**SUBMISSION TO THE EXPERT MECHANISM ON THE RIGHTS OF INDIGENOUS PEOPLES TO CONTRIBUTE TO ITS STUDY ON THE RIGHTS OF THE INDIGENOUS CHILD UNDER THE UN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES**

**Introduction**

The Aotearoa Centre for Indigenous Peoples and the Law (the Centre) welcomes the Expert Mechanism on the Rights of Indigenous Peoples’ (EMRIP) Study on the rights of the Indigenous child under the UN Declaration on the Rights of Indigenous Peoples (Indigenous Declaration). The Centre considers this a significant topic, which requires much needed analysis and thought to promote a better understanding of Indigenous children’s rights - most importantly by states. We are honoured to contribute to this study by providing this submission on the situation of tamariki Māori, the Indigenous children of Aotearoa New Zealand (Aotearoa).

There are many issues to speak to, as well as promising solutions, when it comes to the situation of tamariki Māori in Aotearoa. The Centre focuses on the invovlement of tamariki Māori in the care and protection system. We explore the extent to which Indigenous children’s rights, and their communities’ right to determine the best ways to realise them, are protected in Aotearoa.

To ensure the EMRIP also has an overview of the other significant and pervasive disparities that tamariki Māori and their whānau (families) face in Aotearoa beyond care and protection issues, we also speak briefly to how tamariki Māori are faring when it comes to other Indigenous children’s rights. We demonstrate how the disparities experienced by tamariki Māori are interlinked and compound on one another and so must be addressed in a holistic way. As is the experience for many Indigenous children around the world, we also highlight that the rights of tamariki Māori are significantly impacted by the racism and discrimination they face and the history of colonisation in Aotearoa.

We also provide some key examples of ‘by Māori, for Māori’ initiatives that seek to address the key issues tamariki Māori face. These reinforce the main thesis of our submission – that for tamariki Māori rights to be achieved in Aotearoa, Māori tino rangatiratanga (authority, self-determination) must first be prioritised. This means that Māori, as the Indigenous peoples of Aotearoa, must lead, develop and inform all policy, programmes and responses that relate to tamariki Māori if the disparities they face are to be addressed and their future wellbeing and potential is to be secured.

**Background**

The rights of tamariki Māori in Aotearoa are underpinned by three key instruments - Te Tiriti o Waitangi (te Tiriti), the Indigenous Declaration and the Convention on the Rights of the Child (CRC).

Te Tiriti is Aotearoa’s founding document. It was an agreement between Pākehā (British settlers) and some Māori chiefs. Te Tiriti provides the Crown with rights to govern while at the same time guaranteeing Māori tino rangatiratanga/self-determination over our own peoples and protection of our lands, resources and taonga (highly prized things, which include tamariki Māori). Māori, including tamariki Māori, were also granted equal rights to British citizens.

In assessing whether the rights of tamariki Māori under te Tiriti, the Indigenous Declaration and the CRC have been fulfilled in Aotearoa or, if not, and whether the right conditions exist to ensure they will be fulfilled in the future, it is equally important to consider the context in which tamariki Māori live today and the historical trauma which they have inherited.

Despite the promises of te Tiriti, it was largely dishonoured by the British settler government and successive New Zealand governments. Instead, through an active process of colonisation and assimilation, which remains in play today, Māori were stripped of their land and resources, depriving them of their cultural, spiritual and economic base and their use of Te Reo Māori (Māori language) and mātauranga Māori (Māori knowledge). Tikanga Māori (Māori customs) was supressed and whānau, hapū and iwi structures were undermined, leading to the widescale fragmentation of Māori society on multiple levels. Over the past 180 years, since the signing of te Tiriti, Māori have also faced, and continue to face, ongoing racism and discrimination in all aspects of life.

As a result, today’s tamariki Māori experience significant and pervasive inequities, which find their root in colonisation and are sustained to the present day by institutional racism.

Until Māori tino rangatiratanga/self-determinaton is achieved, the way the state system in Aotearoa currently responds to situations involving tamariki Māori and their whānau needs to change immediately. At a minimum, a co-governance approach with Māori to deliver services for tamariki Māori that incorporates te Ao Māori (Māori world view) and reflects the guarantees of te Tiriti must be prioritised.

In tandem with this transformation in approach, there also needs to be system and society-wide reform in Aotearoa to tackle racism if the discrimination and inequities tamariki Māori face are to be addressed.

