

IN THE WAITANGI TRIBUNAL

IN THE MATTER OF

The Treaty of Waitangi Act 1975

AND

IN THE MATTER OF

The Oranga Tāmariki Urgent Inquiry
(Wai 2915)

AND

IN THE MATTER OF

A claim by Katarina Jean Te Huia
(Wai 2823)

**BRIEF OF EVIDENCE OF KATARINA JEAN TE HUIA
DATED 28 SEPTEMBER 2020**

RECEIVED

Waitangi Tribunal

28 Sept 2020

Ministry of Justice
WELLINGTON

**Te Mata Law Limited
Barristers and Solicitors**

PO Box 44331

Point Chevalier

AUCKLAND 1246

Tel: 0508-TEMATA (0508-836282)

Counsel Acting: David Stone | Catherine Leauga | Azania Watene | Dylan Lafaele |
Amber Evans

David@tematalaw.co.nz | Catherine@tematalaw.co.nz | Azania@tematalaw.co.nz |

Dylan@tematalaw.co.nz | Amber@tematalaw.co.nz

MAY IT PLEASE THE TRIBUNAL

Introduction

1. I am the claimant Katarina Jean Te Huia, 64 years of age of Māori descent.
2. I am wahine Māori, a wife, mother, and grandmother.
3. I am a Māori midwife of 29 years and a registered Māori Nurse of 30+ years.
4. I am the CEO of Ngā Maia Māori Midwives Trust and bring the collective voices and concerns to you from 300 Māori midwives from across Aotearoa.
5. I am the founder and CEO of Kahungunu Health Services -AKA- CHOICES, a Māori Health Service Provider in Kahungunu registered since 1995.
6. I employ over 80 staff, registered nurses, midwives, kai-awhina, social workers and administrators. They work in clinics, in Māori communities, in two early childcare facilities, within social housing and at Te Whare Oranga Ake, a re-integration stand-alone facility at the Hawkes Bay Prison.
7. My vocation in Health, began in 1973 when I left secondary school and entered the Hastings Memorial Hospital nursing hostel as a nurse trainee.
8. My educational achievements in Health, Education and Social Services include;
 - Certificate in Rest Home Management
 - Diploma of Comprehensive Nursing
 - Postgraduate Diploma Midwifery
 - Postgraduate Diploma Primary Care Nursing- Tāmariki Ora
 - Postgraduate Diploma in Sexual and Reproductive Health
 - Postgraduate Diploma in Public Health
 - Master of Nursing
 - Lactation Consultant
 - Diploma in Healthcare Assessment and Auditing.
9. I am enrolled in the Indigenous Doctorate Program with Te Whare Waanga O Awanui Arangi. My Thesis; The Exploitation by The New Zealand Child Welfare System of Tāmariki Māori in need of Care and Protection; From Child Protection to Prison.
10. I have authored and piloted the following health and social service programmes for the District Health Board, Ministry of Health, Accident Compensation Commission, and the Department of Corrections.
 - The National Mother and Pepi Support Program for Hapu Maaori mama- Ministry of Health- 1994
 - The National Tāmariki Ora Programme- Ministry of Health- 1996

- Injury Prevention- Kaupapa Māori Car Seat Rental- Accident Compensation Commission - 2000
 - Kaupapa Māori Smoke free Pregnancy- Hawkes Bay District Health Board-2002
 - Kaupapa Māori Antenatal Education for Hapu Mama Hawkes Bay District Health Board - 2005
 - Kaupapa Māori Breastfeeding for Hapu Mama- Hawkes Bay District Health Board -2007
 - Te Whare Oranga Ake- Re-Integration- New Zealand Corrections Dept-2011. A Kaupapa Māori re-integration programme for Māori prisoners prior to them being released from prison.
11. I have co-authored the publication of two books¹ on Cultural Safety in Practice in Aotearoa, and I currently teach Turanga Kaupapa, cultural safety practices in maternity care, to midwifery students of the five current midwifery schools in New Zealand.
 12. Since 1995 I have participated as a Senior Māori Midwifery Advisor to various Government health, social, education, justice, and workforce development committees to provide advice and a Māori perspective and over-view of the needs of hapu Mama and tamariki Māori.
 13. I am usually the token Māori on these advisory groups, other members are generally white middle-aged women, most of whom are not born here in New Zealand, my concerns are often trivialised or ignored when discussing the needs of hāpu māma and tamariki Māori.
 14. I am the midwife at the centre of the 2019, unsuccessful illegal attempt by Oranga Tāmariki to take a new-born Māori pepi from the maternity ward at the Hastings hospital last year². I provide further context surrounding this illegal attempt in my confidential brief of evidence.
 15. My work in the prison includes discussions with Māori males incarcerated; the interface between State Child Welfare and prison is evident, as the men relay to me how their parents were state wards, how they were state wards as children, and how their own children have also become state wards. I am convinced that we are now seeing fourth and fifth generation Māori Child State Welfare recipients in our New Zealand prisons today, and that prisoner's children are targeted specifically by Oranga Tāmariki Policy³. Sadly, at the Hawkes Bay prison we have a juvenile unit, and I know there have been times when Dad is in one part of the prison, and at the same time, his son is in the juvenile unit.
 16. Many of the stories relayed to me by these Māori male prisoners, now fully Ta Moko'd⁴ gang members epitomizes the interface of indigenous peoples in settler states, such as Canada, the USA and Australia where the criminal justice

