

# ***Submission: Principles of the Treaty of Waitangi Bill***

**By the Mental Health Foundation of  
New Zealand**



18 December 2024  
Justice Committee

## Submission: Principles of the Treaty of Waitangi Bill

Tuia te rangi e tū nei  
Tuia te papa e takoto nei  
Tuia i te here tangata  
Tihei mauri ora.

He hōnore, he korōria ki te atua ki te runga rawa  
He whakaaro maha ki a rātou kua haere ki te wāhi ngaro  
Rau rangatira mā, ānei ngā whakaaro me ngā kōrero nā Te Hauora Hinengaro.

### Introduction

Thank you for the opportunity to comment on the Principles of the Treaty of Waitangi Bill and to express our strong opposition.

The Mental Health Foundation of New Zealand (MHF) is a charity working towards creating a society free from discrimination, where all people enjoy positive mental health and wellbeing.

**The MHF strongly opposes the Bill. We recommend abandoning this Bill and not referring it to Second Reading.**

The Bill undermines the right of Māori to self-determine (tino rangatiratanga), as guaranteed in Article Two of te Tiriti o Waitangi, and breaches the agreement between the Crown and Māori under te Tiriti. We stand firmly in support of the preamble and all Articles of te Tiriti o Waitangi, as well as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which affirms indigenous peoples' right to self-determination and the protection of tino rangatiratanga.

Tino rangatiratanga is both a marker of, and an important contributor to, wellbeing, and vice versa – you cannot have one without the other.<sup>i</sup> For Māori, wellbeing (or 'hauora') is a holistic concept and focuses on the resilience of whānau, hapū, iwi

and community, rather than solely the health of the individual.<sup>ii</sup> Rangatiratanga implies kaitiakitanga<sup>i</sup> of hauora for the betterment of all generations to come.

When Māori are enabled to “live as Māori” or embody Māori values, beliefs, and practices in all spheres of life (including when receiving wellbeing support), they experience more positive and secure identities, stronger connection to whakapapa, less isolation, and better mental wellbeing outcomes overall.<sup>iii</sup>

As an organisation that stands strongly behind the principles of te Tiriti o Waitangi, the MHF supports embedding tino rangatiratanga at all levels of society so Māori and non-Māori can achieve collective wellbeing.

## Concerns with the Bill

Since the signing of te Tiriti o Waitangi in 1840, the Crown/New Zealand governments have failed to fulfil their obligations under te Tiriti and have not done enough to reduce the inequities between Māori and other ethnic groups in Aotearoa New Zealand. Māori expressions of rangatiratanga have been significantly suppressed and their rights as equal citizens continue to be undermined, leading to devastating and persistent consequences.

This ongoing intergenerational trauma is perpetuated by continued breaches of te Tiriti o Waitangi, such as the introduction of this Bill. This culminates in the present-day experience for Māori: significantly worse health outcomes compared to non-Māori, including higher rates of poor mental health and suicide, higher levels of poverty, a disproportionate number of Māori in State care, higher rates of incarceration, and a much higher likelihood of receiving compulsory assessment and treatment under the Mental Health Act, including being subjected to solitary confinement.<sup>2</sup>

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<sup>1</sup> Guardianship or effective management ([Royal, 2007](#)).

<sup>2</sup> For more detail on how colonisation led to the disparities in health outcomes we see today, refer to Waitangi Tribunal. (2019) [Hauora: Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry: WAI 2575](#);

[Data](#) regarding the disparity and disproportionality in the care and protection system (to June 2023);

[Statistics](#) regarding the overrepresentation of Māori in the criminal justice system;

[Data](#) regarding the Mental Health Act (1 July 2021 to 30 June 2022).

To begin remedying this, Aotearoa needs to support and enable Māori to exercise tino rangatiratanga, as per te Tiriti o Waitangi Article Two, rather than remove the Crown's responsibility to address these issues through the passing of this Bill. The Bill is being rationalised on the mistaken belief that providing unique protections for one group is unfair. However, this perspective overlooks the long history of anti-Māori discrimination which has made such protections necessary.

**Removing tino rangatiratanga from the principles of te Tiriti o Waitangi would be detrimental to upholding effective Māori-Crown relations and would end the distinct status of Māori as the indigenous people of Aotearoa New Zealand.**

This Bill limits the protection of the unique rights of iwi and hapū to those outlined in historical Treaty settlements (sections 6(1) and (2)). This would redefine those rights as they currently appear in multiple pieces of legislation, undermining protections that are already in place. This overrides the long-standing relationship established between Māori and the Crown, and raises serious concerns about fairness, unity, and historical respect.