**Tamariki Māori as taonga**

Tamariki Māori are taonga, or highly prized, in Māori culture. ‘Tama’ is derived from Tama-te-rā - the central sun, the divine spark - while ariki refers to their chiefly status.[[1]](#footnote-1) Tamariki Māori are perceived both as the ‘binding rope that ties people together over time’ and the ‘genealogical link’ that enhances family relationships. The child is a living connection to the family – past, present and future – a living embodied of ancestors, and a link in descent lines stretching from the beginning of time into the future.[[2]](#footnote-2)

**Case study – the care and protection of tamariki Māori in Aotearoa**

The authority of Māori, as Indigenous peoples, to take responsibility for the care and protection of tamariki Māori is recognised in the Indigenous Declaration and is a key expression of the right to self-determination. This authority is also affirmed in te Tiriti, which guarantees the right of Māori to tino rangatiratanga/self-determination, including their family organisation and the care and protection of tamariki Māori. Additionally, the rights of tamariki Māori, as Indigenous children, to be raised by their own community and to maintain their culture are protected under the CRC.

State intervention in the care and protection of tamariki Māori

The extent to which Māori have achieved their right to determine what is in the best interests of their tamariki is brought in stark relief when the overrepresentation of tamariki Māori in Aotearoa’s state care system is considered.

As experienced by other Indigenous cultures around the world, tamariki Māori are overrepresented in Aotearoa’s State care system and this is a situation that has persisted across decades and is linked to colonisation. As of December 2020, tamariki Māori make up 68% of children in State care[[3]](#footnote-3) even though Māori only constitute 16.7% of New Zealand’s population.[[4]](#footnote-4) Pepi Māori (Māori babies) are five times more likely to be taken into state custody than non-Māori babies.[[5]](#footnote-5)

The high removal rate of tamariki Māori into state care is a topical issue in Aotearoa, brought to fore by the highly publicised ‘uplift’ of a newborn pēpi Māori in 2019. The removal triggered five high-level reviews and inquiries into Oranga Tamariki – the government ministry charged with the care and protection of children - and its removal policies and practices relating to pēpi Maori.[[6]](#footnote-6) Overall, these reviews found that tamariki Māori were removed by the state at a much higher rate than non-Māori children, that removals powers were often used in non-urgent cases, removals were made at short notice and without adequate or timely consideration of alternative options, and with little or no involvement of Māori whānau. Additionally, actors within the state care system – from social workers through to the judiciary – lack the cultural capacity or appropriate training, tools and guidelines to work effectively with Māori whānau and protect their Tiriti and Indigenous Declaration rights to maintain family unity and connection to culture. This review process also brought to light the ’subsequent children’ provision, which provides that parents who had a child removed from their care will be assessed by the state if they get pregnant again, and that baby can be taken too.[[7]](#footnote-7)

Through these different reviews, Māori whānau were consulted and regularly reported: the trauma they experienced from losing custody of tamariki Māori, and the intergenerational impacts of state care removal; the discrimination and the prejudice they experienced across the state care system; and, their fear of being reported and coming to the attention of the system, making them highly vulnerable to having their children removed without notice.[[8]](#footnote-8)

The reviews overwhelming called for a complete overhaul of the Oranga Tamariki system and a wholescale transformation in approach, which sees the transfer of responsibility, resources and power to Māori so they lead on deciding how to best to manage the care and protection of tamariki Māori from a Ao Māori perspective. Potential solutions proposed by Māori include replacing Oranga Tamariki with an independent Māori authority, similar to the Māori Council or Whānau Ora models; others are calling for an interim Māori authority to be established to take over the care and protection of tamariki Māori while all possible options are considered.[[9]](#footnote-9)

In the aftermath of these reviews, the Chief Executive Officer of Oranga Tamariki resigned and a ministerial advisory board of high-profile Māori leaders was established to advise the Children’s Minister on the agency's relationships with families, whānau, and Māori, professional social work practices and organisational culture.

We now await the outcomes of the Waitangi Tribunal inquiry, which is the fifth and final review on state care removals. As the Waitangi Tribunal has the authority to find that government actions have breached the promises in te Tiriti and make recommendations on how to ameliorate these breaches, its findings in relation to the removal of tamariki Māori into state care will provide a clear direction on what duties the government owes to tamariki Māori and their whānau, hapū and iwi under te Tiriti, what omissions it made in the removal of tamariki Māori into state care and what actions is should take to prevent te Tiriti breaches in the future.

A legacy of Indigenous child removal

The recent events outlined above sit in the foreground of a long history of tamariki Māori removal in Aotearoa. A Royal Commission of Inquiry was recently established in Aotearoa to investigate abuse in State care and faith-based institutions.[[10]](#footnote-10) A key part of the Commission’s mandate is to inquire into the specific experience of Māori, the harm they suffered and the impact of abuse on individual Māori, whānau and the wider Māori community, including intergenerational impacts. In its interim report,[[11]](#footnote-11) released in late 2020, the Royal Commission confirmed that Māori have been overrepresented in State care for generations and disproportionately subjected to abuse. The taking of so many tamariki Māori into State care, over generations, has also damaged Māori communities and struck at the heart of tikanga Māori and tino rangatiratanga/self-determination. Over the course of its inquiry, the Royal Commission will continue to consider the extent to which the New Zealand government honoured its obligations under te Tiriti and the Indigenous Declaration when it removed tamariki Māori into state care and how they were treated while in care and will make findings and recommendations in 2023, including redress options for Māori.