¹ Wepa, D. (2006). Cultural Safety and the birth culture of Maori. Social Work Review. V.18 p 26-31. Auckland, NZ. ISSN :0113-7662. Wepa, D. (2015). Cultural Safety in Aotearoa / New Zealand. 2nd Edition. ISBN10: 1107477441.

² Minister's Response to Oranga Tamariki Review. Nov 7 2019. www.scoop.co.nz>Parliament

³ Oranga Tāmariki Act 1989 (the Act). Subsequent Children.

⁴ Ta Moko; Māori Cultural Facial Tattoo.

system, social policy, poverty, marginalisation, suicide, early death and dying go hand in hand with colonisation and assimilation policies used against indigenous peoples, such as Māori by the dominant self-imposed Government legislations as described by Armitage.⁵ and supported by Wolf (2006)⁶

17. I have taken a personal interest into the policy and practices of Oranga Tāmariki as a result of my doctorate studies and understand from a Māori perspective the negative effect those practices have and continue to have on tāmariki Māori. I have reviewed the following reports in response to the attempted illegal child-apprehension in 2019 and agree with the views, findings and recommendations in these reports.

- Kō Te Wā Whākawhiti-Māori Inquiry into Oranga Tāmariki
- Te Mura O Te Ahi- A Whanau Voice. Māori Inquiry into Oranga Tāmariki
- Te Kuku O Te Manawa- Office of Child Health Commissioner. 2020
- He Take Kōhukihuki- Ombudsman Report Oranga Tāmariki. 2020

18. I have also reviewed “State of Care 2015”⁷ and am alarmed that (Pg5) of the report identifies that there is “Little Reliable or Accessible Data, CYFS does not measure or record information about children that matters- interagency data is poor. We don’t have enough data to say children in care are better off in care?”. This statement within this report pre-dates by five years, the views recommendations and findings of the four reviews carried out by independent reviewers in 2020. It is obvious that despite a name change from CYFS to Oranga Tāmariki the service has not changed within the past five years, and still fails to meet the needs of tāmariki Māori which is evidenced in the current statistics made available of Children Abused in Care, by Oranga Tāmariki.⁸

19. I have re- reviewed The White Paper for Vulnerable Children. Vol 2. 2013 I did not agree with the methodology, findings or recommendations of this report at the time the report was being developed and voiced my concerns as an advisor.

20. The changes for Child Youth and Family to Oranga Tāmariki 2015 were based on The White Paper for Vulnerable Children. Vol 2. 2013. I continue to disagree with this report and its recommendations for the following reasons;

20.1 The principals and obligations set aside for Māori, under Te Tiriti o Waitangi are not mentioned anywhere within the report.

20.2 The social, cultural, economic determinant’s for health outcomes that impact negatively on Māori **have not been acknowledged** in the report, and as a result the recommendations in the report to target hapu Māori mama and their newborn baby perceived as At Risk, have resulted in the

⁵ Armitage, (1995). Comparing the Policy of Aboriginal Assimilation: Australia, Canada, and New Zealand. University of British Columbia. Canada. ISBN-0-7748-0459-9.

