OFFICIAL

IN THE WAITANGI TRIBUNAL **WAI 2700**
THE MANA WĀHINE KAUPAPA INQUIRY **WAI 113C**

IN THE MATTER OF	**the Treaty of Waitangi Act 1975**
AND	**the Mana Wāhine Kaupapa Inquiry (Wai 2700)**
AND	**a claim by Stephanie Turner and Heeni Collins as the descendants of the whānau of Te Rauparaha and as descendants of Hapekituarangi (Ngāti Huia, Ngāti Kikopiri, hapū of Ngāti Raukawa) (WAI 113C)**

AMENDED STATEMENT OF CLAIM

Dated 31 March 2025

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Waitangi Tribunal
31 Mar 25
Ministry of Justice
WELLINGTON

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MAY IT PLEASE THE TRIBUNAL

INTRODUCTION

1. This Amended Statement of Claim is filed on behalf of Stephanie Turner and Heeni Collins as the descendants of the whānau of Te Rauparaha and as descendants of Hapekituarangi (Ngāti Huia, Ngāti Kikopiri, hapū of Ngāti Raukawa) **(Wai 113C)** ("the Claimants").

2. The Claimants are Māori, and have been prejudicially affected by the various Ordinances, Acts, regulations, proclamations, notices and other statutory instruments and the policies, practices, acts or omissions of the Crown, affecting the role and status of ngā Raukawa ki te Tonga.

3. We acknowledge that the current hearing programme allows the addition of contemporary claims and the further particularisation of claims prior to the substantive hearings. In that instance, the Claimants seek to amend and further particularise their claim with contemporary allegations about the Crown's breaches of te Tiriti in relation to Mana Wāhine.

THE CLAIMANTS

4. The Claimant's tupuna, whānau, hapū and/or iwi held mana whenua through mana raupatu from Porirua to Whangaehu.

5. Ms Turner descends from Hapekituarangi and Te Akau through their daughter Pipi Kutia. Pipi Kutia was a wife of Te Rauparaha. Her mother, Te Akau, was Te Rauparaha's senior wife.

6. Ms Turner is Pipi Kutia's great-great-granddaughter. Both Te Akau and Pipi Kutia were members of Te Rauparaha's household, his wives, and his whānau. Te Akau gave the name 'Rangiuru' to the Pa situated on the North side of the Ōtaki river. Their main places of residence were Rangiuru Pā, Ōtaki Pā, Kapiti Island and Taupo kāinga (Plimmerton). Ms Turner's great grandfather Hemi Warahi (Wallace) was raised by his mother Pipi Kutia and his uncle Katu Tamihana Te Rauparaha, a brother to Pipi Kutia.

7. Ms Collins is an independent writer/researcher, currently secretary of the Ngāti Kikopiri Māori Marae Committee Society Inc. She played a key role in the writing of an Oral and Traditional report for the hapū of Ngāti Kikopiri (Te Hono ki Raukawa). Ms Collins descends from Hapekituarangi and Te Akau's son Horohau, through his daughter Meretini. Horohau

is a brother to Pipi Kutia, Pipi Ipurape and Tamihana Te Rauparaha. Ms Collins is secretary of the Meretini Te Akau and Thomas Uppadine Cook Whānau Trust, which represents Cook whānau members in relation to land at Te Awahou Foxton.

THE CLAIM

8. The Claimant's Ngāti Raukawa tupuna wāhine, Te Rangi Topeora, signed te Tiriti o Waitangi on Kapiti Island in 1840.

9. The Claimants claim that the Crown has contributed to circumstances which have disadvantaged wāhine Māori since the Treaty was signed in 1840. Because of the Crown's actions, wāhine Māori were deprived of their spiritual, cultural, social and economic well-being that the Treaty guaranteed them.[1] Consequently, wāhine Māori were written out of history,[2] leading to their misrepresentation, despite the Crown's obligation to protect the roles and responsibilities of wāhine Māori (tino rangatiratanga).

10. Having said that, allegations in relation to Mana Wāhine have not been heard by the Waitangi Tribunal and no findings have been made regarding the Claimants on the issues raised in this claim.

11. In summary, the claim concerns:

    (a) The Crown's failure to uphold the rangatiratanga of ngā wāhine o hapū of Raukawa;

    (b) The Crown's lack of partnership and decision-making with ngā wāhine o hapū of Raukawa in terms of establishing laws and policy designs; and

    (c) The lack of accessible services that support ngā wāhine o hapū of Raukawa, as well as the way in which their voices are limited.