Potential for change – new legislation

In tandem with the momentum for change created by the multiple reviews and inquiries into removal of tamariki Māori into state care, recent changes to Aotearoa’s care and protection legislation also represent a significant step towards advancing the rights of tamariki Māori and their whānau under te Tiriti, the Indigenous Declaration and the CRC.

Specifically, there is now repeated recognition of tikanga Māori concepts throughout the legislation, requiring decision-makers to take into account the mana tamaiti (deep intrinsic worth and human potential), whakapapa (ancestry, genealogy) and whanaungatanga (relationship, kinship, sense of family connection) of tamariki Māori. These provisions oblige decision-makers to see tamariki Māori within the wider context of their whānau, hapū and iwi and the central role that cultural identity plays in their wellbeing. The legislation now also encourages the Chief Executive Officer of Oranga Tamariki to broker ‘strategic partnerships’ with iwi and Māori organisations to provide for their direct involvement in the care and protection on tamariki Māori. The legislation also incorporates the CRC and includes significantly strengthened child participation provisions, including the requirement for judges to explain their decisions to tamariki Māori and how they will be affected. A judge must also include the views of tamariki Māori in their written decision and, if not followed, their reasons for not doing so.[[12]](#footnote-12) Additionally, under new National Care Standards, when tamariki Māori are taken into care an assessment must be undertaken and plan developed to provide for, among other things, how they will maintain contact with their whānau, hapū and iwi and connection to their culture. Whether Oranga Tamariki is meeting these standards will be regularly scrutinised by the Independent Children’s Monitor.[[13]](#footnote-13)

While these changes are significant, at the same time it is important to acknowledge we have been here before – over 30 years ago in the wake of the ground-breaking Pūao-te-Ata-Tū report,[[14]](#footnote-14) Aotearoa’s care and protection legislation was amended to require decision-makers to see tamariki Māori not in isolation but in the context of their wider whānau, hapū and iwi, to ensure that connections of whānau, hapū and iwi were maintained and strengthened, and for Māori to be involved in decisions affecting their children.

*"At the heart of the issue is a profound misunderstanding or ignorance of the place of the child in Māori society and its relationship with whānau, hapū, iwi structures.” -* Department of Social Welfare Māori Ministerial Advisory Committee, Pūao-te-Ata-Tū report, 1988

A decade later, the Family Court[[15]](#footnote-15) – in recognising that te Tiriti protected Māori family organisation and that all legislation dealing with the status, future, and control of children must be interpreted and coloured by it – then laid the foundation for its judges to develop a body of jurisprudence that would take an Indigenous rights-informed approach to determining placement outcomes for tamariki Māori and their whānau.[[16]](#footnote-16)

However, as the persistent over-representation of tamariki Māori in state care shows, the potential of these shifts in legislation and judicial thinking in the late 1980s and 1990s were never fully realised.

While the reasons for this are varied,[[17]](#footnote-17) the overwhelming issue is that Māori have never been front and centre in the design and implementation of the care and protection response – as system leaders, as social workers, as lawyers, as judges and as care providers. This has led to the care and protection system remaining Pākehā-centric and lacking the te Ao Māori-led approach needed to make a step-change for tamariki Māori.

As we advocate for in this submission, this will only be achieved if Māori lead, develop and inform all policy, programmes and responses that relate to tamariki Māori. While this vision is being realised, the state system needs improve and undergo a wholescale transformation to co-govern with Māori and embed te Ao Māori in all policies, practices and programming that impact on tamariki Māori dnd their whānau.

We acknowledge that Oranga Tamariki is undertaking to change its policies and practices as they relate to tamariki Māori[[18]](#footnote-18) and this process is will hopefully be accelerated by its Acting Chief Executive and the newly established ministerial advisory board.

As the ultimate decision to remove tamariki Māori from their whānau sits with Aotearoa’s Family Court, we note there is an equally pressing need for Family Court judges to be better equipped to appropriately assess the rights of tamariki Māori and their whānau under te Tiriti, the Indigenous Declaration and the CRC when they are making critical decisions about the placement or removal of tamariki Māori. Family Court judges need better guidance either through training or legislative amendment on how to assess the best interests of tamariki Māori in a way that takes into account their rights to community and culture under te Tiriti, the Indigenous Declaration and the CRC. Otherwise there is a risk that Western concepts of what is in the best interests of individual tamariki Māori will continue to trump the equally important consideration of maintaining Indigenous communities and honouring the self-determination guarantees under te Tiriti and the Indigenous Declaration.