⁶ Wolf, P. (2006). Settler colonisation and the elimination of the native. Journal of Genocide Research. 8(4), Dec, 387-409. DOI 10.1080/14623520601056240

⁷ Wills, R. (2015). State of Care. Office of the Children’s Commissioner.

⁸ Oranga Tāmariki- Ministry for Children. Mar 29, 2019. Nzfvc.org.nz.news.oranga-tāmariki-ministry-for-children.

ongoing negative attention and disruption to Māori whanau lives that is experienced today.

20.3 Introduction (Pg. 6) The report draws on and is heavily influenced by the experiences of abuse and consequential deaths of the Kahui twins, James Whakaruru, Saliel and Olympia Aplin as named in the report. The justification for highlighting Māori children, alongside highly publicised media attention on the deaths of Māori children at that time, resulted in this report being biased and racially motivated.

20.4 Maternity Support (Pg. 50-51) identified 87% of new mothers received maternity services from midwives and DHB personal, of which 90% of staff in these areas are white middle-aged women. The report recognised the ability to 'target' screening and co-ordinate risk assessment, and setting up multi-disciplinary teams to co-ordinate 'Risk Alert Systems' between Child, Youth and Family, The New Zealand Police and DHB's that specifically targeted Māori pregnant women and their new-borns⁹.

20.5 Chapter Three: Targeting to reduce vulnerability to maltreatment and improve outcomes. (Pg. 57-69) identifies '*two key target groups*' specifically previous encounters with child welfare, Subsequent Children and targeting children- pre-birth or at birth in many cases, which evidence now shows Hapu Māori mothers being targeted and demonized and has situated hapu mama in a negative deficit position resulting in more Māori pepi taken at their birth.

20.6 Chapter Four: Identifying children in the target populations (Pg. 70- 81) introduced an information sharing platform, without the input from whanau Māori, who then became targets of multi-government agencies. The Privacy (Information Sharing) Bill provides for agencies to share information regarding Māori whanau which is often mis-interpreted, or incorrect, with no means for whanau Māori to correct information. Māori are further unjustly served.

20.7 Chapter Nine. Governance, accountability and legislation. (Pg. 156-168). Is devoid of the obligations and principals of Te Tiriti o Waitangi within the report, or included within the governance, therefore decision making about tamariki Māori are devoid of whanau Māori input. Accountabilities within this report align with the chief executives or Boards of Crown Entities; under the State Sector Act 1988, section 57. Standards of Integrity & Conduct which also fails to include specifically Te Tiriti o Waitangi guidelines.

21. I have read, and agree to comply with, the Code of Conduct in Schedule 4 of the High Court Rules pertaining to expert witnesses. I have prepared my evidence in accordance with this code.

22. I have read, understood and agree with the memoranda and claimant and tribunal evidence provided at the Contextual Hearings held on 30-31 July presented to the Tribunal Panel, in relation to the following matters.

⁹ See Appendix A of my brief of evidence: Current Hawkes Bay District Health Board Referral Guidelines to Multi-disciplinary Team. 23 September 2020.

- 22.1 I am personally aware of the significant and consistent disparity between the number of tamariki Māori compared to non- Māori children taken into state care and the negative intergenerational outcomes for these tamariki Māori.
- 22.2 I am personally aware of the extent to which 85% of tamariki Māori are abused in state care on a daily basis and those tamariki who are able to express their desires to return to their whanau- are ignored.
- 22.3 I am personally aware of the extent to which the legislative policy and practise changes introduced since 2017, and currently implemented by Oranga Tamariki continue to negatively affect tamariki Māori who languish in care indefinitely, with no planned intervention to return them to whanau, as supported by Boshier¹⁰.
- 22.4 I am personally aware of the 2015 Child Health Commissioners report, identifying the lack of transparency and accountability for tamariki Māori in State Care, and the numbers of missing children, not accounted for as identified in his report. I am also personally in contact with Māori parents who are battling Oranga Tamariki to maintain contact with their tamariki who are in state care, and the parents do not know where their children are, and some parents complain to me they have not seen their tamariki for years.
- 22.5 I am personally aware of and note the Ombudsman report 2020, that the use of Section 78 without notice, is being used indiscriminately against hapu Mama to remove their new-born, and has been used as a routine means to remove new-born babies at the birth in the last 250 removals of new-borns. I believe as identified by Boshier the use of section 78 without notice has become a routine measure by Oranga Tamariki to remove new-borns and is illegal.
- 22.6 I have personally experienced and support the Ombudsman's report that identified that Oranga Tamariki was aware in 97% of the cases 2017/18 and 2018/19 where a newborn baby was removed at the birth under section 78 without notice, had an average 60 days prior to the birth an opportunity to explore and develop safety plans for the mama and pepi, but deliberately failed to do so.
- 22.7 I note also from the same report (Boshier, 2020), that tamariki Māori pepi removed at their birth from their mama, was inhumane, prevented them from breastfeeding or forming positive bonding and attachment with their birth mother and breached the Human Rights of the mother and the child.
- 22.8 The Ombudsman Report (Boshier,2020), states that Subsequent Children are specifically targeted by Crown Entities on behalf of Oranga Tamariki, as defined by Oranga Tamariki themselves¹¹, reversing the onus of proof, so that parents have to prove they are not at risk to their pepi, compounded by the fact parents had often limited resources and support to argue otherwise.