Furthermore, by restricting iwi and hapū rights to those set out in Treaty settlements or agreements with the Crown, the Bill implies that Māori tino rangatiratanga depends on government authority (kāwanatanga). This reduces indigenous rights to a set of ordinary rights that could be exercised by any group of citizens, which is a profound misinterpretation of te Tiriti o Waitangi and is vastly inequitable. It disregards the collective rights of iwi and hapū and ignores the unique status of Māori as the indigenous people of Aotearoa New Zealand, challenging the very purpose of te Tiriti of Waitangi and its place in our constitutional framework.

In a 1989 presentation about how the principles of te Tiriti o Waitangi were intended to guide Crown action, Sir Geoffrey Palmer stated that the First and Second Articles must be understood in balance: "Kāwanatanga is subject to a promise to protect rangatiratanga. Rangatiratanga is subject to an acknowledgement of kāwanatanga." The passing of this Bill would not only dishonour the Crown's original commitment to enabling Māori to exercise tino rangatiratanga, but it would also undermine the essential balance between Māori sovereignty and Crown governance established by te Tiriti o Waitangi.

**While this Bill does not seek to alter the original text of te Tiriti o Waitangi, it will impact how it is interpreted and applied in practice.** This fails Māori as both

tangata whenua and treaty partner by dismantling the legal framework that protects the Māori right to exercise tino rangatiratanga. Additionally, applying a blanket interpretation of the principles of te Tiriti o Waitangi across all relevant legislation<sup>3</sup> undermines the original intention behind their use, which was to ensure flexibility and adaptability in different contexts, such as in the health system.<sup>4</sup> As stated by the Waitangi Tribunal in 1983, "The spirit of the Treaty transcends the sum total of its component written words." By narrowing the scope of these principles, the Bill risks imposing a restrictive, literal application that disregards the broader, contextual purpose of te Tiriti o Waitangi.

**The exclusion of Māori from a process which intends to revoke their fundamental rights and further an agenda of cultural assimilation is alarming.** The Government proposal to change the terms of te Tiriti o Waitangi without consulting its treaty partner is unsafe, unjust, and lacks integrity. Additionally, the divisive rhetoric surrounding this process has and will continue to erode social cohesion and civic trust, causing lasting harm to mental health and wellbeing outcomes – for all people in Aotearoa New Zealand, but especially for Māori. This is likely to deepen existing inequities and widen the gap between Māori and non-Māori.

We agree with the Waitangi Tribunal's conclusion<sup>iv</sup> that if this Bill were to be enacted, it would be the worst, most comprehensive breach of the Treaty/te Tiriti in modern times. We also agree that the Bill does not reflect any credible interpretation of the Treaty of Waitangi, Te Tiriti o Waitangi, or the principles based in either text.

## Conclusion

The MHF strongly opposes the Bill as it disregards the fundamental rights of Māori to exercise tino rangatiratanga and risks perpetuating historical injustices that continue to affect Māori wellbeing. Respecting and enabling tino rangatiratanga is essential for improving mental health, wellbeing, and social outcomes, not only for Māori, but for all people in Aotearoa. The MHF urges the Justice Committee to abandon this Bill to prevent further harm to Māori communities and to honour the

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<sup>3</sup> Except for in the case of any exclusions set out under section 4 of the Bill.

<sup>4</sup> The *Hauora* report ([Waitangi Tribunal, 2019](#)) recommends the following principles for the primary healthcare system, which also apply to the wider health and disability system: tino rangatiratanga, equity, active protection, options, and partnership.

principles of te Tiriti o Waitangi as they currently stand, to create a flourishing Aotearoa for all.

Mauri tū, mauri ora,

**Shaun Robinson**  
Chief Executive

## References

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- <sup>i</sup> Te One, A., Clifford, C. (2021). Tino Rangatiratanga and Well-being: Māori Self Determination in the Face of COVID-19. *Sec. Medical Sociology*, 6. <https://doi.org/10.3389/fsoc.2021.613340>
- <sup>ii</sup> Mental Health Foundation of New Zealand. (n.d.). *Factsheet - Mauri ora: Promoting Māori mental wellbeing*. <https://mentalhealth.org.nz/resources/resource/factsheet-mauri-ora-promoting-maori-mental-wellbeing>
- <sup>iii</sup> Russell, L. (2018). *Te Oranga Hinengaro: Report on Māori Mental Wellbeing Results from the New Zealand Mental Health Monitor & Health and Lifestyles Survey*. Health Promotion Agency/Te Hiringa Hauora. <https://terauora.com/te-oranga-hinengaro-maori-mental-wellbeing/>
- <sup>iv</sup> *Tribunal releases Chapter 6 of the report Ngā Mātāpono/The Principles*. Waitangi Tribunal. (2024, November 6). <https://www.waitangitribunal.govt.nz/en/news-2/all-articles/news/tribunal-releases-chapter-6>