ngā Mātāpono* reports⁴ and Te Pai Ora SSPA's concerns with the 3 new principles are guided by the Waitangi Tribunal's findings.

² Ministry of Justice, [Regulatory Impact Statement: Providing certainty on the Treaty principles](#), 28 August 2024

³ [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)

⁴ 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)



16. The new Principle 1 proposed in the Bill misinterprets kāwanatanga and ignores the guarantee of tino rangatiratanga made in Te Tiriti o Waitangi. Under Te Tiriti, Māori leaders granted the British Crown the authority of kāwanatanga. This authority is limited by the ongoing exercise of Māori authority, guaranteed in Te Tiriti as tino rangatiratanga. These two spheres of Crown and Māori authority that the Treaty/te Tiriti established means overlaps must be resolved by good faith cooperation between the partners.
17. The effect of the proposed Principle 2 also ignores the guarantee of tino rangatiratanga. This newly created principle offers no recognition or protection of Māori rights that others do not have. Under this new principle, Māori rights would depend on settlement legislation or recognition by some other instrument that applies to everyone. Not only does this subordinate tino rangatiratanga to kāwanatanga but it erases the recognition of Māori rights altogether, contrary, not only to the Treaty/te Tiriti, but to international standards set out in the United Nations Declaration on the Rights of Indigenous Peoples.
18. The proposed Principle 3 also seeks to erase the equitable rights of Māori from the Treaty/te Tiriti. Article 3 of Te Tiriti is a promise made specifically to Māori that Māori would enjoy the rights and privileges of British subjects. The Treaty/te Tiriti does not make such a promise to anyone else. There are, however, plenty of mechanisms within the New Zealand legal system that are aimed at protecting all citizens from discrimination and ensuring equality before the law. The new Principle 3 does not recognise the impact of colonisation and past Treaty breaches on Māori which have created profound inequalities. Māori face barriers to equality, as evidenced in numerous reviews over a number of years which extensively detail the over representation and poor record of servicing the needs of tamariki and rangatahi Māori and their whānau, hapū and iwi in the care and protection system.

Aotearoa New Zealand will be in opposition to international human rights and international law

19. The Bill places Aotearoa New Zealand in opposition to international human rights obligations, particularly those outlined in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) which affirms the rights of indigenous peoples to self-determination and the recognition of their distinct cultural and political status. The proposed principles undermine indigenous rights and fail to uphold equity, further isolating Aotearoa New Zealand from international human rights frameworks.
20. The Human Rights Commission submission⁵ and the *Ngā Mātāpono* reports amplify international human rights perspectives and the inconsistency of the Bill with international standards and obligations. While affirming the equal rights of all human beings, international human rights instruments recognise that the equal enjoyment of rights by some groups may require specific protection and distinct targeted action. There are human rights conventions and frameworks that ensure critical protections for indigenous people, children and young people, women, persons with disabilities.
21. The Human Rights Commission submission reiterates that the Bill is based on flawed policy rationales and provides clear and useful arguments on equality and that rather than advancing equality as the Bill seeks to do in proposed principle 3, the proposed legislation frames equality in a way that disregards the systemic inequities faced by Māori, undermines human rights standards and seeks to limit fundamental rights.

⁵ Submission of Te Kāhui Tika Tangata Human Rights Commission on the Principles of the Treaty of Waitangi Bill, [here](#)



Contravenes flourishing and supportive valued practices by community-based social service organisations, kaupapa Māori organisations, family, whānau, hapū and iwi to care for children and rangatahi

22. We believe the proposed Bill is flawed and ignores the substantial body of law and government actions to develop Treaty principles and put into practice over a number of years resulting in an ongoing change in trajectory of current practices in caring for children, rangatahi and their families and whānau by community-based partners, kaupapa Māori organisations, hapū and iwi.
23. There have been numerous reviews over a number of years which extensively detail the over representation and poor record of servicing the needs of tamariki and rangatahi Māori and their whānau, hapū and iwi in the care and protection system. These reports evidence the failure of the care and protection system to address the long-term challenges experienced by those in care and the care and protection system, and the systemic change required to address these long-term failures.
24. Waitangi Tribunal inquiries such as Oranga Tamariki Urgent Inquiry WAI 2915⁶ examined the disproportionate numbers of tamariki Māori being brought into State care and protection, and the functioning and cultural orientation of this system inconsistent with the Treaty/te Tiriti. Due to these inquiries and the application of Treaty principles there has been a ripple effect outwards to everyone in the care and protection system working with children and rangatahi.
25. The proposed Bill is inconsistent in approach with the trajectory of current practices by many community-based social service providers and government agencies. These approaches reflect an existing and growing practicing environment of decision-making with regard to whakapapa and whanaungatanga, trauma-informed care, strategic partner-run services, accountability mechanisms that capture the voices, rights and needs of children and rangatahi, and some resourcing supporting these efforts to build valued practices between government agencies, their community-based partners, kaupapa Māori organisations, family, whānau hapū and iwi to care for children and rangatahi.
26. We are very concerned about losing these practices and approaches if this Bill proceeds.

Process Deficiencies and Lack of Good Faith Engagement

27. We are concerned by the limited time allocated for policy development which has precluded meaningful analysis or engagement with constitutional and Treaty/te Tiriti experts. Equally, there has been no consultation with Māori, its Treaty partner in the development process which breaches the principle of partnership and undermines good governance.
28. There is a lack of care and respect for expert advice from The Waitangi Tribunal which in its Ngā Mātāpono report, has strongly criticised the Bill's content and process, stating that it constitutes a "comprehensive breach of the Treaty." The Ministry of Justice's RIS echoes similar concerns. By sidelining the Waitangi Tribunal's expertise and government's own agency advice and promoting contested interpretations of the Treaty/Te Tiriti, the effect of the Bill risks undermining public trust in our government systems.

⁶ Waitangi Tribunal, [He Pāharakeke, he Rito Whakakīinga Whāruarua Oranga Tamariki Urgent Inquiry WAI 2915](#) (2021)



29. The Bill's introduction has already incited division and misinformation, threatening social cohesion. The Waitangi Tribunal and other commentators have warned that the Bill risks amplifying anti-Māori rhetoric and creating long-term harm to the Māori-Crown relationship.

Suggestions to support a principled way forward

30. The Responding to the Principles of the Treaty of Waitangi Bill undermines the foundational values of partnership, equity, and active protection enshrined in Te Tiriti o Waitangi. By unilaterally attempting to redefine Treaty principles, the Crown risks not only its relationship with Māori but also the social and constitutional fabric of Aotearoa. This submission calls on the government to commit to a process that respects the Treaty/Te Tiriti, honours Māori rights, and fosters genuine dialogue about New Zealand's constitutional future.
31. We suggest a better way forward is:
- a. Retention of existing framework: The current Treaty principles developed through decades of jurisprudence and governance, should remain in place as they provide certainty and uphold Treaty/te Tiriti obligations
 - b. Meaningful, national dialogue: We support the notion of open and rich discussion and education about the Treaty/Te Tiriti and its unique constitutional role in Aotearoa New Zealand. This needs to be conducted based on partnership and mutual understanding between the Crown and Māori. We are very concerned that this current proposal falls far short of this approach
32. Thank you for your consideration of our submission.