¹⁰ Boshier, P. (2020) He Take Kohukihuki. Ombudsman Report Oranga Tamariki.

¹¹ Subsequent Children. Oranga Tamariki Act 1989 (the Act).

- 22.9 I note that in many cases where parents have had children and babies taken by Oranga Tāmariki and have then gone on to prove themselves capable and safe to keep a subsequent baby, their personal battle to re-unite with their previous removed children remains an ongoing source of stress and anxiety for them. The questions must be asked, if a newborn baby is deemed safe to remain with its mother- Then why are siblings not allowed to be returned to the same mother?
- 22.10 It is my belief that this inconsistency by Oranga Tāmariki discriminates Māori whanau, parents and birth mothers battling un-successfully for years to have their previous children returned to them from State Care, after they are allowed to retain a subsequent child or children and completely undermines the trust and confidence of the general public in the roll of the state to provide for tamariki Maori in need of care and protection.
- 22.11 I am aware of mothers who have taken their own lives after having lost their tamariki to state care and have felt powerless and failed in all attempts to get them back.
- 22.12 I also note the analysis by Len Cook, of increased trending of tamariki Māori within CYFS 89% who either enter a community-based or prison sentence by the time they are 20 years of age, which is supported by the discussions I have with Māori men in prison.
- 22.13 Also noted is the negative influence of State Intervention on tamariki Māori who lose contact with their own whanau, and eventually find solace within gangs- 85% mongrel mob and 88% black power¹².
- 22.14 Additionally it is a sad and horrific reality that children who enter State Care, are additionally abused and are more likely as adults to suffer mental health and anxiety disorders, abandonment, attachment and suicidal tendencies and to engage in unhealthy addictions, including sexual, relationship and drug and alcohol misuse, and have their children targeted by State Child Welfare intervention.
23. The Tribunal is seeking further clarity in relation to the following questions:
- 23.1 What additional changes to Crown Legislation, policy or practice that is required in order to secure outcomes consistent with Te Tiriti and its principals?
- 23.2 What does the Crown's duty of active protection require?
- 23.3 How does the Crown redress the prejudice caused by its efforts to dismantle, rather than respect and protect the Māori way of life?
- 23.4 How best can the Crown prevent further harm and prejudice to tamariki and their whanau, in the meantime?

¹² Jackson, Moana. (1999). Explaining Recent Innovations in New Zealand's Criminal Justice System: Empowering Māori or Biculturalising the State? Australian & New Zealand Journal of Criminology. <https://journals.saepub.com/doi/abs/10.1177/000486589903200205>

23.5 How can Crown Agencies and their services be arranged so as to achieve more equitable outcomes?

23.6 How can Crown Agencies and their services operate while at the same time allowing for managed delegation and devolution to Māori of the powers, responsibilities and resources that currently sit with Oranga Tāmariki?