TE TIRITI O WAITANGI

12. Te Tiriti and its principles, a living document in New Zealand's history, promises to protect wāhine Māori from deprivation of rangatiratanga, partnership, and participation rights by the Crown. The Tribunal was established to:

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[1] Rawinia Higgins and Paul Meredith "Te mana o te wāhine – Māori women" (5 May 2011) Te Ara – The Encyclopaedia of New Zealand <https://teara.govt.nz/en/te-mana-o-te-wahine-maori-women/print>.

[2] Emma Espiner "The Treaty of Waitangi was forged to exclude Māori women – we must right that wrong" (4 February 2020) The Guardian <https://www.theguardian.com/world/commentisfree/2020/feb/05/the-treaty-of-waitangi-was-forged-to-exclude-maori-women-we-must-right-that-wrong>.

"make recommendations on claims relating to the practical application of the principles of the Treaty and, for that purpose, to determine its meaning and effect and whether certain matters are inconsistent with those principles".[3]

13. By the Treaty of Waitangi, the Crown:

(a) Guaranteed to Rangatira, to hapū, and to all Māori, their true and full chieftainship of their lands, villages, and all their other treasured possession ('te tino rangatiratanga o o ratou whenua, o ratou kāinga, me o ratou taonga katoa');[4]

(b) Promised to protect their rights guaranteed by the Treaty and perform their obligations arising out of the Treaty; and

(c) Extended to the Claimants all the rights and privileges of British Subjects.

DUTIES OF THE CROWN

14. The Crown had and continues to have duties to recognise and actively protect Māori rights and interests under the Treaty principles.

15. The Crown was and is generally required to:

(a) Engage actively with wāhine Māori on how it should recognise tino rangatiratanga and, where agreed, give effect to it;

(b) Protect wāhine Māori interests, property and taonga;

(c) Recognise wāhine Māori as indigenous people of Aotearoa, their right to maintain their own institutions, some with tāne and some with wāhine solely, and their right to participate in decision-making about legislative measures that might affect them;

(d) Foster a mutually respectful constitutional relationship between iwi and hapū and the Crown; and

(e) Ensure Māori equality before the law and their entitlement to the equal enjoyment to fundamental human rights without disadvantage or discrimination.

[3] Treaty of Waitangi Act 1975, Preamble.
[4] Wai 1040, #A17 at 193.

16. The Claimants seek to make the following allegations in relation to the alleged Crown failures.

FIRST CAUSE OF ACTION – FAILURE TO PROTECT THE RIGHTS OF WĀHINE MĀORI

Allegations

17. The Claimants allege that in breach of the principles of te Tiriti, the Crown failed to:

(a) Uphold the rights of wāhine Māori to have a voice;[5]

(b) Acknowledge the worth of wāhine Māori rights; instead, the Crown maintains an ideology that prioritises certain rights over others;[6] and

(c) Address the lack of advocacy for wāhine Māori, which contributes to their continued lack of visibility.[7]

Crown duty

18. The Crown has a duty to help restore balance to a relationship that became unbalanced.[8]

> *"The Crown is not honouring te Tiriti o Waitangi. There's been unprecedented breaches of human rights and the treatment of Māori women has been inhumane".*[9]

Particulars

Cultural rights

19. According to the Waitangi Tribunal's findings in Part I of the Te Paparahi o Te Raki report (Wai 1040), He Whakaputanga in 1835 and te Tiriti signed at Waitangi in 1840 were based on different concepts of authority and methods for reaching agreement between the two cultures. Cultural rights for wāhine Māori are crucial for preserving Māori identity and heritage. Prior to the signing of the Treaty, wāhine Māori held authority and influence across various aspects of physical and spiritual life in traditional Māori society[10] embodying chiefly mana wāhine. Although this is not the case under today's law, misogyny still exists

[5] Wai 2700, #B2 at 257.
[6] At 197.
[7] Wai 2700, #B1 at 65.
[8] Tino Rangatiratanga me te Kāwanatanga – *The Report on Stage 2 of the Te Paparahi o Te Raki Inquiry*, Part I (Vol. 1) – Waitangi Tribunal Report (Wai 1040, 2023) at 66.
[9] Georgia Gourlay-Gudex (2021) "Crown prejudice against Māori women: The Mana Wāhine Kaupapa Inquiry" <https://www.humanrightspulse.com/mastercontentblog/crown-prejudice-against-mori-women-the-mana-whine-kaupapa-inquiry>.
[10] Manatū Wāhine – Ministry for Women "Wāhine Māori" (2023) <https://www.women.govt.nz/wahine-māori>.

because of colonisation, when women were deemed men's property. Though colonisation hindered the transmission of cultural practices and knowledge that are important to Māori, wāhine Māori are repositories of knowledge and are the ones who drive the intergenerational transfer of cultural traditions.[11] In order for future generations to inherit a strong cultural legacy, it is critical that these cultural rights be acknowledged and restored. Today, however, we see the ongoing struggle to reclaim the voices of the tīpuna kuia in order to restore the knowledge that has been taken from wāhine Māori.[12]

20. As a result, enormous changes have occurred. Wāhine Māori have been defined as different, and therefore somehow lacking, because they were "not white".[13] The Crown has actively denied the cultural rights of wāhine Māori, a historical injustice stemming from colonisation and the disregard of the traditional roles of wāhine Māori.

