I TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI	**WAI 2700**
IN THE WAITANGI TRIBUNAL	**Wai 2005**
KEI RARO I TE MANA O	te ture o te Tiriti o Waitangi 1975
IN THE MATTER OF	the Treaty of Waitangi Act 1975
ME	
AND	
I TE TAKE O	te pakirehua Wai 2700 mō ngā kerēme e pā ana ki te Mana o te Wahine
IN THE MATTER OF	the Mana Wāhine Kaupapa Inquiry (Wai 2700)
ME	
AND	
I TE TAKE O	tētahi kerēme nā Denise Egen, me ōna whānau, me te hapū o Te Mahurehure
IN THE MATTER OF	a claim by Denise Egen for herself, her whānau and members of Te Mahurehure

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AMENDED STATEMENT OF CLAIM OF WAI 2005

I tenei rā, I te 2 o Poutūterangi 2026

Dated 2 March 2026

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WELLINGTON

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THE CLAIMANTS SAY:

THE PARTIES

1. The Claimants, Denise Egen, her whānau and members of Te Mahurehure, are Māori pursuant to section 6(1) of the Treaty of Waitangi Act 1975 ("**Claimants**").

2. The Claimants are participating in the Wai 2700 Mana Wāhine Kaupapa Inquiry and wish to have the claims that are set out in this Amended Statement of Claim heard in the Whānau and Whakapapa Pou.

3. This Amended Statement of Claim replaces all previous Statements of Claim in the Wai 2700 Mana Wāhine Kaupapa Inquiry ("**Inquiry**") including the Fifth Amended Statement of Claim (Wai 2005, #1.1.1(g)) dated 19 August 2020.

NGĀ MĀTĀPONO: THE PRINCIPLES

TE MĀTĀPONO O TE TINO RANGATIRATANGA
The Principle of Tino Rangatiratanga

4. Tino rangatiratanga is the mana or full chiefly authority over properties and people within a particular kinship group, all that is treasured, and access to resources. It involves pre-existing sovereign authority, expressed as self-government and autonomy and "extends to matters both tangible and intangible that [Māori] value".[1] Rangatiratanga is the exercise of leadership in a manner that ensures that the iwi preserves and upholds its mana.[2] The distinguishing feature of rangatiratanga is encapsulated in the notion of 'taking care of one's people'.[3]

1 Waitangi Tribunal, *He Maunga Rongo: Report on Central North Island Claims, Stage One*, revised ed (Wellington: Legislation Direct, Vol 4, 2008), at 1245.

2 Waitangi Tribunal, *Ngā Mātāpono the Principles: The Interim Report of the Tomokia Ngā Tatau o Matangireia – the Constitutional Kaupapa Inquiry Panel on the Crown's Treaty Principles Bill and Treaty Clause Review Policies (Pre-publication Version)*, (Wai 3300, 2024), at 19.

3 Waitangi Tribunal, *Ngā Mātāpono the Principles: The Interim Report of the Tomokia Ngā Tatau o Matangireia – the Constitutional Kaupapa Inquiry Panel on the Crown's Treaty Principles Bill and Treaty Clause Review Policies* (Pre-publication Version), (Wai 3300, 2024), at 19.

Rangatiratanga limits the Crown's right to govern and is itself limited by obligations to manage rights between hapū and with neighbouring iwi, obligations of kaitiakitanga, and obligations as partners to Te Tiriti o Waitangi/the Treaty of Waitangi ("**te Tiriti/the Treaty**").[4] Te Tiriti guaranteed to Māori their tino rangatiratanga.[5] In this regard, the Te Raki Stage 2 Tribunal (2023) observed that:[6]

> The Tribunal has long emphasised that the treaty guaranteed the rights of Māori to exercise their tino rangatiratanga (full authority) over their lands, their villages, and all their taonga, and in each inquiry has assessed Crown actions and omissions in light of this principle of tino rangatiratanga.

5. Tino Rangatiratanga tempers the Crown's kāwanatanga right to change its policies and resource allocations.[7] This principle guarantees Māori the right to choose how or through which organisations they express their tino rangatiratanga.[8] Tino rangatiratanga provides for Māori self-determination and mana motuhake[9] in the design, delivery, and monitoring of services.[10] It encompasses Māori organisations and their models of care, and Māori people who need to access their services.[11] Māori exercise of tino rangatiratanga is weakened by the exclusion of Māori organisations from the governance of sectors providing social services.[12] Ad hoc Māori advisory committees cannot be a substitute for direct communication with Māori organisations who represent the rangatiratanga of hapori Māori.[13]

6. In this Inquiry, what is particularly relevant is the fact that tino rangatiratanga is not an inherently or exclusively male domain. Rather,

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4 Waitangi Tribunal, *He Maunga Rongo: Report on Central North Island Claims, Stage One* (Wellington: Legislation Direct, Vol 4, 2008), at 172-174.
5 Waitangi Tribunal, *Haumaru: The COVID-19 Priority Report* (Wai 2575, 2023), at 41; Waitangi Tribunal, *Te Mana Whatu Ahuru: Report on Te Rohe Pōtae Claims,* (Lower Hutt: Legislation Direct, Vol 1, 2023), at 183.
6 Waitangi Tribunal, *Tino Rangatiratanga me te Kāwanatanga: The Report on Stage 2 of the Te Paparahi o Te Raki Inquiry*, (Lower Hutt: Legislation Direct, Vol 1, 2023), at 39.
7 Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wai 692, 2001), at 249.
8 Waitangi Tribunal, *Hauora: Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry* (Wai 2575, 2019), at 28.
9 Mana motuhake refers to Māori self-determination and sovereignty.
10 Waitangi Tribunal, *Hauora: Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry* (Wai 2575, 2019), at 163.
11 Waitangi Tribunal, *Haumaru: The COVID-19 Priority Report* (Wai 2575, 2023), at 43.
12 Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wai 692, 2001), at 317.
13 Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wai 692, 2001), at 317.

wāhine Māori are also political, spiritual and cultural leaders in their communities, both traditionally[14] and in contemporary times. Te mātāpono obligates the Crown to protect the leadership and power of wāhine being distinct from the leadership and power of tāne.[15] Te mātāpono recognises that both wāhine and tāne are "essential parts in the collective whole".[16] Māori retaining authority over their own affairs includes authority over the balance of mana wāhine and mana tāne, and protection of the unique needs and perspectives of Māori women.[17]