As a recent study shows,[[19]](#footnote-19) the Family Court is missing the mark in these respects and, as acknowledged by Principal Family Court Judge Jacquelyn Moran, the Family Court must change the way it undertakes care and protection work to promote and facilitate engagement with whānau and achieve better outcomes for tamariki Māori.[[20]](#footnote-20)

The changes in Aotearoa’s care and protection laws, as outlined above, are a clear signal to the judiciary to more actively interpret the law in favour of ensuring tamariki Māori stay within their whānau, hapū or iwi group and that such decisions must always promote their best interests and welfare as Indigenous children.[[21]](#footnote-21)

To these ends, Aotearoa should consider following the lead of other countries with Indigenous populations (such as Australia and Canada[[22]](#footnote-22)) and develop Indigenous-specific rules or principles for the judiciary to ensure tamariki Māori are always placed within their wider family or hapū or iwi group, are only placed in non-kin or state care as a last resort and these decisions are made in partnership with the relevant Māori authorities.

At the same time, enabling a process that facilitates tikanga-consistent outcomes in Aotearoa’s Family Court must be prioritised. While further consideration is needed on the most effective approach to reach this end, potential options may include the establishment of specialist courts to determine what is in the best interests of tamariki Māori, which are presided over by Māori judges with tikanga Māori expertise or a representative decision-making panel.[[23]](#footnote-23)

**Other key disparities faced by tamariki Māori**

While we have focussed our submission on the experience of tamariki Māori and their whānau in Aotearoa’s care and protection system, we also want to highlight for the EMRIP other key areas where the rights of tamariki Māori as guaranteed under te Tiriti, the Indigenous Declaration and the CRC are also neglected. Like their overrepresentation in state care, the additional disparities experienced by tamarki Māori are linked to colonisation and the discrimination they face when interacting with a Pākehā-led system and Pākehā dominant society. As detailed below, these disparities are closely interlinked and make tamariki Māori highly vulnerable to becoming involved in the state care and youth justice systems.

Child poverty

* Tamariki Māori and their whānau experience high levels of poverty in Aotearoa. According to recent child poverty statistics,[[24]](#footnote-24) nearly 1 in 4 tamariki Māori live in material hardship compared to just over 1 in 10 children overall.
* This means that 1 in 4 tamariki Māori are lacking more than six of 17 essential items, including fresh fruit and vegetables, clothing, heating or access to doctors’ visits.
* As a consequence, they experience the highest prevalence of food insecurity[[25]](#footnote-25) and, due to poor nutrition diets, are 1.6 times to be obese compared to non-Māori children.[[26]](#footnote-26)

*Link between poverty and overrepresentation of tamariki Māori in state care:*

* Tamariki Māori are 3.4 times more likely to be brought to the attention of the state (through a ‘report of concern’) compared to non-Māori children.[[27]](#footnote-27) Low parental income was found to have a significant association with more tamariki Māori being involved at this stage and then moving through the care and protection system compared to non-Māori children.

*Link between discrimination and overrepresentation of tamariki Māori in state care:*

* In the study noted above, after controlling for socio-economic and other factors, tamariki Māori were still 1.2 times more likely to be subject to a ‘report of concern’ compared to non-Māori children, suggesting their ethnicity was a key factor at play.
* Similar findings were also made in another study – strong disparities for tamariki Māori in their involvement with the care and protection system remained regardless of economic status. While the reason for the disparity was not clear from the data, the study authors noted the findings signal that tamariki Māori are likely to be treated differently in the care and protection system and an ethnic or cultural bias exists in communities in terms of reporting Māori to child protection services and the treatment of whānau within those services.[[28]](#footnote-28)

Health

Poverty is also affecting tamariki Māori in a range of other ways. For example, it is closely linked to the persistent health inequities tamariki Māori face.[[29]](#footnote-29)

* Compared to non-Māori children, tamariki Māori experience higher rates of health risks across most categories. In particular, tamariki Māori experience large and persistent inequalities in oral, respiratory, and skin health.[[30]](#footnote-30)
* Due to poverty, tamariki Māori are also less likely to access healthcare compared to non-Māori children,[[31]](#footnote-31) are more likely to be admitted to hospital with preventable illnesses and twice as likely to die from treatable conditions.[[32]](#footnote-32)
* Tamariki Māori also have high mortality rates compared to other ethnic groups and children living in the most deprived areas in New Zealand and are 2.5 times more likely to die than children living in the least deprived areas.[[33]](#footnote-33)

Housing

Due to poverty, tamariki Māori are also more likely to live in substandard and unhealthy housing. This is due to a housing crisis in Aotearoa, which the UN Special Rapporteur on the Right to Adequate Housing recently called a “human rights crisis”.[[34]](#footnote-34)

* Māori represent 60% of people who receive emergency accommodation grants and they make up 36% of social housing tenants.[[35]](#footnote-35)
* Māori are four times more likely to live in overcrowded housing conditions than non-Māori[[36]](#footnote-36) and 40% of Māori live in damp homes compared to 24% of non-Māori.[[37]](#footnote-37)
* This has led to higher rates of acute respiratory conditions in tamariki Māori.[[38]](#footnote-38) A recent study found that 20% of hospital admissions of young children with acute respiratory infections could be prevented if their houses were free from damp and mould.[[39]](#footnote-39)