> *"Embracing the roles of Māori woman, as they relate to tikanga, is crucial to the survival of our culture".*[14]

Economic rights

21. Wāhine Māori in general have received limited support for self-employment and entrepreneurship. Wāhine Māori were and are underrepresented within Māori realms, such as tribal committees and executive positions.[15]

22. Land alienation undoubtedly had a significant impact on wāhine Māori. The land base that wāhine Māori owned eroded over time, which presented less opportunities for borrowing or leveraging off land for investments.[16] Wāhine Māori therefore were generally not able to partake in decisions on matters affecting their own land. This resulted from the imposition of Western law, which established patriarchal frameworks that essentially silenced wāhine Māori voices and deprived them of their traditional rights and responsibilities over land.[17] Crown agencies such as Manatū Wāhine (Ministry for Women), the Women's Development Fund, the Māori Development Corporation, and Wāhine Pakari

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[11] Hillmare Schulze, Amanda Reid, Hugh Dixon, Connor McIndoe and Urvashi Yadav (2024) "Te Ōhanga Wāhine Māori - The Māori women's economy" <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.women.govt.nz/sites/default/files/2024-05/Te%20%C5%8Changa%20W%C4%81hine%20M%C4%81ori%20The%20M%C4%81ori%20Women%27s%20Economy%20Report%202024.pdf>.
[12] Maraea Rakuraku "Ngāhuia Murphy: The mana and mātauranga of wāhine Māori" (2024) E-Tangata <https://e-tangata.co.nz/korero/ngahuia-murphy-the-mana-and-matauranga-of-wahine-maori/>.
[13] Naomi Simmonds (2011) "Mana Wāhine: Decolonising politics" <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.wsanz.org.nz/journal/docs/WSJNZ252Simmonds11-25.pdf>.
[14] Wai 2700, #B3 at 624.
[15] At 300.
[16] At 309.
[17] At 402.

were a starting point in offering assistance and advice to wāhine Māori. But Crown initiatives have overall failed to provide economic programmes that fit wāhine Māori priorities[18] and given the many instances where wāhine Māori pushed to address concerns, those concerns were not given appropriate weight by the Crown.[19]

Social rights

23. Wāhine Māori were crucial leaders who had significant impact on politics in New Zealand.[20] Nonetheless, as social movements emerged in the 1960s to the 1980s, wāhine Māori were active in multiple groups that fought for the recognition of tino rangatiratanga. Crown agencies have occasionally supported wāhine Māori in their pursuits. One example of how wāhine-led movements and the Crown have developed fruitful connections that have strengthened the work of wāhine Māori, is the relationship between the Māori Women's Welfare League and the Department of Māori Affairs. While Crown action only frequently occurred in response to pressure from wāhine Māori-led groups, in several cases, wāhine Māori sought to address issues that were not given priority by the Crown.[21]

24. In addition, disparities and inequities in Aotearoa's welfare systems have impacted wāhine Māori, who continue to suffer the consequences of the Crown implementing welfare policies that have failed to address the unfairness for wāhine Māori and their whānau.[22] The Crown adopted a 'one-size-fits-all' approach, providing a Family Benefit and support based on Pākehā norms,[23] rather than incorporating a wāhine Māori cultural aspect, which would create a more equitable and effective framework. The incorporation of Kaupapa Māori methodologies can enhance understanding of the experiences faced by wāhine Māori.[24]

25. Furthermore, the Crown's failure to invest funds towards primary healthcare for wāhine Māori is having a detrimental effect on their quality of life and the health system's expenses.[25] It is important to note that the Crown could have intervened by investing in hapori and wāhine-led solutions, which were not widely available.[26]

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[18] At 321.
[19] At 619.
[20] At 327.
[21] At 339.
[22] At 398 - 399.
[23] At 398.
[24] Denise Wilson, Alayne Mikahere-Hall and Juanita Sherwood "Using indigenous Kaupapa Māori research methodology with constructive grounded theory: generating a theoretical explanation of indigenous women's realities" (15 March 2021) International Journal of Social Research Methodology <https://www.tandfonline.com/doi/epdf/10.1080/13645579.2021.1897756?needAccess=true>.
[25] At 466.
[26] At 468.