1. Te Tiriti o Waitangi

24. Te Tiriti o Waitangi was not drafted as a Constitution or Statute, and therefore Te Tiriti o Waitangi its principals and obligations to Māori have not been written or upheld within every Government department, policy, or document.
25. Te Tiriti o Waitangi its principals and obligations to Māori within Government documents are subject to independent bias, dependent on individual interpretation, will and/or understanding and rely on good faith toward Māori, in order for Māori to receive equitable outcomes.
26. The New Zealand Government ensures its health, education, social, law and justice service needs to New Zealand residents and to Māori are facilitated through Crown Entities responsible to Government through an appointed Minister. These organisations include, hospital district health boards, police, Oranga Tāmariki, Courts etc and are part of New Zealand's state sector groups, under the Crown Entities Act 2004, and are not legislated to include Te Tiriti o Waitangi principals and obligations within their Governance structures.
27. My first recommendation to respond to the question- what additional changes to Crown Legislation, policy or practice is required in order to secure outcomes consistent with Te Tiriti and its principals?; is that I request and recommend changes to Crown legislation, policy and practice so that the principals and obligations of Te Tiriti o Waitangi be drafted as a Constitution of Aotearoa.
28. This will require and ensure that all Crown Entities will essentially uphold Tiriti- based frameworks, within their Governance, policy, practice processes, throughout their whole entity and not potentially rely on individual nicety; but view their roles and responsibilities to Māori as a matter of civic duty.
29. Te Tiriti o Waitangi drafted as a Constitution of Aotearoa New Zealand, will ensure whanau Māori, hapu and iwi Māori receive equitable and consistent outcomes as defined within the principals and obligations of Te Tiriti.

2. Te Tiriti o Waitangi and Children's Rights

30. Tāmariki Māori are an indigenous factor in New Zealand society shrouded in secrecy, unrecognised and uncounted. Their very existence blurred between Government social, health and educational Crown entities that do not maintain transparency or accountability alongside blurred notions of iwi boundaries.

31. At their birth, their ethnicity is often determined by hospital administrative staff, who are more often than not white middle-aged women, who categorise these tamariki based on, racial profiling as specified by Reid¹³.
32. Through-out their mother's pregnancy and for the first 6 weeks of their lives they are dependent on a maternity system, and a midwifery workforce that is based on Eurocentric policy and assimilation practices and where the majority of the workforce are also white middle-aged women. Institutional racism is well-documented and proven by Reid (2012) as a negative maternal health determinant for hapu mama and pepi Māori.
33. Since the advent of the Social Security legislation 1938, primary medical services have been provided on a fee-for service basis paid for by the patient, assisted by a universal system of government subsidies. At 6weeks tamariki Māori are transferred into this primary health care system. All indications are that 68% of Māori children and 24% of pakeha children are unable to afford, or to access health care within this system, on a daily basis. Poverty is a major factor in determining the needs of Tamariki Māori but is not accounted for as 'Risk' by Oranga Tamariki.
34. In 2011, and again in 2016, the UN Committee observed that the Rights of Children in New Zealand are not clearly articulated in Laws and policies, and highlighted an opportunity to include children's rights in the context of Te Tiriti o Waitangi and the United Nations Declaration on the Rights of Indigenous Peoples. I recommend again Te Tiriti o Waitangi be drafted as a Constitution of Aotearoa to address these opportunities.
35. By honouring Te Tiriti o Waitangi we can be assured the Rights of tamariki and Rangatahi Māori are applied both in the context of te Tiriti o Waitangi and that their specific rights as indigenous children under the Children's Convention and the United Nations Declaration on the Rights of Indigenous Peoples is upheld.

3. How does the Crown redress the Harm and Prejudice Caused to tamariki Māori caused by its efforts to dismantle rather than respect and protect the Māori way of life?

36. It cannot be ignored that tamariki Māori entering State Care are missing and un-accounted for by its predecessor Child Youth and Family and by Oranga Tamariki themselves. The opening address at the Waitangi Tribunal first hearing by the Crown into this case, Wai 2915, argued that this case should be dismissed, because the number of tamariki Māori taken into State Care was ambiguous, as there was no certainty about how many we were talking about, and/or the State could not establish the full number of children individually who entered state care, and as such the outcomes for all tamariki Māori who enter state care is unknown.
37. Len Cook's evidence presented to the Waitangi Tribunal¹⁴ states that from his analysis at February 2020, the core statistics of Oranga Tamariki would not

¹³ Reid, Paparangi. (2012). A fair go for all? Rite tahi tatou katoa? Report on Institutional Discrimination in Public Services. Human Rights Commission. www.hrc.co.nz HRC-Structural-Report. Web PDF.

¹⁴ Wai 2915 #A17, Affidavit of Leonard Cooke, pg 13.

meet the basic requirements of Tier 1 Statistics, and do not meet the requirements of the six critical dimensions set in 2007, set by the Government Statistician.