Youth suicide

* Between 2013-2017, suicide was the leading cause of intentional deaths in tamariki Māori from age 10 years upwards.
* Studies show that tamariki Māori suicide rates grow consistently higher with increasing deprivation,[[40]](#footnote-40) poor healthcare access[[41]](#footnote-41) and exposure to discrimination.[[42]](#footnote-42)
* Additionally, 46% of tamariki Māori who died by suicide had a care and protection notification at some point in their lives.[[43]](#footnote-43)

Youth justice

* Tamariki Māori continue to be overrepresented in the youth justice system, making up 62% of children and young people who appear in court.[[44]](#footnote-44)
* There are clear links between the offending of tamariki Māori and neurodisability, alienation from whānau, school and community, substance abuse and family violence.[[45]](#footnote-45)
* 83% of young people starting a prison sentence before the age of 20 had prior State care involvement.[[46]](#footnote-46)

**Examples of ‘by Māori for Māori approaches’ or promising practices**

Care and protection

* **Iwi Strategic Partnerships:** since July 2019, Oranga Tamariki is developing partnerships with iwi and Māori organisations to improve outcomes for tamariki Māori by working “in partnership together to design new services, to better involve whānau, hapū and iwi in decision-making, and to delegate accountabilities and power”. So far, Oranga Tamariki has entered into strategic partnerships with four iwi and two Maori organisations.[[47]](#footnote-47) While it is still early days, the hope is that these partnerships provide a sustainable and good model for the future.
* **Specialist Māori roles in Oranga Tamariki:** specialist Māori roles, referred to as ‘weaver of family connections’, have been created within Oranga Tamariki to facilitate the early engagement of tamariki and their whānau in the care and protection process, prioritise whānau opportunities for placement and support tamariki to maintain their cultural connections while in care. According to a recent evaluation, these roles provide a promising way to engage and support tamariki and whānau as they navigate the care and protection system and have the potential to contribute to improved outcomes for tamariki Māori over time.[[48]](#footnote-48)

Health

* **Independent Māori Health Authority**: as a direct result of the Waitangi Tribunal’s recent Māori health inquiry,[[49]](#footnote-49) which found that the government breached te Tiriti by failing to design and administer the current primary health care system to actively address persistent Māori health inequities and give effect to tino rangatiratanga, the government has agreed to establish an independent agency that will oversee Māori health. While Māori claimants welcome this news, they seek a commitment that it will be independent, with control over its own budget and power to commission its own services.[[50]](#footnote-50)
* **Whānau Ora**: Whānau Ora, a whānau-centred approach to supporting whānau wellbeing and development, was created in response to a recognition by government that standard ways of delivering social and health services was not working and outcomes particularly for Māori whānau were not improving. Whānau Ora Commissioning Agencies work with Māori communities to determine the best ways to support their development. A key component of the Whānau Ora approach are Kaiārahi, or Navigators, who work closely with whānau to identify their specific needs and aspirations then help identify the services, education providers or employment and business opportunities.[[51]](#footnote-51)

Youth Justice

* **Rangatahi Courts:** Rangatahi courts were established to reduce reoffending by rangatahi Māori (Māori youth) and to provide the best possible rehabilitative response, by encouraging strong cultural links and meaningfully involvement of whānau, hapū and iwi in the youth justice process. They are held on a marae (Māori meeting place), are presided over by a Youth Court judge, facilitated by Māori kaumātua or kuia (Māori elders) and follow tikanga Māori.As a recent evaluation shows,Rangatahi Courts helped rangatahi Māori connect with their cultural identity, engage with their local marae community and find positive role models, which in turn encouraged positive behaviour such as active engagement with the court process.[[52]](#footnote-52)

**Conclusion**

As we have advocated for throughout this submission, we strongly believe that the inequities tamariki Māori face can be addressed if Māori lead on the design, development and implementation of all policy, programmes and responses that relate to tamariki Māori.