26. To make matters worse, the Crown acknowledges that such failure has caused tamariki and wāhine Māori to lose trust and confidence in the Crown, which created barriers to safety for some wāhine and tamariki.[27] On top of that, there is a profound underfunding and under resourcing in the Māori whānau violence space [28] - there were insufficient Crown policies and practice in place to protect wāhine Māori and tamariki Māori.[29]

SECOND CAUSE OF ACTION – WĀHINE MĀORI REPRESENTATION IN GOVERNMENT, PARTNERSHIP, AND DECISION-MAKING IN TERMS OF ESTABLISHING LAWS AND POLICIES

Allegations

27. The Claimants allege that in breach of the principles of te Tiriti, the Crown failed to:

(a) Respect and uphold the rangatiratanga of ngā wāhine o hapū of Raukawa and wāhine Māori generally;

(b) Take into account the principles of te Tiriti when implementing laws and policies that affect wāhine Māori;

(c) Acknowledge wāhine Māori as te Tiriti partners;

(d) Address the underrepresentation of wāhine Māori in positions of power;[30] and

(e) Recognise the necessity of wāhine Māori representation in decision-making roles, particularly when laws and policies are being implemented.

Crown duty

28. The Crown has a duty to act reasonably and in good faith towards its Treaty partner.[31] To do this, consultation is needed to adhere to the duty of good faith under te Tiriti.[32]

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[27] At 575.
[28] At 570.
[29] At 577.
[30] Sharon Marjorie Toi "A Wāhine Inquiry into Indigenous Governance" (LLB(PhD)Thesis, University of Waikato, 2019) <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://researchcommons.waikato.ac.nz/server/api/core/bitstreams/ac6f5a0f-038f-4e68-9c4f-307a60948ce5/content>.
[31] Tino Rangatiratanga me te Kāwanatanga – *The Report on Stage 2 of the Te Paparahi o Te Raki Inquiry*, Part I (Vol. 3) – Waitangi Tribunal Report (Wai 1040, 2023) at 1353.
[32] At 1133.

29. In addition, the Crown has the duty to include Māori in a way that give mana to the partnership relationship where it has heightened duties to recognise Māori authority and tino rangatiratanga over its people.[33]

Particulars

Wāhine Māori representation

30. Wāhine Māori frequently face differential treatment when advocating for change compared to tāne generally. Much of the advocacy of wāhine Māori was and is ignored by the Crown. The social movements and organisations that have been successful, have still faced difficulties due to Crown-created inequities. Wāhine Māori, who participated in these social movements, were criticised as 'false Māori who adopted Pākehā techniques to protest Māori take [causes], or dangerous, radical, and disruptive'.[34] These movements always had insufficient funding and support from the Crown even after changes were eventually implemented.[35]

31. Wāhine Māori frequently contend with the voices of men, who are often being held up as the dominant experts of Māori issues. Wāhine Māori were viewed as 'outsiders', and tāne Māori became the considered, the legitimate keepers, and promoters of tikanga and Kaupapa Māori. So:

> *"The devaluation of wāhine Māori through processes has impacted negatively on all aspects of Māori life, and also allowed Māori men to extend their areas of power and dominance in respect to Māori women".*[36]

32. From the establishment of the Westminster-style political system, male voices, speaking in English, dominated the political sphere, while wāhine Māori voices were "absent".[37]

[33] Tino Rangatiratanga me te Kāwanatanga – *The Report on Stage 2 of the Te Paparahi o Te Raki Inquiry*, Part I (Vol. 1) – Waitangi Tribunal Report (Wai 1040, 2023) at 30.
[34] At 324.
[35] At 343.
[36] At 344.
[37] At 365.

Partnership

33. In Stage 2 of Te Paparahi o Te Raki inquiry, the Tribunal found that the Crown's desire to avoid negotiation with Māori remained constant, even as the methods employed and the legislation that underpinned them changed. The Tribunal further found that the Crown

> *"turned Māori tino rangatiratanga into a virtual, saleable, individual interest. This was a very serious breach of the terms of the Treaty and of the principles of partnership".*[38] *This is also a serious breach for wāhine Māori.*

34. The Crown has a distinctive partnership responsibility to act with the utmost good faith towards the Māori partner. This guarantees that no actions are made that are inconsistent with the principles of the Treaty.[39] The Tribunal found that the Crown has largely viewed Treaty partnerships as male-dominated relationships.[40]