TE MĀTĀPONO O TE HOURUATANGA

The Principle of Partnership and Reciprocity

7. Partnership is a central Treaty principle. The Court of Appeal in *Lands*,[18] found the Treaty created a relationship akin to a partnership with mutual obligations to act reasonably and with the utmost good faith.[19] The Tribunal has described the principle comes from the Treaty's basic objective of creating "the framework for two peoples to live together in one country."[20] As a founding relationship for a nation, the partnership does not have an expiry date and creates enduring obligations.[21] Te mātāpono applies to Māori collectively and not just iwi authorities[22] or tāne Māori. Te mātāpono emphasises the importance of wāhine Māori working together with agencies to achieve the best outcomes for wāhine Māori.[23] Importantly, a sense of pākehā and māori cultures "enriching and informing the other" is integral to te mātāpono.[24]

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14 A Mikaere, *Māori Women: Caught in the Contradictions of a Colonised Reality* (Waikato Law Review, Vol 2, 1994), at 128.

15 See A Mikaere, *Māori Women: Caught in the Contradictions of a Colonised Reality* (Waikato Law Review, Vol 2, 1994), at 131.

16 A Mikaere, *Māori Women: Caught in the Contradictions of a Colonised Reality* (Waikato Law Review, Vol 2, 1994), at 125.

17 T Paul, *A Mana Wahine Critical Analysis of New Zealand Legislation Concerning Education: Implications for Addressing Māori Social Disadvantage* (Victoria University of Wellington, 2014), at 35.

18 *New Zealand Maori Council v Attorney-General* [1987] 1 NZLR 641.

19 *New Zealand Maori Council v Attorney-General* [1987] 1 NZLR 641, at 663–664.

20 Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wai 692, 2001), at 48.

21 Waitangi Tribunal, *Tauranga Moana 1886–2006: Report on the Post-Raupatu Claims*, (Wellington: Legislation Direct, Vol 1, 2010), at 19–20 (citing New Zealand Maori Council v Attorney General [1987] 1 NZLR 641, at 664, 693, 704).

22 Law Commission, *Justice: The Experiences of Māori Women* (NZLC R53, 1999), at [372].

23 Law Commission, *Justice: The Experiences of Māori Women* (NZLC R53, 1999), at [369].

24 Waitangi Tribunal, *The Wananga Capital Establishment Report* (Wai 718, 1999), at xi.

8. Partnership goes beyond mere informing to substantive consultation, and true partnership is founded on reasonableness, mutual cooperation and trust.[25] Reciprocity positions the Crown's kāwanatanga as contingent on its protection of tino rangatiratanga.[26] Accordingly, the Crown must ensure wāhine Māori are not disadvantaged in the Treaty partnership, as this relationship has a power imbalance favouring the Crown.[27] The requirement on the Crown to partner with Māori in policy development and implementation is heightened where Māori expressly seek it and where there are disparities in outcomes,[28] including for wāhine Māori. Any framework to implement partnership must be constantly evaluated and modified to ensure it meets Treaty obligations.[29]

9. The Crown and Māori must work in partnership as co-designers of the governance, delivery, and monitoring of services which Māori may access, in a manner that fully recognises their tino rangatiratanga.[30] This applies to both mainstream and kaupapa Māori services. Partnership requires the Crown to enable Māori perspectives to influence the delivery of services to wāhine Māori, in a manner that does not impose a model on hapori Māori but supports their own development in a tikanga-affirming way.[31] Partnership also requires Māori employment in the workforce of state services, and Māori representation in the governance of regional Crown agencies.[32] Co-design is more than Māori consultation on a Crown design and likely includes Māori involvement in both policy design and implementation.[33]

The Duty of Consultation

10. The Crown, in consulting wāhine Māori, is obliged to do more than merely informing wāhine Māori.[34] The Crown must seriously account for taha Māori perspectives which requires being prepared to alter its original

25 Waitangi Tribunal, *Maori Electoral Option Report* (Wai 413, 1994), at 15.
26 Waitangi Tribunal, *Te Whanau o Waipareira Report* (Wai 414, 1998), at 27.
27 Waitangi Tribunal, *Haumaru: The COVID-19 Priority Report* (Wai 2575, 2023), at 42.
28 Waitangi Tribunal, *Haumaru: The COVID-19 Priority Report* (Wai 2575, 2023), at 42.
29 Waitangi Tribunal, *Haumaru: The COVID-19 Priority Report* (Wai 2575, 2023), at 42.
30 Waitangi Tribunal, *Haumaru: The COVID-19 Priority Report* (Wai 2575, 2023), at 42.
31 Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wai 692, 2001), at 59.
32 Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wai 692, 2001), at 61.
33 Waitangi Tribunal, *Hauora: Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry* (Wai 2575, 2019), at 141.
34 Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wai 692, 2001), at 70.

proposals, for that engagement to be Treaty-compliant.[35] The Tribunal has found that the significance of the decision to (wāhine) Māori may mean consultation is required even if the Crown believes it already holds sufficient information.[36]

11. Consultation does not require Māori and the Crown to reach an agreement,[37] but both parties should maintain an open mind and be ready to change.[38] The common outcome of the Crown perspective prevailing in the case of disagreement between Māori and the Crown is the undue primacy of kāwanatanga, which is in breach of ngā mātāpono o kāwangatanga and tino rangatiratanga. All consultation, even the lower levels, requires the Crown to provide Māori with feedback on how their input influenced the decision.[39]

12. Where Māori are to be the consumers of a system, their buy-in is critical, and in that circumstance, it is crucial for the Crown to involve Māori at an early conceptual stage, rather than at the end. For example, it breaches the Crown's Treaty obligations if a Ministry were to draft policy directly affecting Māori and then to afterwards, do a bare consultation with Māori.[40] The Crown must allocate sufficient time and genuine effort, as well as adequately informing Māori to enable provision of intelligent and useful responses.[41] Where treaty obligations are engaged, the Crown must separately and specifically consult with Māori, outside of open public consultation.[42] Crown consultation should take a bicultural framework[43] determined in consultation with Māori.[44] The Crown must consult Māori about major changes in the status of an institution that is important to a sizeable hapori Māori,[45] and on proposals to substantially change the range or location of services.[46] The Crown must also consult Māori where