1. As said by Dr Rose Pere and cited in King, P., Cormack, D. & Kōpua, M. (2018). [Oranga mokopuna: A tāngata whenua rights-based approach to health and wellbeing](http://www.journal.mai.ac.nz/sites/default/files/MAIJrnl_7_2_King_FINAL.pdf). [↑](#footnote-ref-1)
2. Rameka, L. (2016)[. Kia whakatōmuri te haere whakamua: ‘I wallk backwards into the future with my eyes fixed on the my past](https://core.ac.uk/reader/85165388). [↑](#footnote-ref-2)
3. See [Care and protection – statistics | Oranga Tamariki — Ministry for Children](https://www.orangatamariki.govt.nz/about-us/reports-and-releases/quarterly-report/care-and-protection-statistics/). For the total number of tamariki Māori in care we have combined the number of children who identify as “Māori” (57%) and “Māori & Pacific” (11%). [↑](#footnote-ref-3)
4. See [Māori population estimates: At 30 June 2020 | Stats NZ](https://www.stats.govt.nz/information-releases/maori-population-estimates-at-30-june-2020). [↑](#footnote-ref-4)
5. See [Infographic – Pēpi Māori 0-3 Months And The Care And Protection System](https://www.occ.org.nz/assets/Uploads/20200116-OCC-Infographic2.pdf). [↑](#footnote-ref-5)
6. These inquiries include an Oranga Tamariki’s internal [practice review](https://www.orangatamariki.govt.nz/assets/Uploads/About-us/News/2019/Practice-Review/Hawkes-Bay-Practice-Review.pdf), the [Māori-led Inquiry into Oranga Tamariki](https://whanauora.nz/assets/6f126cc001/ORANGA-TAMARIKI-REVIEW-REPORT.pdf) and independent inquiries by both the [Children’s Commissioner](https://www.occ.org.nz/publications/reports/tktm-report-2/) and the [Chief Ombudsman](https://www.ombudsman.parliament.nz/news/newborn-removal-without-notice-more-routine-exception-chief-ombudsman). A Waitangi Tribunal urgent inquiry into the consistency of Oranga Tamariki policies and practice with te Tiriti is also underway. [↑](#footnote-ref-6)
7. The New Zealand Government has recently decided to repeal this provision as it relates to cases where a parent had a previous child permanently taken into care. It will continue to apply where a parent has a conviction for the murder, manslaughter or infanticide of a child in their care. [↑](#footnote-ref-7)
8. See [Te Mura o Te Ahi, Fighting for our Tamariki: A Collection of Whānau Stories produced as a part of the Māori Inquiry into Oranga Tamariki](https://whanauora.nz/assets/3896cf4580/WHANAU-VOICES-REPORT.pdf). [↑](#footnote-ref-8)
9. See [Oranga Tamariki beyond repair and needs careful replacement, Waitangi Tribunal told | Stuff.co.nz](https://www.stuff.co.nz/national/300231507/oranga-tamariki-beyond-repair-and-needs-careful-replacement-waitangi-tribunal-told) [↑](#footnote-ref-9)
10. See [Home | Abuse in Care - Royal Commission of Inquiry](https://www.abuseincare.org.nz/). [↑](#footnote-ref-10)
11. See [Reports | Abuse in Care - Royal Commission of Inquiry](https://www.abuseincare.org.nz/reports/). [↑](#footnote-ref-11)
12. Otene, S. Te Hurihanga Tuarua? Examining amendments to the Oranga Tamariki Act 1989 that took effect on 1 July 2019. (2019) 9 NZFLJ 139. [↑](#footnote-ref-12)
13. For more information, please see [Independent Children’s Monitor](https://www.icm.org.nz/). [↑](#footnote-ref-13)
14. See [Pūao-Te-Ata-Tū (Day break): the Report of the Ministerial Advisory Committee on a Maori Perspective for the Department Of Social Welfare](https://www.msd.govt.nz/documents/about-msd-and-our-work/publications-resources/archive/1988-puaoteatatu.pdf) (1988). The task of the Committee was to advise the Minister on how the Department could meet the needs of Māori in policy, planning and service delivery and its recommendations were based upon feedback gathered in hui around the country. The report recognised that the social issues facing Māori resulted from failing systems of state provision underpinned by a broader context of colonisation, racism and structural inequality. For further background, please see Boulton, A., Levy, M. & Cvitanovic, L. (2020). [Beyond Pūao-Te-Ata-Tū: Realising the Promise of a New Day](http://www.maramatanga.ac.nz/te-arotahi-06). [↑](#footnote-ref-14)
15. *Barton-Prescott v Director-General of Social Welfare* [1997] 3 NZLR 179 (HC). [↑](#footnote-ref-15)
16. Otene, S. Te Hurihanga Tuarua? Examining amendments to the Oranga Tamariki Act 1989 that took effect on 1 July 2019. (2019) 9 NZFLJ 139. [↑](#footnote-ref-16)
17. For a detailed overview of this 30-year period, please see pp.32-39 of [Māori-led Inquiry into Oranga Tamariki](https://whanauora.nz/assets/6f126cc001/ORANGA-TAMARIKI-REVIEW-REPORT.pdf) report. [↑](#footnote-ref-17)
18. For further information on the steps Oranga Tamariki is taking, please see [Improving outcomes for tamariki Māori, their whānau, hapū and iwi: Section 7AA report](file:///C:/Users/ccha206/Google%20Drive/Indigenous%20and%20the%20law%20centre/EM%20Children%20study%20submission%20Mar2021/S7AA-Improving-outcomes-for-tamariki-Maori.pdf%20(orangatamariki.govt.nz)). [↑](#footnote-ref-18)
19. Boulton, A., Cvitanovic, L, Wikaira, M. and Williams Blyth,T. (2020) [Te Taniwha I Te Ao Ture-ā-Whānau, Whānau Experience of Care and Protection in the Family Court](https://www.whakauae.co.nz/blog-item/104/). [↑](#footnote-ref-19)
20. See [Children's care or protection: Calls for radical changes to be made to Family Court - NZ Herald](https://www.nzherald.co.nz/nz/childrens-care-or-protection-calls-for-radical-changes-to-be-made-to-family-court/WNMPVAING77IDWJDEKPAOOKSCY/) [↑](#footnote-ref-20)
21. Otene, S. Te Hurihanga Tuarua? Examining amendments to the Oranga Tamariki Act 1989 that took effect on 1 July 2019. (2019) 9 NZFLJ 139. [↑](#footnote-ref-21)
22. ## For example, Australia’s Aboriginal Child Placement Principle and Canada’s Act respecting First Nations, Inuit and Métis children, youth and families.