35. According to the Te Paparahi o Te Raki report, the Crown did not provide Māori with partnership, instead restricting Māori autonomy and placing them under Crown control.[41] Restrictions on Māori generally have a significant impact on wāhine Māori. Therefore, the Crown failed to uphold partnership.[42] However, the Tribunal have noted that *"there is the expression of potential hope in partnerships for policy and that this would work better as a model for Māori".*[43]

Decision-making

36. According to the findings in the Te Paparahi o Te Raki report, the Crown has the duty to consult with and involve wāhine Māori in decision-making on vital changes affecting their rights, as guaranteed by the te Tiriti.[44] Unfortunately, this is not the case; wāhine Māori remain virtually invisible.[45]

37. The Crown continues to enact laws and policies that uphold the system as "racist, misogynistic, punishing, and judgmental."[46] The development of policies and laws in collaboration with whānau, Māori in general, and wāhine Māori in particular, is a crucial

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[38] Tino Rangatiratanga me te Kāwanatanga – *The Report on Stage 2 of the Te Paparahi o Te Raki Inquiry*, Part I (Vol. 3) – Waitangi Tribunal Report (Wai 1040, 2023) at 1164.
[39] *New Zealand Māori Council v Attorney General* [1987] 1 NZLR 641 at [36].
[40] Wai 2700, #B1 at 186.
[41] Tino Rangatiratanga me te Kāwanatanga – *The Report on Stage 2 of the Te Paparahi o Te Raki Inquiry*, Part I (Vol. 2) – Waitangi Tribunal Report (Wai 1040, 2023) at 818.
[42] Wai 2700, #B3 at 111.
[43] At 388.
[44] At 1045.
[45] Wai 2700, #B1 at 13.
[46] Wai 2700, #B2 at 168.

system change that is needed. This is due to the challenges that wāhine Māori face in the areas of education, employment, economics, social welfare, land and housing, health, violence, incarceration, and the legal system.

THIRD CAUSE OF ACTION – THE EFFECTS OF COLONISATION AND THE WESTERN PARADIGM OF PATRIARCHY AND SEXISM, ENFORCED THROUGH LEGISLATION, POLICIES AND PRACTICES ON WĀHINE MĀORI

Allegations

38. The Claimants allege that in breach of the principles of te Tiriti, the Crown failed to:

(a) Recognise the impact inflicted by colonisation to wāhine Māori and their whānau;

(b) Acknowledge the effects that western paradigm of patriarchy and sexism had on wāhine Māori through the implementation of laws and policies; and

(c) Adress the challenges experienced by wāhine Māori in a primarily male-dominated system.

Crown duty

39. A duty exists on the Crown to treat Māori tīpuna wāhine with the utmost respect for their tikanga, tino rangatiratanga, and mana,[47] including protecting the interests of wāhine Māori.[48]

Particulars

Colonisation

40. During the 1830s, British interests sought to persuade British authorities to establish a British government in Aotearoa. British first opposed those demands and recognised the independence of Māori hapū, and up until the 1860s, Māori still out-numbered Pākehā. But by the end of 1837, things were starting to change. Tribal warfare, diseases from Pākehā, and European instability at the time led to reports of Māori depopulation. As a result, the

[47] Tino Rangatiratanga me te Kāwanatanga – *The Report on Stage 2 of the Te Paparahi o Te Raki Inquiry*, Part I (Vol. 1) – Waitangi Tribunal Report (Wai 1040, 2023) at 26.
[48] Wai 2700, #B3 at 573.

British government sought to obtain sovereignty over the whole or any parts of Aotearoa, provided that Māori would agree.[49]

41. This was not what eventuated. Contact with Europeans caused significant changes in the way in which tīpuna practiced life and community, leading to tikanga breaches. The Māori systems of authority continued in the rohe of Otaki, Horowhenua, Manawatu until 1860s, but they disintegrated as a result of changes brought about by Europeans, much to the detriment of wāhine Māori.[50]

42. Wāhine Māori relayed feelings of whakamā (shyness, withdrawal, shame, embarrassment) when interacting with Crown institutions such as schools, workplaces, hospitals, and courts. These institutions, founded on Western ideals, did not accommodate Māori culture, knowledges, or practices; some were outright hostile to the presence of Māori to the point that wāhine Māori would avoid interactions with these ideals. And with it came the lack of Crown support.[51]

43. Wāhine Māori play crucial responsibilities in whānau, hapū and iwi, including childbirth practices, leadership, transmission of knowledge and whakapapa.[52] Since colonisation, wāhine Māori, have experienced a significant shift in their social position. Colonisation instigated a societal reassignment resulting in wāhine Māori falling behind Pākehā and tāne. This impact has led to the invisibility of wāhine Māori and brought them to their present crisis. *"The development of these political structures was done so through racist and patriarchal colonial process".*[53]