35 Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wai 692, 2001), at 71.
36 Waitangi Tribunal, The Napier Hospital and Health Services Report (Wai 692, 2001), at 68.
37 Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wai 692, 2001), at 70.
38 Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wai 692, 2001), at 71.
39 Waitangi Tribunal, *Report on Whakatika ki Runga, a Mini-Inquiry Commencing Te Rau o te Tika: The Justice System Inquiry* (Wai 3060, 2023), at 57.
40 Waitangi Tribunal, *Report on Whakatika ki Runga, a Mini-Inquiry Commencing Te Rau o te Tika: The Justice System Inquiry* (Wai 3060, 2023), at 45-46.
41 Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wai 692, 2001), at 71.
42 Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wai 692, 2001), at 72.
43 Waitangi Tribunal, *Te Whanau o Waipareira Report* (Wai 414, 1998), at 224.
44 Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wai 692, 2001), at 73.
45 Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wai 692, 2001), at 68.
46 Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wai 692, 2001), at 241.

a service is statutorily required to investigate and assess population needs, even where that statute does not specifically mention Māori.[47]

TE MĀTĀPONO O TE MATAPOPORE MOROKI

The Principle of Active Protection

13. In *Lands*, the Court of Appeal found the Crown's obligations were 'analogous to fiduciary duties' and were 'not merely passive but extends to active protection of Maori people in the use of their lands and waters to the fullest extent practicable'.[48]

14. Matapopore Moroki (active protection) applies specifically to wāhine Māori as a non-kin-based Māori community.[49] This principle says that the Crown must actively protect te Tiriti/the Treaty rights and interests of wāhine Māori,[50] to the fullest extent reasonably practicable.[51] This means the Crown both cannot interfere with Māori tino rangatiratanga (whether over people, lands or taonga), and must positively support it, only as desired by wāhine Māori.[52] The Crown's active protection may extend to affirmative action to reduce structural or historical disadvantage.[53] Matapopore Moroki (active protection) must be balanced against other Treaty principles, for example rangatiratanga prohibits imposing restrictive interventions on Māori.[54]

15. Matapopore Moroki (active protection) is always active, with its specific extent affected by context and possible practical Crown influence.[55] Active protection prohibits the Crown from wilful ignorance,[56] as Crown failure to actively protect the rights and interests of wāhine Māori is as

47 Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wai 692, 2001), at 69.
48 *New Zealand Maori Council v Attorney-General* [1987] 1 NZLR 641, at 664.
49 Waitangi Tribunal, *Te Whānau o Waipareira Report* (Wai 414, 1998), at 16.
50 Waitangi Tribunal, *He Pāharakeke, he Rito Whakakīkinga Whāruarua: Oranga Tamariki Urgent Inquiry* (Wai 2915, 2021), at 19.
51 Waitangi Tribunal, *Kāinga Kore: The Stage One Report of the Housing Policy and Services Kaupapa Inquiry on Māori Homelessness* (Wai 2750, 2023), at 87.
52 Waitangi Tribunal, *Te Mana Whatu Ahuru: Report on Te Rohe Pōtae Claims* (Wai 898, Vol 1, 2023), at 211.
53 Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wai 692, 2001), at 54.
54 Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wai 692, 2001), at 54.
55 Waitangi Tribunal, *Kāinga Kore: The Stage One Report of the Housing Policy and Services Kaupapa Inquiry on Māori Homelessness* (Wai 2750, 2023), at 88, and Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wai 692, 2001), at 53.
56 Waitangi Tribunal, *Report of the Waitangi Tribunal on the Manukau Claim* (Wai 8, 1985), at 79.

much a Treaty breach as their active removal.[57] The active protection obligation is heightened with past Crown wrongs and enduring prejudice.[58] Active protection extends to taonga and mana over them,[59] made paramount by Article 2.[60] Mana wāhine, as a taonga, requires active protection. The Crown is required to take "*especially vigorous action*" to protect vulnerable taonga, especially where the vulnerability is attributable to Crown Treaty breaches.[61]

16. Active protection includes the Crown acting fully to achieve equitable outcomes for wāhine Māori, through facilitating services and informing itself of Māori needs and outcomes.[62] Active protection includes addressing the cause of inequities, especially where Treaty-derived Māori interests (such as tino rangatiratanga) are gravely threatened.[63] The Crown must provide needs-based resources to reduce any structural or historical disadvantage which wāhine Māori experience disproportionately to non-Māori.[64]

17. The Crown must be multilaterally accountable to wāhine Māori, which means they are able to independently scrutinise the Crown.[65] This can include the Crown publishing information about outcomes for wāhine Māori to enable them to independently assess the Crown's actions and omissions.[66] This will enable the Crown to support wāhine Māori to be at all levels of the workforce and leadership,[67] to better access legal and

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57 Waitangi Tribunal, *Haumaru: The COVID-19 Priority Report* (Wai 2575, 2023), at 44.
58 Waitangi Tribunal, *Tū Mai te Rangi! Report on the Crown and Disproportionate Reoffending Rates* (Wai 2540, 2017), at 22.
59 Waitangi Tribunal, *Kāinga Kore: The Stage One Report of the Housing Policy and Services Kaupapa Inquiry on Māori Homelessness* (Wai 2750, 2023), at 87.
60 See Waitangi Tribunal, *The Marine and Coastal Area (Takutai Moana) Act 2011 Inquiry Stage 2 Report* (Wai 2660, 2023), at 13.
61 *New Zealand Maori Council v Attorney-General* [1994] 1 NZLR 513 at 517.
62 Waitangi Tribunal, *Haumaru: The COVID-19 Priority Report* (Wai 2575, 2023), at 43.
63 Waitangi Tribunal, *Haumaru: The COVID-19 Priority Report* (Wai 2575, 2023), at 44, and Waitangi Tribunal, *He Pāharakeke, he Rito Whakakīkinga Whāruarua: Oranga Tamariki Urgent Inquiry* (Wai 2915, 2021), at 19.
64 Waitangi Tribunal, *He Pāharakeke, he Rito Whakakīkinga Whāruarua: Oranga Tamariki Urgent Inquiry* (Wai 2915, 2021), at 19; Waitangi Tribunal, *Kāinga Kore: The Stage One Report of the Housing Policy and Services Kaupapa Inquiry on Māori Homelessness* (Wai 2750, 2023), at 88.
65 Waitangi Tribunal, *Haumaru: The COVID-19 Priority Report* (Wai 2575, 2023), at 43.
66 Waitangi Tribunal, *Haumaru: The COVID-19 Priority Report* (Wai 2575, 2023), at 44.
67 See Law Commission *Justice: The Experiences of Māori Women* (NZLC R53, 1999) at [367].