38. Russell Wills as Child Health Commissioner, in his State of Care 2015 report on Oranga Tāmariki, (Pg. 5) states *“There is little reliable or easily accessible data available about the outcomes of children in the care system. In our view, CYF and MSD systems are not set up to measure and record the information that matters”*- It is clear to me *“That the lives and outcomes for tamariki Māori forcibly removed from their parents and whanau **‘MATTERS’**. Wills 2015 report further identifies (Pg. 9) CYF could not tell him when, where or why 1000 children had left care.*
39. My personal experience, my conversations with whanau Māori, parents and mothers, and comments posted by over 9,000 registered on my social media Facebook page *“NOT ONE MORE BABY TO BE TAKEN”* suggests an ongoing battle with Oranga Tāmariki and its providers for parents and whanau to maintain or to see their tamariki whom are in state care, on a regular basis. The cost of travel impacts severely when Children and whanau are separated by long distances, at other ends of New Zealand, or when permission is given to allow care givers to leave the country with their children, and who now live overseas.
40. Mother’s and whanau Māori also convey to me their experiences of ‘Being Tricked’ into signing ‘Permanent Placement Orders’ and ‘Home for Life Orders’ by social workers, believing they can as a parent continue to see their children, only to learn later their children have been adopted, or missing and their whereabouts unknown. This is a crime against humanity for a mother or parent to have their child taken forcibly by the state, and to not be allowed to see them and to not know where they are, or not know whether they are safe or not?
41. Under the current Adoption Act 1955 No 93, Section 8- Cases where consent may be dispensed with, (1) The court may dispense with the consent of any parent or guardian to the adoption of a child in any of the following circumstances:
 - (a) If the court is satisfied that the parent or guardian has abandoned, neglected, persistently failed to maintain, or persistently ill-treated the child, or failed to exercise the normal duty and care of parenthood in respect of the child: and that reasonable notice of the application for an adoption order has been given to the parent or guardian where the parent or guardian can be found:
 - (b) If the court is satisfied that the parent or guardian is unfit, by reason of any physical or mental incapacity, to have the care and control of the child: that the unfitness is likely to continue indefinitely; and that reasonable notice of the application for an adoption order has been given to the parent or guardian.
42. I recommend that children taken into State Care require more scrutiny and that more details about the child remain active, including their ongoing well-being particularly when there is a request to adopt them. There is a discernible difference between children placed for adoption by a willing mother or parents,

then for children who are forcibly removed by the State Child Welfare System from their mother or parents and who are then forcible or not, subsequently adopted on the opinion of a Social Worker.

43. The current Adoption Act 1955 No 93, continues to be criticised by aging women, children and whanau, frustrated in their inability to find each other- A mother looks for her child, a child looks for her mother. The statutory regulations in regards to 'closed adoption' prevents either party from seeking the other out, until the child is 18yrs of age, and the files can only be made available when both parties agree. For children who don't know they are adopted, birth parents wanting to find, and who have never given permission for their child to be adopted in the first place, re-uniting them is impossible.
44. For all mothers between 2015-2020 whose babies were forcibly removed from them at the birth, under Section 78 without notice, it is noted in the Ombudsman Report 2020, that these mothers were severely dis-advantaged, and that their rights and the rights of their babies have been breached; that their babies were taken unlawfully, and that Oranga Tāmariki did not practice or follow their own legal guidelines and the subsequent removal of the child was unreasonable.
45. Māori mothers whose children have been removed by State Intervention, who then have another baby and are deemed 'safe' to keep their new baby, seek as I do, to understand why they are not able to get their other child or children returned to them?
46. I recommend a State Royal Commission of Inquiry to identify and find every child taken into State Care since 2015 until 2020. Each child should be tracked individually until the child is 17 yrs. of age. Even if a child is permanently placed into 'Home for Life', adopted or Permanently Placed that individual child should remain on the books of Oranga Tāmariki and be tracked until the child turns 17yrs or is re-united with its mother or whanau.
47. Mother's, parents, and whanau should be supported by the State financially to find their child, or children who are missing, and a special committee, as part of the State Royal Commission of Inquiry, be set up to investigate this phenomena, record the outcomes of those children who are lost or missing and unable to be found.
48. The traumatic impact of removal at birth has far reaching impacts on mothers and babies. The Ombudsman's Report- 2020 reveals both an intensity of loss and grief, which heightens women's vulnerability, and an enduring nature of loss...the impact of deep-felt grief, guilt and shame... leading to further isolation, problematic coping strategies such as substance misuse, fleeting bouts of anger and depression and suicide. Women described losing a baby this way as deeply distressing, de-humanising, resulting in a total mistrust and emotional and disconnect from others.
49. Notwithstanding their breach of Rights these mothers and their babies were not and have not been given adequate support for follow-up counselling or offered an opportunity for remedial support, or compensation after such a traumatic event. It is my recommendation that an Independent Inquiry would not only identify all of the children within the timeframe 2015-2020 but would