Western paradigm

44. Māori have their own set of concepts pertaining to their own Māori worldview. However, the infusion of western ideologies has diminished Māori ideologies and practices.[54] For

[49] He Whakaputanga me te Tiriti: The Declaration and the Treaty – *The Report on Stage 1 of the Te Paparahi o Te Raki Inquiry*, Waitangi Tribunal Report (Wai 1040, 2014) at 13 - 14.
[50] At 230.
[51] Wai 2700, #B3 at 625.
[52] Paule Aroha Ruwhiu "Ka haere tonu te mana o ngā wāhine Māori: Māori women as protectors of te ao Māori knowledge" (LLB(LLM)Thesis, Massey University, Palmerston North, 2009) <chrome extension://efaidnbmnnnibpcajpcglclefindmkaj/https://mro.massey.ac.nz/server/api/core/bitstreams/95685509-5011-4385-91ca-84c27e301081/content> at 25.
[53] Wai 2700, #B2 at 60.
[54] Paule Aroha Ruwhiu "Ka haere tonu te mana o ngā wāhine Māori: Māori women as protectors of te ao Māori knowledge" (LLB(LLM)Thesis, Massey University, Palmerston North, 2009) <chrome extension://efaidnbmnnnibpcajpcglclefindmkaj/https://mro.massey.ac.nz/server/api/core/bitstreams/95685509-5011-4385-91ca-84c27e301081/content> at 97.

example, a long history of misogynistic and patriarchal systems and structures has substantially hindered wāhine Māori's ability to achieve positions of authority.[55]

45. The most significant aspect, according to males, was women's commitments to family and home responsibilities. These findings highlight ingrained gender roles, and differing views between men's assumptions and women's reality.[56] The Crown has ignored Māori outcomes, highlighting the need for targeted policy solutions for wāhine Māori.[57]

46. Wāhine Māori-led social movements, that aimed at addressing cultural and language revitalisation, tino rangatiratanga, and self-determination concerns that disproportionately affected Māori. The Crown worked with the Department of Māori Affairs in partnership with the Māori Women's Welfare League to implement Tu Tangata programmes across Aotearoa. However, this received no Crown support,[58] and gaps remained.[59]

FOURTH CAUSE OF ACTION – FAILURE PROTECT THE TRADITIONAL ROLES AND POSITION OF WĀHINE MĀORI

Allegations

47. The Claimants allege that in breach of the principles of te Tiriti, the Crown failed to:

    (a) Respect traditional positions of wāhine Māori, who have played an important role in preserving iwi history and knowledge; and

    (b) Protect the traditional role of wāhine Māori.

Crown duty

48. In order to uphold Te Tiriti, the Crown must ensure that policies are focused on Māori cultural values, connection to whānau, hapū and iwi, and uphold the rangatiratanga of wāhine Māori. In addition, it is the Crown's responsibility to preserve and protect the traditional role of wāhine Māori in Maoridom.

[55] Wai 2700, #B1 at 95.
[56] At 95.
[57] Wai 2700, #B3 at 52.
[58] At 616.
[59] At 150.

Particulars

Preservation of history and knowledge

49. The preservation of history and knowledge passed down from grandmothers and mothers, such as manaakitanga and hosting and caring for others[60] is crucial for wāhine Māori, and any loss of whakapapa history and knowledge can have a significant impact on identity. Removing access to these streams of knowledge has impacted wāhine Māori, who experience prejudice due to patriarchy and colonialism/racism.[61] The Crown has so far failed to remedy this.[62]

Traditional role

50. The role of wāhine Māori within the wider Māori community was exercised within a collective and communal lifestyle. Their language and cultural notions represent their mana and influence in nurturing and enriching whakapapa and whanaungatanga.[63] Wāhine Māori were encouraged by the Crown to abandon traditional gender roles within Te Ao Māori and embrace the traditional Pākehā nuclear family role of mother and wife. As a result, wāhine were under pressure to rely more on tāne when they also needed to work outside the house due to economic realities and wealth disparities across ethnic groups.

51. There was pressure to live in Pākehā ways through policies like "pepper potting,"[64] which placed Māori families among Pākehā families. This caused wāhine Māori to become disconnected from their traditional support systems and methods of raising tamariki. It was also more challenging to pass on important knowledge and practices to future generations. Because of these measures, wāhine internalised many negative views of Māori traditions and adopted Pākehā customs.