social services, to access and develop information about themselves, and to be involved in decision-making.[68]

Fiduciary Duties

18. The Tribunal has at times characterised active protection as a fiduciary relationship. This recognises that the Crown is in a position of power over Māori, resulting in a Crown fiduciary obligation to protect Māori,[69] connected to other fiduciary duties such as good faith.[70] The Tribunal has previously found the Treaty imposed a fiduciary duty on the Crown to protect Māori rights, property and taonga.[71] Where there is doubt over what is included as taonga, the Crown must ascertain what Māori see as their taonga and ensure their protection. The Crown right of pre-emption applies only to land that Māori were willing to sell, not other properties, so Crown encroachment into properties undefined in the Treaty will breach this fiduciary obligation.[72]

19. The existence of fiduciary duties between the Crown and Māori is addressed much more by the courts than the Tribunal. While the courts have not found that the Crown owes a formal general fiduciary duty to Māori,[73] they have found that the Treaty relationship between Māori and the Crown "creates responsibilities analogous to fiduciary duties".[74] Courts have previously sourced fiduciary duties owed by the Crown to Māori in legal and political specific undertakings, not directly from the Treaty itself. For example, fiduciary obligations arise in relationships of power and dependency Māori have pre-existing and independent property interests "which can be surrendered only to the Crown (as under the right of pre-emption)".[75] In the circumstances of these independent property interests, the Crown's fiduciary obligations towards Māori are

68 Law Commission *Justice: The Experiences of Māori Women* (NZLC R53, 1999) at [385].
69 Waitangi Tribunal, *Te Maunga Railways Land Report* (Wai 315, 1994), at 67; Waitangi Tribunal, *Haumaru: The COVID-19 Priority Report* (Wai 2575, 2023), at 42.
70 Waitangi Tribunal, *The Marine and Coastal Area (Takutai Moana) Act 2011 Inquiry Stage 2 Report* (Wai 2660, 2023), at 210.
71 Waitangi Tribunal, *Radio Spectrum Management and Development Final Report* (Wai 776, 1999), at 40.
72 Waitangi Tribunal, *Radio Spectrum Management and Development Final Report* (Wai 776, 1999), at 40.
73 *Proprietors of Wakatu v Attorney-General* [2017] NZSC 17, at [391].
74 *New Zealand Maori Council v Attorney-General* [1987] 1 NZLR 641 [Lands], at 664.
75 *Proprietors of Wakatu v Attorney-General* [2017] NZSC 17, at [391].

likely those of "loyalty, good faith, full disclosure appropriate to the matter at hand and acting in what it reasonably and with due diligence regards as the best interest of the beneficiary," and can be more onerous.[76] The courts have found that the Crown-Māori relationship under the Treaty of Waitangi does not preclude an equitable claim founded on a separate fiduciary relationship between the Crown and Māori.[77]

WHĀNAU AND WHAKAPAPA POU

FIRST CAUSE OF ACTION: CROWN FAILURE TO PROTECT WĀHINE MĀORI FROM SEXUAL HARM AND PROVIDE CULTURALLY APPROPRIATE SEXUAL HARM SUPPORT SERVICES

Allegation

20. In breach of ngā mātāpono o matapopore moroki (active protection), tino rangatiratanga and houruatanga (partnership), the Crown has failed to:

    a. protect wāhine Māori from sexual violence.

    b. failed to take active steps to enable wāhine Māori to exercise rangatiratanga in the provision of support services to wāhine Māori who have experienced sexual harm.

    c. forced a western lens on sexual violence supports by not adequately funding kaupapa Māori support services.

    d. support the hauora of wāhine Māori in providing adequate support and culturally appropriate services in the aftermath of sexual harm.

    e. consult with Māori in the development of post-trauma support services; and

76 *Wewaykum Indian Banda v Canada* [2002] 4 SCR 245 at [94]-[96] (cited with approval in *Proprietors of Wakatu v Attorney-General* [2017] NZSC 17, at [355]).

77 *Proprietors of Wakatu v Attorney-General* [2017] NZSC 17, at [386].

f. protect wāhine Māori in the adversarial criminal justice system due to low conviction rates and limited access to access restorative justice.

Treaty Principles and Corresponding Crown Duties

21. Ngā mātāpono o tino rangatiratanga, matapopore moroki (active protection), tino rangatiratanga, and houruatanga (partnership), are engaged. Accordingly:

a. the Crown is obliged to inform itself of the needs of wāhine Māori, especially in the context of social services relating to sexual harm, and then to take especially vigorous action to actively protect vulnerable taonga such as wāhine Māori. The Crown must, in this context, address the cause of inequities such as the overrepresentation of wāhine Māori in sexual harm statistics, and provide needs-based resources to ameliorate the historical and structural disadvantage faced by wāhine Māori.

b. the Crown must ensure that wāhine Māori can exercise rangatiratanga over the design, delivery and monitoring of support services and determine the models of care, and how services are provided. Wāhine Māori have the right to choose which organisations they wish to use to express their tino rangatiratanga, and this includes rejected Crown agencies which are monocultural and culturally unsafe.

c. the Crown must ensure wāhine Māori are not disadvantaged in the Treaty partnership, as this relationship has a power imbalance favouring the Crown;[78] and

d. the Crown must partner with Māori in policy development and implementation, and this is especially important on issues facing wāhine Māori specifically such as providing supports to survivors of sexual harm.