    [↑](#footnote-ref-22)
23. A recent study of Māori whānau experience of care and protection proceedings in the Family Court called for the establishment of a Board, equally representative of Māori and non-Māori, to facilitate non-urgent care and protection proceedings. See Boulton, A., Cvitanovic, L, Wikaira, M. and Williams Blyth,T. (2020). [Te Taniwha I Te Ao Ture-ā-Whānau, Whānau Experience of Care and Protection in the Family Court](https://www.whakauae.co.nz/blog-item/104/). [↑](#footnote-ref-23)
24. See <https://www.stats.govt.nz/news/latest-release-of-child-poverty-statistics>. Please note these statistics are pre-COVID. [↑](#footnote-ref-24)
25. Ministry of Health. (2019). [Household Food Insecurity among Children: New Zealand Health Survey](https://www.health.govt.nz/publication/household-food-insecurity-among-children-new-zealand-health-survey). [↑](#footnote-ref-25)
26. See the ‘Key Indicators’ section in the [New Zealand Health Survey Annual Data Explorer](https://minhealthnz.shinyapps.io/nz-health-survey-2018-19-annual-data-explorer/_w_f1f0c9a6/#!/home). [↑](#footnote-ref-26)
27. Oranga Tamariki. (2020). [Factors Associated with Disparities Experienced by Tamariki Māori in the Care And Protection System](https://orangatamariki.govt.nz/assets/Uploads/About-us/Research/Latest-research/Factors-associated-with-disparities/Updated-Factors-associated-with-disparities-experienced-by-tamariki-Maori/Updated-Factors-Associated-with-Maori-Ethnic-Disparities-in-the-Care-and-Protection-System.pdf). [↑](#footnote-ref-27)
28. See [New research: Ethnic disparities in Child Protection NZ - Centre for Social Data Analytics - AUT](https://csda.aut.ac.nz/news-and-events/2019/new-research-ethnic-disparities-in-child-protection-nz). [↑](#footnote-ref-28)
29. Cure Kids. (2020). [State of Child Health in Aotearoa New Zealand](https://curekids.org.nz/state-of-child-health/). [↑](#footnote-ref-29)
30. Royal Australasian College of Physicians. (2020). [Indigenous Child Health in Australia and Aotearoa New Zealand](https://www.racp.edu.au/docs/default-source/advocacy-library/indigenous-ch-statement-on-ich.pdf?sfvrsn=450ef91a_7). For more information, please see tables on pp.13-15 of this report. [↑](#footnote-ref-30)
31. Royal Australasian College of Physicians. (2020). [Indigenous Child Health in Australia and Aotearoa New Zealand](https://www.racp.edu.au/docs/default-source/advocacy-library/indigenous-ch-statement-on-ich.pdf?sfvrsn=450ef91a_7). [↑](#footnote-ref-31)
32. Mills, C., Reid, P. & Vaithianathan, R. (2012). [The cost of child health inequalities in Aotearoa New Zealand: A preliminary scoping study](https://www.researchgate.net/publication/225068132_The_cost_of_child_health_inequalities_in_Aotearoa_New_Zealand_A_preliminary_scoping_study). [↑](#footnote-ref-32)
33. Child and Youth Mortality Review Committee. (2019). [14th data report 2013-17](https://www.hqsc.govt.nz/assets/CYMRC/Publications/CYMRC-14th-data-report-2013-17-final-June2019.pdf). [↑](#footnote-ref-33)
34. See [End of Mission Statement: Visit of the Special Rapporteur on the right to adequate housing to New Zealand](https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25574&LangID=E). [↑](#footnote-ref-34)
35. Ibid. [↑](#footnote-ref-35)
36. Ibid. [↑](#footnote-ref-36)
37. Ibid. [↑](#footnote-ref-37)
38. Royal Australasian College of Physicians. (2020). [Indigenous Child Health in Australia and Aotearoa New Zealand](https://www.racp.edu.au/docs/default-source/advocacy-library/indigenous-ch-statement-on-ich.pdf?sfvrsn=450ef91a_7). [↑](#footnote-ref-38)
39. Ingham, T., Keall, M., Jones, B., et al. (2019). [Damp mouldy housing and early childhood hospital admissions for acute respiratory infection: a case control study](https://thorax.bmj.com/content/74/9/849). [↑](#footnote-ref-39)
40. Child and Youth Mortality Review Committee. (2019). [14th data report 2013-17](https://www.hqsc.govt.nz/assets/CYMRC/Publications/CYMRC-14th-data-report-2013-17-final-June2019.pdf). [↑](#footnote-ref-40)
