

IN THE WAITANGI TRIBUNAL**WAI 2915
WAI 2941****IN THE MATTER** The Treaty of Waitangi Act 1975**AND****IN THE MATTER** of the Oranga Tamariki Urgent Inquiry (Wai 2915)**AND****IN THE MATTER** of a claim to the Waitangi Tribunal by Tureiti Moxon on behalf of the National Urban Māori Authority and its member Urban Māori Authorities in respect of the removal of Māori babies and children from their whānau by Oranga Tamariki (Wai 2941)

BRIEF OF EVIDENCE OF LADY TUREITI HAROMI MOXON**DATED 20 JULY 2020**

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Waitangi Tribunal

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WELLINGTON

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I, **LADY TUREITI HAROMI MOXON**, Chair of the National Urban Māori Authority and Managing Director of Te Kōhao Health Ltd, say:

Personal Background

1. My name is Lady Tureiti Haromi Moxon. I am of Ngāti Pāhauwera / Ngāti Kahungunu ki Te Wairoa and Kai Tahu descent. I was a negotiator for our Treaty Claim for Ngāti Pāhauwera which was settled in 2012 and I have been a Trustee of the Ngāti Pāhauwera Development and Tiaki Trusts since 2008.
2. I have been the Chair of the National Urban Māori Authority (“NUMA”) since 2017. NUMA is also the stakeholder of the Whānau Commissioning Agency.
3. There are four Urban Māori Authorities which are members of NUMA: Te Kōhao Health Limited, Te Rōpu Āwhina ki Porirua Trust, Te Whānau o Waipareira and Manukau Urban Māori Authority.
4. I have been the Managing Director of Te Kōhao Health Limited (“Te Kōhao”), a Māori Provider at based at Kirikiriroa Marae, since 2002.
5. NUMA, Te Kōhao Health and the three other member Urban Māori Authorities all work closely with whānau.
6. In Wai 2941, I brought a claim on behalf of all Māori, including myself, and on behalf of all governors, managers and staff of NUMA and its member Urban Māori Authorities and the whānau that they care for, in respect of the removal of Māori babies and children from their whānau by Oranga Tamariki.
7. I provide this evidence in support of my claim in Wai 2941, and the claim in the Oranga Tamariki Urgent Inquiry in Wai 2915.
8. I understand that this urgent inquiry is being heard in two parts. The contextual hearing is set down for 30 and 31 July 2020 and 7 August 2020. The rest of the hearing has been set down for October 2020.

9. In this brief, I do not propose to traverse all matters relevant to my claim and the inquiry, and further evidence will be filed later. However, I believe that for the purpose of the contextual hearing it is important that the Tribunal hear and consider evidence that is relevant to potential outcomes and recommendations following the inquiry.
10. This brief sets out my evidence regarding the capacity and capability of Māori to care for Māori babies and their whānau, and the success of this approach. I believe that caring for Māori babies and their whānau should be returned to Māori, and should not be left with the Crown.

Oranga Tamariki approach

11. The Tribunal will hear a lot of evidence in this inquiry about the inequitable, discriminatory and punitive approach of Oranga Tamariki to the removal of Māori children.
12. For example, when Oranga Tamariki removes Māori children from Māori families and puts them in the care of foster families, those families often get twice/thrice as much money as Māori parents for looking after those children, including allowances for clothing, education and entertainment for the children. However, the equivalent is not provided to Māori families when they need support. Any support that is offered to Māori parents by the Crown is protracted and impractical and requires further funds which Māori parents often do not have. For example, access to benefits from WINZ is often met with requests for marriage certificates and birth certificates. However obtaining these requires the spending of funds when funds are already limited. Māori parents who are suffering are prevented from accessing proper support to provide for their children. It is no wonder that when their children are taken from them those children look better off with a foster family - because the Crown generously funds that foster family.
13. If a member of the extended whānau wants to take responsibility for looking after the tamariki, either before or even once Oranga Tamariki has become involved, they also find it very hard to get any support. We

currently work with grandparents who are caring for multiple grandchildren with no government support from either WINZ or Oranga Tamariki.