78 Waitangi Tribunal, *Haumaru: The COVID-19 Priority Report* (Wai 2575, 2023), at 42.

Particulars

Sexual Harm Statistics

22. Wāhine Māori are disproportionately impacted by sexual harm and have been found to suffer from sexual harm at twice the rate of non-Māori in New Zealand.[79]

23. The Ministry of Justice estimates that:

    a. one in three women experience sexual assault in their lifetime;[80] and

    b. wāhine Māori at 43 percent and Pākehā women at 41 percent have much higher rates of lifetime experience of sexual assault than women of other ethnicities.[81]

24. Research has indicated that rangatahi wāhine Māori may be twice as likely to experience child sexual abuse than non-Māori girls.[82]

Traditional Practices in response to Sexual Harm

25. Prior to colonisation, instances of sexual harm were rare.[83]

26. The collective responsibility inherent in traditional Māori society served to limit violence from tāne towards wāhine and any such violence was unusual.[84]

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79 V Kingi and J Jordan, *Responding to sexual violence: Pathways to recovery* dated October 2009, accessed at <https://www.women.govt.nz/library/responding-sexual-violence-pathway-recovery-2009>, at 157.

80 Ministry of Justice, *New Zealand Crime and Victims Survey: About the NZCVS Cycle 5* dated June 2023, accessed at <https://www.justice.govt.nz/justice-sector-policy/research-data/nzcvs/nzcvs-cycle-5-resources-and-results/>.

81 Ministry of Justice, *New Zealand Crime and Victims Survey: About the NZCVS Cycle 5* dated June 2023, accessed at <https://www.justice.govt.nz/justice-sector-policy/research-data/nzcvs/nzcvs-cycle-5-resources-and-results/>.

82 HELP, *Sexual Abuse Statistics – Summary* dated 29 September 2023, accessed at <https://helpauckland.org.nz/resources/sexual-abuse-statistics-summary/>.

83 L Pihama, R Te Nana, N Cameron, et al., *Māori Cultural Definitions of Sexual Violence* (Sexual Abuse in Australia and New Zealand, Vol 7(1), June 2016), at 7.

84 E Tū Whānau, *Our Ancestors enjoyed loving whānau relationships* (E Tū Whānau! Te Mana Kaha o te Whānau, 2018), at 42.

27. The presence of wāhine Māori was seen as a potent form of whakanoa.[85] Wāhine Māori were powerful in their communities, and influential members of the collective.[86]

28. The inherent value and status of wāhine Māori meant that no form of violence towards wāhine was tolerated.[87]

29. An assault on wāhine Māori, be it sexual or otherwise, was regarded as extremely serious and could result in death or, in being declared "dead" by the community and ostracised from then on.[88]

30. Tikanga Māori saw sexual violence as a violation of te whare tangata, causing both physical and psychological distress, which trickles down into future generations.[89]

Framing of Sexual Harm in Te Ao Māori

31. Colonisation is a historically traumatic event that has had a collective and intergenerational impact on wāhine Māori.[90]

32. Sexual harm for Māori is understood in regard to the violence perpetuated upon whānau, hapū and iwi. It is connected directly to the loss of land and historical trauma events perpetuated through colonial invasion.[91]

33. Sexual harm within a Māori context is also shaped by social marginalisation, racism, structural violence, and the imposed societal changes on whānau and hapū brought about by colonisation.[92]

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85 E Tū Whānau, *Our Ancestors enjoyed loving whānau relationships* (E Tū Whānau! Te Mana Kaha o te Whānau, 2018), at 21.

86 E Tū Whānau, *Our Ancestors enjoyed loving whānau relationships* (E Tū Whānau! Te Mana Kaha o te Whānau, 2018), at 27.

87 Toah-Nnest, *Supporting Māori Survivors* dated October 2016, accessed at <https://toahnnestgoodpractice.squarespace.com/supporting-maori-survivors-2>.

88 R R Pere, S Cox, *To us the dreamers are important* (Port Nicholson Press, Wellington, 1987), at 57.

89 L Pihama, *Challenging sexual violence imposed upon & within Māori communities (Kaupapa Māori as Transformative Indigenous Analysis)* dated 2 May 2017, accessed at <https://kaupapamaori.com/2017/05/02/challenging-sexual-violence-imposed-upon-within-maori-communities/>.

90 L Pihama, R Te Nana, N Cameron, et al., *Māori Cultural Definitions of Sexual Violence* (Sexual Abuse in Australia and New Zealand, Vol 7(1), June 2016), at 10.

91 L Pihama, R Te Nana, N Cameron, et al., *Māori Cultural Definitions of Sexual Violence* (Sexual Abuse in Australia and New Zealand, Vol 7(1), June 2016), at 12.

92 D Wilson, *Violence within whānau and mahi tūkino – A litany of sound revisited* dated October 2023, accessed at <https://preventfvsv.govt.nz/assets/Te-Pukotahitanga/2023-10-A-Litany-of-Sound-Revisited.pdf>, at 46.

34. Sexual harm has multiple dimensions for wāhine Māori and is a violation of both the physical and spiritual.[93]

35. Sexual harm is a violation of mana and tapu for both the violator and the victim. It is viewed as an absolute violation of the mana of the person and the collective mana of whānau, hapū and iwi.[94]

Post-Colonisation Sexual Harm

36. The introduction of colonial trauma and violence created a cyclical handing down of violence.[95]

37. In 1769, tāne Māori brought wāhine Māori onboard the Endeavour to engage in sexual liaisons with the crew in exchange for European goods.[96]

38. The period of 1817 to 1840s was marked with intense inter-iwi conflict and warfare. At the peak of the musket wars between 1817 and 1821, wāhine Māori became increasingly vulnerable to violence including sexual violence.[97]

39. In the 1860s, there were 127 cases of violent sexual crimes reported, of which 16 involved Māori. There were also 13 cases of interracial sexual violence in which:[98]

    a. Two of the offenders were coloured men.

    b. Three tāne Māori were alleged to have sexually assaulted Pakeha women; and

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93 J Te Wiata and R Smith, *Working with Māori survivors of sexual violence* (Toah-Nnest, 2016), at 3.

94 L Pihama, R Te Nana, N Cameron, et al., *Māori Cultural Definitions of Sexual Violence* (Sexual Abuse in Australia and New Zealand, Vol 7(1), June 2016), at 9.

95 D Wilson, *Transforming the normalisation and intergenerational whānau (family) violence* (Journal of Indigenous Wellbeing, Vol 1, Issue 2, May 2024), at 36.