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[60] At 82.
[61] Wai 2700, #B3 at 64.
[62] At 401.
[63] E Tū Whānau "Our ancestors enjoyed loving whānau relationships" (2018) E Tū Whānau – Te mana Kahao te Whānau <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://etuwhanau.org.nz/wp-content/uploads/2018/07/ETW_AncestorsBook_WEB_print.pdf>.
[64] Wai 2700, #B3 at 54.

FIFTH CAUSE OF ACTION – FAILURE TO PROVIDE SERVICES FOR MĀORI WHICH ARE EASILY ACCESSIBLE AND SUPPORTIVE OF THE NEEDS OF NGĀ WĀHINE O HAPŪ OF RAUKAWA AND THEIR WHĀNAU

Allegations

52. The Claimants allege that in breach of the principles of te Tiriti, the Crown failed to:

    (a) Provide accessible services that support the needs of wāhine Māori and their whānau; and

    (b) Recognise the marginalisation that wāhine Māori face in many Crown processes and provide wāhine Māori input into services to meet their needs and those of their whānau.

Crown duty

53. The Crown has a further duty for protecting ngā wāhine o hapū of Raukawa and their whānau rights, ensuring peace, preventing discrimination; and addressing the concerns affecting wāhine Māori. This includes providing accessible services.

54. The Crown has an obligation to safeguard wāhine Māori and their whānau through the exercise of good government.

Particulars

55. Crown-supported culturally safe, and appropriate support services for wāhine Māori[65] are few, making accessibility challenging. Such services include appropriate counselling and support, family services (including child protection and violence), and most importantly, profound underfunding and under resourcing in education, employment, economics, government representation, land ownership, social welfare, land and housing, health, incarceration, and barriers in the justice system. However, the Crown continues to fail in fully addressing these disparities.[66]

[65] Wai 2700, #B3 at 561.
[66] At 276.

56. Crown initiatives have not provided accessible services that align with wāhine Māori priorities,[67] nor have they prioritised their needs in policy development and decision-making.[68]

SIXTH CAUSE OF ACTION – MĀORI SYSTEMS WITH RESPECT TO LAND OWNERSHIP, WATERWAY RIGHTS, AND THE ROLE AND RIGHTS OF WĀHINE IN RELATION TO THEIR ROHE

Allegations

57. The Claimants allege that in breach of the principles of te Tiriti, the Crown failed to:

(a) Recognise the spiritual and cultural importance of land ownership for wāhine Māori;

(b) Adress the impact of Crown policies that have made it difficult for wāhine Māori to maintain land ownership and waterway rights;

(c) Acknowledge how the western system conceptualised wāhine's relationship to the land differently; and

(d) Adress the impact of the Native Lands Act 1865 on wāhine Māori rights, specifically tāne and wāhine land ownership of the Wairarapa block, upper Otaki river.

Crown duty

58. The Crown has a duty to actively protect Māori tino rangatiratanga over their land, including the mana of the hapū, its land, and the lives that were led there.[69] The Crown has a further duty to ensure that Māori land titles were equitable[70] and to ensure Māori retained the land they needed for their present and future economic well-being.[71]

[67] At 321.
[68] Wai 2700, #B1 at 200.
[69] He Whakaputanga me te Tiriti: The Declaration and the Treaty – *The Report on Stage 1 of the Te Paparahi o Te Raki Inquiry*, Waitangi Tribunal Report (Wai 1040, 2014) at 31.
[70] At 68.
[71] At 71.

Particulars

> *"The earth mother – papa-tū-ā-Nuku- came from the womb of the primordial mother. The female creative functions and wairua is thus closely linked to whenua".*
>
> *"Ko te whenua te waiū mō ngā uri whakatipu – association between wāhine and breastfeeding and the land".*[72]

59. Several Crown policies made it difficult for wāhine to maintain relationships with whenua. This had an impact on women's equitable access to housing.[73] The traditional woman's relationship with the land is based on her understanding of the environment as a source of emotional, spiritual, and physical nutrition, identity, and strength.[74]

60. There is a lack of content produced by the Crown in the public sphere about specific wāhine contributions and of inequitable experiences. The Tribunal report on the equity and disparities in wellbeing for wāhine Māori ("the report") highlights the impact of Crown policies on wāhine Māori specifically.[75] It also addressed how the Pākehā system conceptualised women's relationship to the land differently, with Pākehā women's land history differing from that of wāhine Māori.[76] Wāhine Māori land rights sat independent of a husband's land rights.