14. The way Oranga Tamariki works actually stops Māori mothers seeking support if they need it because the mothers know that once Oranga Tamariki is involved they could lose their baby. Then if they lose one baby, all subsequent babies are at risk of being designated as “in need of care or protection”¹. This means that if they have any further children, Oranga Tamariki can take them away unless they satisfy Oranga Tamariki that they have met whatever requirements Oranga Tamariki imposes². The onus is placed on the mother to prove that she should be allowed to keep her own babies. In practice, Oranga Tamariki takes away baby after baby after baby from the same mother and they don't give them back.
15. The effects are devastating when our babies are taken. As the Tribunal will hear, when Māori children are removed from their parents' care and put into the care of the state, they are at grave risk of harm. Their removal does not just harm them, though; it undermines the whānau, the hapū, the iwi, which are the very foundation of Māori society. Furthermore, it destroys their whakapapa connection to their culture in that they do not know who they are, who they belong to and where they come from.
16. Removing tamariki from the breasts of their mothers is not only inhumane, Oranga Tamariki is doing to Māori what the Tohunga Suppression Act 1907 and the Native Schools Act 1867 did, which was to exert the dominance of Pākehā culture and language in Aotearoa New Zealand in order to colonise and assimilate Māori. For many whānau the intergenerational trauma that they have suffered at the hands of the state has caused irreversible damage and mental health issues over generations.

¹ Oranga Tamariki Act 1989, section 18B

² Oranga Tamariki Act 1989, section 18A

17. Oranga Tamariki uses threats and its position of power to make Māori whānau subservient and afraid. Whānau have no say or control over their own destiny. Oranga Tamariki has no understanding of Māori and does not want to because treating Māori as undeserving or as criminals in our own land makes it much easier to take our babies from us.
18. As I said, the Tribunal will hear other evidence like this, so I do not intend to add more at this stage.

By Māori, for Māori, with Māori

19. What I think is very important for the Tribunal to know as it hears about the horror of Oranga Tamariki is that an alternative to the way that Oranga Tamariki operates can be found in by Māori, for Māori, with Māori approaches.
20. By Māori, for Māori, with Māori approaches are based on our Māori world view. In a Māori world view, whakapapa is important to us because it connects us with our tupuna, whānau, hapū, whenua, iwi and marae. It is how we learn about our family history and trace our genealogy, and it is knowing who we are and where we're from. It is the core of matauranga Māori. Whakapapa provides us with our identity and gives us a place to stand. Māori babies, mokopuna, tamariki are part of a whānau.
21. A by Māori, for Māori, with Māori approach would work to support the whānau, to empower and support Māori parents to be the best parents that they can be. I want to give a couple of examples of what this could look like:
 - 21.1 A mother with a drug addiction would most likely have their baby taken from them by Oranga Tamariki. A by Māori, for Māori, with Māori approach would focus on her rehabilitation and healing. We would work with her to decide where to place her babies with whānau while she was undergoing that process. Where tamariki may need to be removed for their own safety this would be on a provisional basis only to enable holistic and

intensive work to be done strengthening the parent/s to reconnect with their tamariki in the future. Rather than punishing her and/or removing her children, the focus would be on empowering her to be a good parent and helping her look after herself so that she can then look after her children.

- 21.2 Oranga Tamariki often removes babies when mothers do not have permanent housing because of poverty. A by Māori, for Māori, with Māori approach would focus on assisting those mothers by providing funding to help them achieve their goal of finding housing. We would connect them to doctors/nurses to support the health of the children. We would spend our energy on helping them to keep their babies rather than punishing them for being poor.
22. These are only two examples to try to illustrate the difference. Also, there are wider issues at play here, that of course must be addressed. For example it is clear that an overhaul of our social welfare system is required. Māori are suffering in poverty. The trauma from displacement and colonisation is ongoing. Māori mental health statistics is just one visible external sign but we see it all the time in our work.
23. But regardless of the wider issues, this inquiry is looking at Oranga Tamariki because it is operating today to harm our babies and whānau. Its approach is to reprimand parents, focus on wrongdoing and then remove children from the care of their parents. I say that the best approach is to support Māori to look after themselves and their children.

Māori capacity and capability to care for our own

24. By Māori, for Māori, with Māori approaches are not just theory. There are so many examples of by Māori, for Māori, with Māori approaches being successful.
25. Whānau ora is one of these examples, and NUMA and its member Urban Māori Authorities work with many whānau under the mantle of Whānau Ora. Whānau ora is driven by a focus on whānau being self-

managing, living healthy lifestyles and confidently participating in te ao Māori and in society. It is an important part of setting the foundations for healthy futures for all Māori babies.