96 R Wolfgramm, *Mana Wāhine Māori I Ngā Wā ō Mua: the impacts of Crown legislation, policy and practices on the rangatiratanga, status and roles of wāhine Māori c. 1840 – 1950*, Wai 2700, #B9, at 124; J Belich, *Making Peoples: A History of the New Zealanders* (Penguin Random House New Zealand Limited, 2007), at 121.

97 R Wolfgramm, *Mana Wāhine Māori I Ngā Wā ō Mua: the impacts of Crown legislation, policy and practices on the rangatiratanga, status and roles of wāhine Māori c. 1840 – 1950*, Wai 2700, #B9, at 134.

98 R Wolfgramm, *Mana Wāhine Māori I Ngā Wā ō Mua: the impacts of Crown legislation, policy and practices on the rangatiratanga, status and roles of wāhine Māori c. 1840 – 1950*, Wai 2700, #B9, at 294; A Wanhalla, *Interracial sexual violence in 1860s New Zealand* (New Zealand Journal of History Vol 45(1), 2011), at 71-84.

c. Eight pakeha men were alleged to have sexually assaulted a wāhine Māori.

40. The erosion of traditional whānau and Iwi networks, which previously offered protection and accountability, exposed wāhine Māori to heightened risks of exploitation and violence from tāne. [99]

41. From 1920 to 1930 the number of rapes per 100,000 of the male population was 36 for Māori males, compared to 8 for non-Māori males (aged 15-45 years).[100]

42. Urbanisation placed wāhine Māori in precarious employment as domestic workers or factory labourers, where they were targeted for sexual violence.[101]

Inadequacies in Criminal Justice Responses to Sexual Harm

43. The criminal justice system is monocultural and individualistic.[102]

44. Only about eight percent of cases of sexual harm will be reported to police.[103] Of those reported, only a third result in charges against the perpetrator.[104]

45. Between April 2017 and March 2023, 55,785 sexual violence victimisations were reported. Of these, 42 percent resulted in court action and 12 percent resulted in a conviction.[105]

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99 F Cram, *Mana Wāhine – Whānau & Whakapapa, c.1840-2023* dated 31 March 2025, Wai 2700, #B11, at 174.

100 F Cram, *Mana Wāhine – Whānau & Whakapapa, c.1840-2023* dated 31 March 2025, Wai 2700, #B11, at 174; Department of Justice, *Crime in New Zealand* (Government Printer, Wellington, 1974), at 135.

101 F Cram, *Mana Wāhine – Whānau & Whakapapa, c.1840-2023* dated 31 March 2025, Wai 2700, #B11, at 174; L Pihama, N Cameron and R Te Nana, *Historical trauma and whānau violence* (Clearinghouse, University of Auckland, Auckland, 2019), at 12; New Zealand Herald, *Crime in Auckland* dated 27 January 1910, accessed at <https://paperspast.natlib.govt.nz/newspapers/NZH19100127.2.83>, at 7.

102 V Kingi and J Jordan, *Responding to sexual violence: Pathways to recovery* dated October 2009, accessed at <https://www.women.govt.nz/library/responding-sexual-violence-pathway-recovery-2009>, at 158.

103 HELP, *Sexual Abuse Statistics*, dated November 2021, accessed at <https://helpauckland.org.nz/wp-content/uploads/SexualAbuseStatistics-Detailed.pdf>, at 7.

104 HELP, *Sexual Abuse Statistics*, dated November 2021, accessed at <https://helpauckland.org.nz/wp-content/uploads/SexualAbuseStatistics-Detailed.pdf>, at 7.

105 Ministry of Justice, *Progression and attrition of reported sexual violence victimisations in the criminal justice system* dated 25 August 2023, accessed at <https://www.justice.govt.nz/assets/Documents/Publications/Progression-and-attrition-of-sexual-violence-victimisations-through-the-criminal-justice-system-2017-to-2023.pdf>.

46. Restorative justice is not regularly offered for sexual harm cases. Referrals are only made from the court once a guilty plea has been made, or if the Judge requests a diversion.[106] The Crown, prosecution and the parties all must agree to the referral in these instances.[107]

47. On average, just three people are charged and one person convicted for every 100 instances of sexual harm.[108]

48. The adversarial system is known to retraumatise survivors of sexual harm.[109]

49. Initial experiences with the court and wider medical legal services has long-term consequences for a survivor's recovery.[110]

50. There is limited sexual harm court support, with significant geographic gaps, in that funding does not cover the whole country.[111]

The Eurocentric Trauma Support Model

51. Support services[112] can include crisis support, restorative justice support,[113] counselling, and ACC funded therapy.

52. The existing dominant models in Aotearoa fail to engage with trauma from a taha Māori perspective:[114]

    a. An understanding and awareness of the intergenerational impact of colonial violence and the subsequent manifestations of that in

106 Project Restore NZ, *Referrals to project restore*, dated n.d., accessed at <https://www.projectrestore.nz/referrals/#typesofreferral>.
107 Project Restore NZ, *Referrals to project restore*, dated n.d., accessed at <https://www.projectrestore.nz/referrals/#typesofreferral>.
108 HELP, *Sexual Abuse Statistics*, dated November 2021, accessed at <https://helpauckland.org.nz/wp-content/uploads/SexualAbuseStatistics-Detailed.pdf>, at 8.
109 N Slade*, Literature review on international best court support models for victim-survivors of sexual violence* (Ministry of Social Development, Wellington, 2020) at 7.
110 N Slade, *Literature review on international best court support models for victim-survivors of sexual violence* (Ministry of Social Development, Wellington, 2020) at 8.
111 Te Puna Aonui, *List of Family Violence and Sexual Violence Service Gaps*, dated March 2023, accessed at <https://tepunaaonui.govt.nz/assets/Other-Agencies/FVSV-gaps-list-for-public-consultation_March-2023.pdf>.
112 Support services refer to the care that wāhine receive, after a traumatic sexual violence incident.
113 HELP, *Justice Services*, dated n.d., accessed at <https://helpauckland.org.nz/wp-content/uploads/HELP-Justice-Services-_DIGITAL.pdf>.
114 L Pihama, L Tuhiwai Smith, T Evans-Campbell, et al., *Investigating Māori approaches to trauma informed care*, (Journal of Indigenous Wellbeing, Vol 2, Issue 3, December 2017), at 19.

individual behaviours, must be critically engaged with, within support processes and policy frameworks.[115]

b. Sexual harm supports are focused on addressing harm from an individualistic perspective and fail to address the harm experienced by the whanau.[116]

c. Spiritual distress is often neither recognised nor acknowledged in the current treatment model. The lack of recognition and support of the wairua impedes recovery and healing.[117]

d. The current model of care fails to address the collective nature of trauma, including intergenerational trauma that is caused by colonisation.[118]

e. A te ao Māori approach to trauma-informed care would focus on collective knowledge and the principles of rangatiratanga, taonga tuku iho, ako, whānau, whakapapa, te reo, tikanga and wānanga.[119]

53. There is no clear measurement or monitoring of victim services and systems, with no responsible body[120] meaning that cultural competency goes unchecked.