> *"Many wāhine were shocked and felt a grievous wrong had been done to them to find that their land had legally been passed to their husbands".*[77]

61. The enactment of the Native Lands Act 1865, which had an impact on the rights of wāhine Māori, is another instance of disparity brought about by the Crown. Because their mana whenua was disregarded,[78] wāhine Māori kaitiakitanga and land rights were compromised under this legal framework. Located on the upper Ōtaki river, the Wairarapa block is a forested area (6,100 acres) in the foothills of the Tararua ranges with rich historical and cultural significance for the descendants of Te Ākau and her whanaunga. It was taken through the Land Court in April 1874. The rohe was recognised as being under the mana of Te Rauparaha, Te Ākau, and Te Rangihaeata, three prominent figures in Ngāti Toarangatira

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[72] Wai 2700, #B3 at 411.
[73] At 400.
[74] At 410.
[75] At 409.
[76] At 411.
[77] At 412.
[78] Richard Boast and Lisa Lefever Black "The Native Land Court and the Ten Owner Rule in Hawke's Bay, 1866-1873: An Analysis" <https://www.wgtn.ac.nz/law/research?external-uuid=2f89fb41-eae5-4dc2-885a-8f55f4a6624b>.

and Ngāti Raukawa in the early nineteenth century. Pipi Kutia, Te Akau's daughter, spoke about her mother's rights in the area and claimed her own authority over the Block from her mother, however her claim was denied. This is a significant grievance for us as claimants, particularly for her descendant Stephanie Turner.[79]

62. The area was significant for bird-snaring and the use of totara trees for constructing waka to take war parties (tāua) to Te Wai Pounamu in the 1830s; also for fishing, and building.[80] While under section 17 of the Native Land Act 1867 Hape te Horohau provided twenty names of owners to the Court, several of them wāhine, a "ten-owner rule" established by the Native Lands Act 1865 allowed the Court to award title to only ten owners. There were only one or two wāhine named in this list, excluding Pipi Kutia. Te Akau's descendants should have been prioritised, as her mana there was predominant. In 1874 part of the block (5,038 acres) was purchased by the Crown from twenty-seven named people, despite only ten being listed on the title. Pipi Kutia was still not amongst them.[81] The sale of the land under the pressures of the time clearly dispossessed wāhine and tāne Māori of their ancestral lands, and Pipi Kutia was deprived of her rights there.[82] For generations of wāhine Māori and their descendants, this had a lasting impact.

63. There is little evidence of input from wāhine Māori into the development and evaluation of land policy. The absence of wāhine Māori contributions indicates that their perspective is inadequately integrated into decision making processes. The report further states that some reports mention voices of individual wāhine, but not necessarily consideration of wāhine Māori as a collective and the effects of laws and policies on them. Rather, the Crown's housing policies has often been used for assimilatory purposes instead.[83]

64. The report explored one of the main findings that was – when it comes to land legislation, practice, and policy – very little has been written on the experiences of wāhine Māori between 1950 and 1990. Wāhine Māori did not have access to opportunities to engage in governance over land, taonga, and resources, and that property legislation cemented of being a male domain.[84]

[79] Evidence of Pipi Kutia, Wairarapa hearing, Ōtaki Minute Book 2, 11 March 1874, at 261.
[80] Te Kenehi Teira and Hēni Collins "Ngā Pae Maunga o Tararua – Te Mana O Ngāti Raukawa" Report commissioned by the Crown Forestry Rental Trust for the Porirua ki Manawatū District Inquiry (Wai 2200) (2022) at 180 – 181.
[81] At 186.
[82] At 186 – 187.
[83] Wai 2700, #B3 at 436.
[84] At 619.

PREJUDICED SUFFERED

65. The Claimants have suffered and continue to suffer the following prejudicial effects as a result of the Crown's actions and omissions:

(a) Wāhine Māori continue to suffer injustice despite the Crown's promises of protection;

(b) Wāhine Māori continue to experience significant prejudice as a result of the Crown's acts and omissions; and

(c) Despite acknowledging the injustice that wāhine Māori are experiencing, the Crown keeps failing to take appropriate action to ensure that those rights are protected.

RELIEF SOUGHT

66. The Claimants seek the following relief, including recommendations that recognise:

(a) Adequate protection for wāhine Māori rights;

(b) Equal representation of wāhine Māori in government, particularly in positions of decision-making;

(c) The prejudicial effects of Crown legislation, acts, omissions, policies, and practices that have impacted wāhine Māori in general and ngā wāhine o hapū of Raukawa specifically;

(d) The Crown's action to eliminate and diminish the prejudice suffered by ngā wāhine o hapū of Raukawa, as well as to prevent the continuation of further prejudice related to Crown acts and omissions; and

(e) Any other recommendations the Tribunal sees fit.

LEAVE TO AMEND

67. The Claimants seek leave to file further specific allegations and particulars and/or other causes of action that are not included in this Amended Statement of Claim when further information and additional evidence becomes available.

DATED this 31st day of March 2025

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