also identify the mothers. Assistance should be available to these mothers in the form of \$50,000, compensation each for trauma, hurt and damage, and to allow them the opportunity to seek their own remedy for the hurt and damage the State has caused and inflicted upon them. Each mother should also be acknowledged and registered by ACC, to remedy all their personal counselling requirements for their future lifetime.

4. How can Crown Agencies and their services be arranged so as to achieve more equitable outcomes?

50. It is important to understand that Oranga Tāmariki and Child Welfare Services have failed 14 Independent Reviews since 1989 and are the ambulance at the bottom of the cliff. Government would do better to spend more time and efforts to prevent the need for a Child Welfare System. Maslow's hierarchy of needs identified in 1943 as A Theory of Human Motivation, comprises a five-tier model of human needs, physiological wellbeing, safety, love and belonging, esteem, confidence and respect, and self-actualisation, a desire to belong and fulfil one's full potential.
51. Māori are less likely in New Zealand to achieve any of the human aspirations determined by Maslow; having a warm and safe home, being formally educated so as to fully participate in NZ society, having an adequate income, feeling safe and being able to practice and live actively and culturally as Māori or to provide adequately and safely for their tamariki is beyond 68% of Māori.
52. For the most parts of our lives, we as Māori are forced to adopt Western European models of knowing and being, in order to enable us to participate in education, health, social and economic opportunities. Being Māori is seen as alternative, is often frowned upon, seen as less important, and lacking quality. These beliefs are due to continued institutional racism, government assimilation policies and ongoing colonisation which ensure Māori a complete lack of resources, funding, or ability to respond to our own needs our way, not as an alternative, but as our NORMAL.
53. It is important to understand the negative culminative effect of poverty, homelessness and intergenerational trauma, and a priority and need for a culturally competent workforce, and how this relates to positive Māori outcomes. Puaō-Te-Ata-Tu (1988)¹⁵ also highlighted the challenges of institutional, personal, and cultural racism on Māori and most of the recommendations made within the 1988 report to ensure Māori participation have and continue to be largely ignored.
54. I take this view knowing that 90% of the Midwifery workforce are white middle-aged women. The need to grow a Māori Midwifery workforce to meet the needs of a growing Māori birthing population has been ignored by the Crown for the past 155yrs despite all efforts by Māori Midwives ourselves to bring attention to the lack of a Maori Midwifery Workforce Strategy and the positive outcomes that would arise for wahine and tamariki Māori if we had more Māori midwives, the government instead elects to spend \$10 million dollars a year recruiting nurses and midwives from overseas¹⁶.

¹⁵ Puaō-Te-Ata-Tu. The Report of the Ministerial Advisory Committee. Sept 1988.

¹⁶ District Health Board Workforce Strategy; (2018) Ministry of Health. Government Press. Wellington