Barriers to Accessing Culturally Appropriate Supports

54. Barriers to accessing culturally appropriate sexual violence supports include:

115 L Pihama, R Te Nana, N Cameron, et al., *Māori Cultural Definitions of Sexual Violence* (Sexual Abuse in Australia and New Zealand, Vol 7(1), June 2016), at 12.
116 J Te Wiata and R Smith, *Working with Māori survivors of sexual violence* (Toah-Nnest, 2016), at 4.
117 J Te Wiata and R Smith, *Working with Māori survivors of sexual violence* (Toah-Nnest, 2016), at 3.
118 L Pihama, R Te Nana, N Cameron et al., *Māori Cultural Definitions of Sexual Violence* (Sexual Abuse in Australia and New Zealand, Vol 7(1), June 2016), at 10.
119 L Pihama, L Tuhiwai Smith, T Evans-Campbell et al., *Investigating Māori approaches to trauma informed care*, (Journal of Indigenous Wellbeing, Vol 2, Issue 3, December 2017), at 19.
120 Manaaki Tāngata Victim Support, *The Impact Statement Podcast – Dr Kim McGregor* dated 12 January 2022, accessed at <https://www.victimsupport.org.nz/news-stories/dr-kim-mcgregor>.

a. general shortage of psychologists, psychiatrists and therapists in Aotearoa;[121]

b. scarcity of Māori psychologists, psychiatrists and therapists; [122]

c. lack of culturally appropriate support services providers;[123]

d. increased difficulty of accessing skilled and qualified support in rural areas;[124] and

e. gap in supports between crisis support, and long-term support delivered via ACC sensitive claims;[125]

55. Few government strategic mental health and addiction services documents explicitly support a dedicated investment in a trauma informed care approach.[126]

56. The shortage of psychologists in New Zealand, both Māori and non-Māori is at a critical level.[127]

57. Not enough psychologists are being trained to meet the growing need.[128]

58. In 1999, Māori psychologists comprised 3.5 percent of the total psychology workforce. This decreased in 2000 to 1.3 percent. In 2002 and

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121 K Boland, *Psychology sector calls for urgent funding to train more psychologists*, dated 24 August 2023, accessed at <http://thepress.co.nz/nz-news/350059871/psychology-sector-calls-urgent-funding-train-more-psychologists>.

122 M Levy, *Indigenous Psychology in Aotearoa: Realising Māori Aspirations (*Doctorate Thesis, University of Waikato, 2007), at 107.

123 The Treasury, *The Treasury Budget 2014 Information Release Document* dated 3 July 2014, accessed at <https://www.treasury.govt.nz/publications/information-release/budget-2014-information-release>, at [33].

124 V Kingi and J Jordan, *Responding to sexual violence: Pathways to recovery* dated October 2009, accessed at <https://www.women.govt.nz/library/responding-sexual-violence-pathway-recovery-2009>, at 148.

125 Te Puna Aonui, *List of Family Violence and Sexual Violence Service Gaps*, dated March 2023, accessed at <https://tepunaaonui.govt.nz/assets/Other-Agencies/FVSV-gaps-list-for-public-consultation_March-2023.pdf>.

126 L Pihama, L Tuhiwai Smith, T Evans-Campbell et al, *Investigating Māori approaches to trauma informed care*, (Journal of Indigenous Wellbeing, Vol 2, Issue 3, December 2017), at 21.

127 K Boland, *Psychology sector calls for urgent funding to train more psychologists*, dated 24 August 2023, accessed at <https://www.thepress.co.nz/nz-news/350059871/psychology-sector-calls-urgent-funding-train-more-psychologists#:~:text=The%20shortage%20of%20qualified%20psychologists,before%20having%20an%20initial%20appointment.>.

128 L Forman, *Psychologist group warns not enough youth and child specialists to meet growing demand*, dated 27 May 2023, accessed at <https://www.rnz.co.nz/news/national/490775/psychologist-group-warns-not-enough-youth-and-child-specialists-to-meet-growing-demand>.

2003, Māori psychologists increased to 4.7 percent of the workforce, and then in 2005 this had decreased to 3.8 percent.[129]

59. At 31 March 2024, there were 4026 registered psychologists practicing in Aotearoa New Zealand.[130] Of those practicing, for the 2024 registration period, 223 (or 5 percent) identified as Māori. [131]

60. A significant barrier to Māori participation in the psychology workforce, is its overreliance on western paradigms.[132]

61. The relevance of psychology for Māori is questionable given that the system fails to recognise or allow for integration of Māori concepts and practices.[133]

Lack of Kaupapa Māori Mahi Tūkino Support Services

62. Kaupapa Māori support services can help to restore whanau ora.[134] Kaupapa Māori services are extremely valuable.[135]

63. Despite the recognition by Te Puna Aonui that services need to give resource and decision-making power to Māori and address intergenerational impacts of colonisation and institutional racism, there is a shortage of Kaupapa Māori services and those that exist have stretched capacity to work with their communities.[136]

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129 M Levy, *Indigenous Psychology in Aoteroa: Realising Māori Aspirations* (PhD Thesis, University of Waikato, 2007) at 107.

130 New Zealand Psychologists Board Te Poari Kaimātai Hinengaro o Aotearoa, *Annual Report 1 April 2023 to 31 March 2024* dated February 2025, accessed at <https://psychologistsboard.org.nz/wp-content/uploads/2025/02/New-Zealand-Psychologists-Board-Annual-Report-2024.pdf>, at 18.