26. A by Māori, for Māori, with Māori approach like Whānau Ora works on the basis that instead of punishing, we need to support whānau because most of them are not thinking about their wellbeing. They are struggling and worried about how to pay their rent, how to pay their power and worried about how to put kai on the table. The stresses that they live under is phenomenal. Whānau Ora empowers whānau to deal with each of these crises first and a Kaiarahi (Navigator) supports them to create their whānau goals and moemoea in relation to their own futures. This process gives them hope and belief in themselves that they are deserving. It is about transformational and lasting positive change.
27. The Whānau Ora focus on early prevention and intervention is the key to whānau being empowered to bring up their own tamariki. Education and training them about parenthood, building their confidence and self-esteem, and providing support including funding, until they can be self-sustaining and are able to look after themselves and their babies.
28. The Tribunal has before it Māori nurses and Māori midwives, who again are an example of Māori success in this area.
29. The Tribunal recognised the success of by Māori, for Māori, with Māori approaches only last year. I was one of the claimants in the Wai 1315 claim by Māori Primary Health Organisations and Providers regarding the Primary Health System. The Tribunal's watershed report on our claim the *Hauora Report* (2019) recognised that Māori owned and run Primary Health Organisations and Providers are the most successful in the sector. The Crown before the Tribunal had explicitly acknowledged this as well:

Crown witnesses nonetheless agreed with the claimants that Māori primary health organisations and providers are innovative and have achieved impressive improvements in Māori health outcomes despite the limitations of the primary health care system. They broadly agreed that these organisations should be considered benchmarks for the approaches and performance of the rest of the sector. The work of

Māori primary health organisations and providers ... As Professor Cumming acknowledged, much can be learnt from these organisations' approaches to care and their many successes in relation to addressing health inequities.³

30. This is why I want to give this evidence. I want the Tribunal to know that the solution already exists. It is recognition of our tino rangatiratanga and mana motuhake by empowering us to do things in our own way. In the *Hauora Report* the Tribunal acknowledged that the call for self-determination will only get louder. It said:

We observe that the demand for structures and services that are 'by Māori, for Māori' across all sectors of social service design and delivery is a current and future reality that successive governments of the day will face. That demand will not diminish; it will only increase in the years to come.

31. The Tribunal then recommended the Crown adopt the following Tiriti principles for the primary health care system:⁴

- 31.1 The guarantee of **tino rangatiratanga**, which provides for Māori self-determination and mana motuhake in design, delivery, and monitoring of primary health care;
- 31.2 The principle of **equity**, which requires the Crown to commit to achieving equitable health outcomes for Māori;
- 31.3 The principle of **active protection**, which requires the Crown to act, to the fullest extent practicable, to achieve equitable health outcomes for Māori;
- 31.4 The principle of **options**, which requires the Crown to provide for and properly resource kaupapa Māori primary health services; and
- 31.5 The principle of **partnership**, which requires the Crown and Māori to work in partnership in the governance, design, delivery, and monitoring of primary health services.

³ Waitangi Tribunal *Hauora Report 2019* at 9.4.

⁴ *Ibid.* at 9.3.1.

32. I see these principles as applying universally and particularly to Oranga Tamariki. Despite the addition in 2017 of section 7AA to the Oranga Tamariki Act 1989 that purports to impose duties on the Chief Executive to recognise and provide a practical commitment to the principles of Te Tiriti O Waitangi, Oranga Tamariki has shown, and continues to show, over and over again that it does not protect, it harms our babies and whānau. Meanwhile, Māori have shown over and over again that we are the best at caring for our own people. The Crown needs to finally step aside and let us do what we have already shown we can do better than the Crown and better than anyone else.

Māori health authority

33. The Tribunal in the *Hauora Report* recommended that the claimants and the Crown formulate terms of reference to explore the possibility of a stand-alone Māori health authority:⁵

To reiterate, we have specified only that the terms of reference should explore the possibility of a stand-alone Māori health authority. As experts in primary health care design and delivery, we are confident that the parties are best placed to formulate the rest of the terms of reference between them.

34. The Tribunal's recommendation of a Māori health authority is a concrete recognition of Māori capability and capacity to care for our own people as is the fact that we are the designers with our Treaty partner the Crown. It recognises our Mana Motuhake and the Tiriti principles that the Tribunal described of tino rangatiratanga, equity, active protection, options and partnership.
35. In March 2020 we signed Heads of Agreement with the Crown to draft the terms of reference for the Māori health authority as the Tribunal had recommended.
36. We have asked for something similar in relation to Oranga Tamariki in our Statement of Claim. Perhaps it would be something new, or perhaps part of a Māori health authority. I don't believe that the details are essential now, and like the Māori health authority, these could be

⁵ Ibid. at 9.5.

designed by Māori with our Treaty partner. What is important is that the direction taken by the Tribunal in the *Hauora Report* is the right one and is very relevant to this inquiry.

Conclusion

37. I want to share this evidence because I believe that as the Tribunal begins this inquiry, with a view to making recommendations later this year or early next year, it needs to know from the outset that Oranga Tamariki cannot be healed. It is damaging our babies and our whānau. The solution is for us to be able to heal ourselves.
38. I ask that the Tribunal keep in mind that the solution already lies with Māori, in recognition of our Mana Motuhake and Tino Rangatiratanga.

Date: 20 July 2020



Lady Tureiti Haromi Moxon