41. Clark, T., Robinson, E., Crengle, S., Fleming, T., Ameratunga, S., Denny, S., Bearinger, L., Sieving, R. & Saewyc, E. (2011). [Risk and Protective Factors for Suicide Attempt Among Indigenous Māori Youth in New Zealand: The Role of Family Connection](https://www.researchgate.net/publication/225574559_Risk_and_Protective_Factors_for_Suicide_Attempt_Among_Indigenous_Maori_Youth_in_New_Zealand_The_Role_of_Family_Connection). [↑](#footnote-ref-41)
42. Williams, A., Clark, T. & Lewycka, S. (2018). [The Associations Between Cultural Identity and Mental Health Outcomes for Indigenous Māori Youth in New Zealand](https://www.researchgate.net/publication/328915710_The_Associations_Between_Cultural_Identity_and_Mental_Health_Outcomes_for_Indigenous_Maori_Youth_in_New_Zealand); Clark, T., Robinson, E., Crengle, S., Fleming, T., Ameratunga, S., Denny, S., Bearinger, L., Sieving, R. & Saewyc, E. (2011). [Risk and Protective Factors for Suicide Attempt Among Indigenous Māori Youth in New Zealand: The Role of Family Connection](https://www.researchgate.net/publication/225574559_Risk_and_Protective_Factors_for_Suicide_Attempt_Among_Indigenous_Maori_Youth_in_New_Zealand_The_Role_of_Family_Connection). [↑](#footnote-ref-42)
43. Health Quality & Safety Commission (2020). [Te Mauri, The Life Force – Rangatahi Suicide Report](file:///C:/Users/ccha206/Google%20Drive/Indigenous%20and%20the%20law%20centre/EM%20Children%20study%20submission%20Mar2021/TeMauriTheLifeForce_final.pdf%20(hqsc.govt.nz)). [↑](#footnote-ref-43)
44. Ministry of Justice. (2020). [Trends in children and young people in court](https://www.justice.govt.nz/assets/Documents/Publications/yhcm65-Children-and-young-people-infographic-jun2020-v1.0.pdf). [↑](#footnote-ref-44)
45. Office of the Prime Minister’s Chief Science Advisor. (2018). [It’s never too early, never too late: A discussion paper on preventing youth offending in New Zealand](https://www.pmcsa.org.nz/wp-content/uploads/Discussion-paper-on-preventing-youth-offending-in-NZ.pdf#_blank). [↑](#footnote-ref-45)
46. Ministry of Social Development Centre for Social Research and Evaluation. (2010). [Crossover between child protection and youth justice, and transition to the adult system](https://fyi.org.nz/request/9568/response/32305/attach/html/2/R%20Crossover%20between%20child%20protection%20and%20youth%20justice%20and%20transition%20t....pdf.html). [↑](#footnote-ref-46)
47. For more information on each partnership, please see [Strategic partnerships with Māori | Oranga Tamariki — Ministry for Children](https://orangatamariki.govt.nz/about-us/how-we-work/strategic-partnerships-with-maori/). [↑](#footnote-ref-47)
48. For more information, please see [Specialist Māori roles: Evidence synthesis | Oranga Tamariki — Ministry for Children](https://www.orangatamariki.govt.nz/about-us/research/our-research/specialist-maori-roles-evidence-synthesis/). [↑](#footnote-ref-48)
49. See [Report on stage one of health services and outcomes released | Waitangi Tribunal](https://waitangitribunal.govt.nz/news/report-on-stage-one-of-health-services-and-outcomes-released/). [↑](#footnote-ref-49)
50. See [Independence of Māori Health Authority paramount - Lady Tureiti Moxon | RNZ News](https://www.rnz.co.nz/news/te-manu-korihi/437201/independence-of-maori-health-authority-paramount-lady-tureiti-moxon) [↑](#footnote-ref-50)
51. For more information on Whānau Ora, please see [About Whānau Ora](file:///C:/Users/ccha206/Google%20Drive/Indigenous%20and%20the%20law%20centre/EM%20Children%20study%20submission%20Mar2021/About%20Whānau%20Ora%20(tpk.govt.nz)). [↑](#footnote-ref-51)
52. Ministry of Justice. (2021). [Evaluation of the Early Outcomes of Ngā Kooti Rangatahi](https://www.justice.govt.nz/assets/Documents/Publications/Evaluation-of-Nga-Kooti-Rangatahi-FINAL-report-17-December-1.pdf). [↑](#footnote-ref-52)