55. Preparing Māori birthing mothers for motherhood and parenting is a traditional role undertaken by whanau Māori, to ensure the safe arrival of pepi Māori. Along with the Suppression of Tohunga Act 1907, and the introduction of The Nurses Act 1908- the first in the world to regulate nursing and midwifery; Māori knowledge and whanau Māori mātauranga birthing and parenting knowledge has been and continues to be eroded, resulting in tamariki Māori in need of care and protection.
56. Endorsement of Kaupapa Māori mātauranga Māori birthing and parenting knowledge as a positive means to support hāpu māma is further compromised by the Crown, in their refusal to endorse a Māori Midwifery Advisor to the Ministry of Health. The appointment of a Māori Midwifery Advisor, endorsed by the Māori midwives 2019 AGM would be seen as a positive means by which the 'voices of hapu mama, pepi and whanau' would ensure equitable outcomes for Māori within midwifery and maternity service delivery across Aotearoa, however all attempts to secure this position, by writing to the Government have also been ignored.
57. A review of all Oranga Tamariki Service Contracts and Provider profiles in New Zealand today, indicate billions of dollars contracted by Oranga Tamariki on programmes delivered by a majority of non- Māori Service Providers, alongside a dominant authoritative non-Māori workforce, all engaged and profiting financially in addressing the Māori Child Welfare problem.
58. My recommendation is that an Independent Māori Workforce Audit Team, headed by a Maori Ministerial appointed Midwifery Advisor; review all current Oranga Tamariki Service Contracts and Service providers against a Te Tiriti o Waitangi framework to ensure the outcomes designed for tamariki Māori are culturally and competently fit for purpose.
59. A further recommendation is that where service providers and or contracts are deemed unsuitable to respond to the needs of tamariki Māori, the Review Team be given Statutory Powers to terminate the contract from the provider.
60. All financial savings of those contracts deemed unsuitable, be transferred into programmes to support Māori aspirations for housing, education, and cultural reconnections to whakapapa, tikanga and matauranga birthing and childbirth and parenting education as identified by whanau, hapu and iwi.
61. I recommend that a Workforce Strategy Review be funded by the Crown and undertaken, that incorporates Te Tiriti o Waitangi frameworks, that are led by a Māori Midwifery Advisory Team in the following areas;
 - 61.1 The maternity department of each of the 21 District Health Boards.
 - 61.2 The five midwifery training schools;
 - 61.3 The New Zealand College of Midwives.
 - 61.4 The Midwifery Council of New Zealand; and
 - 61.5 The Ministry of Health Maternity Advisory Committees.
62. Currently all work undertaken by Nga Maia Māori Midwives, the Nationally recognised 'voice' of Māori midwifery workforce has the role and responsibility; to support the recruitment and retention of a Māori Midwifery

Workforce, to facilitate Turanga Kaupapa Māori Cultural midwifery education and knowledge to all practicing midwives in New Zealand, and to support the cultural mātauranga educational birthing needs of whanau Māori, wahine Māori and parenting needs of pepi Māori across Aotearoa. This work is done so ‘voluntarily’ by Māori midwives across New Zealand and Nga Maia Māori Midwives Trust which receives no financial support from the Crown.

63. My recommendation to the Waitangi Tribunal is that the Waitangi Tribunal endorse a financial commitment of \$2 million dollars paid annually by the Crown to Nga Maia Māori Midwives Trust to ensure matauranga Māori birthing and cultural parenting education needs of whanau, hapu and iwi Māori be maintained and supported by Māori Midwives across Aotearoa. The increased numbers of Maori midwives would have an equitable role in servicing the maternity and midwifery needs of hapu mama and pepi. Currently Maori midwives are outnumbered 300/1 by all other midwives working in New Zealand today.
64. I also recommend that Kaupapa Maori antenatal and pre-natal education classes, and mātauranga Maori concepts of birthing, breastfeeding and parenting be made available to all hapu Maori mama, facilitated by Nga Maia Maori Midwives; this would require a dedicated shift away from District Health Boards, and placed these much needed services into the communities of need- as recommended by Heather Simpson- Health and Disability Review- 2020.

5. How can Crown Agencies and their services operate while at the same time allowing for managed delegation and devolution to Māori of the powers, responsibilities and resources that currently sit with Oranga Tāmariki?

65. It is important to recognise that the roles and responsibilities of Oranga Tāmariki as a Crown Entity is intricately involved with other Crown Entities, health, justice, social and education but to name a few, and a managed delegation and devolution of these Crown Entities will be required across a number of government areas.
66. It is essential to have a stocktake of all children in state care, and to identify their specific and individual needs, so that an individual plan for each child can be used to determine the services and work required to maintain their safety, and produce a co-ordinated plan and positive outcome for them, their whanau and hapu, based on the principals of Te Tiriti o Waitangi.
67. It is my recommendation that whanau, hapu and iwi attend hui across the country, to discuss the opportunities and aspirations of Māori in the overall delegation and devolution to Māori of the powers, responsibilities and resources that currently sit with Oranga Tāmariki.

DATED at Hastings this 28th day of September 2020.



Katarina Jean Te Huia
Wai 2823 Claimant