131 New Zealand Psychologists Board Te Poari Kaimātai Hinengaro o Aotearoa, *Annual Report 1 April 2023 to 31 March 2024* dated February 2025, accessed at <https://psychologistsboard.org.nz/wp-content/uploads/2025/02/New-Zealand-Psychologists-Board-Annual-Report-2024.pdf>, at 19.

132 M Levy, *Barriers and Incentives to Maori Participation in the Profession of Psychology*, (University of Waikato, September 2002), at 32-33.

133 M Levy, *Barriers and Incentives to Maori Participation in the Profession of Psychology*, (University of Waikato, September 2002), at 32-33.

134 V Kingi and J Jordan, *Responding to sexual violence: Pathways to recovery* dated October 2009, Ministry of Women's Affairs, at 25.

135 V Kingi and J Jordan, *Responding to sexual violence: Pathways to recovery* dated October 2009, Ministry of Women's Affairs, at 161.

136 Te Puna Aonui, *List of Family Violence and Sexual Violence Service Gaps*, dated March 2023, accessed at <https://tepunaaonui.govt.nz/assets/Other-Agencies/FVSV-gaps-list-for-public-consultation_March-2023.pdf>.

64. As of 2017, there was no discussion of the need for a Kaupapa Māori based provision or the need for education that focuses upon Kaupapa Māori of those health care providers delivering Trauma Informed Care.[137]

65. Kaupapa Māori services that support the hauora for the whole whanau, rather than an individualistic care, has shown to have positive outcomes on both the whanau and, for self-esteem and confidence.[138]

66. Western based therapy models, are typically based on a one hour allotted appointment.[139] A kaupapa Māori model, which holds space for flexible timeframes has shown to be validating and support the healing process.[140]

Funding of Sexual Harm Supports

67. The most significant issue is insufficient funding relative to demand:[141]

    a. The Crown funds support service providers with less than two thirds of the required budget, forcing them to raise funds privately.[142] Providers are not adequately funded to deliver the required services.[143]

    b. Sexual violence services are not always being delivered or funded in an effective and consistent manner. Service providers may have multiple contracts with different government agencies,

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137 L Pihama, L Tuhiwai Smith, T Evans-Campbell et al, *Investigating Māori approaches to trauma informed care*, (Journal of Indigenous Wellbeing, Vol 2, Issue 3, December 2017), at 21.

138 V Kingi and J Jordan, *Responding to sexual violence: Pathways to recovery* (Minitatanga Mō Ngā Wāhine, Wellington, October 2009), at 27.

139 The Counselling Hub, *How Long Does Each Counseling Session Last?* accessed at <https://thecounselinghub.com/how-long-does-a-session-last#:~:text=If%20you're%20going%20for,sessions%20or%2060%2Dminute%20sessions.>.

140 V Kingi and J Jordan, *Responding to sexual violence: Pathways to recovery* (Minitatanga Mō Ngā Wāhine, Wellington, October 2009), at 113.

141 The Treasury, *The Treasury Budget 2014 Information Release Document*, dated July 2014, accessed at <https://www.treasury.govt.nz/publications/information-release/budget-2014-information-release>, at [43].

142 M Jenkins, *Social Service System: The Funding Gap and How To Bridge It* (Social Service Providers Aotearoa, August 2019), at 77.

143 M Jenkins, *Social Service System: The Funding Gap and How To Bridge It* (Social Service Providers Aotearoa, August 2019), at 74.

all with separate requirements, and auditing and reporting processes.[144]

c. In 2016, the Crown provided funding to the Women's Refuge to the sum of $200,000 per year 'to fund more than 800 existing places around the country each year'. This equated to an additional $250 for each refuge home.

d. The process of obtaining government funding for NGOs lacks transparency.[145]

68. The current funding model creates uncertainty for service providers. Funding is regularly cut for Kaupapa Māori services.[146]

69. When there are budget impacts on non-Māori support services, Kaupapa Māori supports are doubly impacted.[147]

70. Budget 2023 stated that $8.603 million was committed to kaupapa Māori specialist Sexual Violence services for Māori over a period of three years.[148]

a. 2023/2024: $2.996 million was committed;[149]

b. 2024/2025: $2.988 million was committed; and

c. 2025/2026: $2.619 million was committed.[150]

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144 The Treasury, *The Treasury Budget 2014 Information Release Document*, dated July 2014, accessed at <https://www.treasury.govt.nz/publications/information-release/budget-2014-information-release>, at 13.

145 M Soakell and M D Myers, *Knowledge Management Challenges for Nongovernment Organizations: The Health and Disability Sector in New Zealand* dated December 2010, at 8-9.

146 Manaaki Tāngata Victim Support, *The Impact Statement Podcast – Dr Kim McGregor* dated 12 January 2022, accessed at <https://www.victimsupport.org.nz/news-stories/dr-kim-mcgregor>.

147 Manaaki Tāngata Victim Support, *The Impact Statement Podcast – Dr Kim McGregor* dated 12 January 2022, accessed at <https://www.victimsupport.org.nz/news-stories/dr-kim-mcgregor>.

148 Violence Information Aotearoa, *Budget 2023 funding for family violence and sexual violence*, dated 15 May 2023, accessed at <https://www.vine.org.nz/news/budget-2023-funding-for-family-violence-and-sexual-violence>.

149 Ministry of Social Development, *Kaupapa Māori Specialist Sexual Violence Services for Whānau – Budget 2023*, accessed at <https://www.msd.govt.nz/about-msd-and-our-work/newsroom/budget/2023/factsheets/kaupapa-maori-specialist-sexual-violence-services-for-whanau-budget-2023.html>.

150 Ministry of Social Development, *Kaupapa Māori Specialist Sexual Violence Services for Whānau – Budget 2023*, accessed at <https://www.msd.govt.nz/about-msd-and-our-work/newsroom/budget/2023/factsheets/kaupapa-maori-specialist-sexual-violence-services-for-whanau-budget-2023.html>.

71. The incumbent government has signalled that it will reduce government and social spending.[151] It has also indicated movement away from services that are specifically for Māori.[152]

72. As of 2025, it is unclear how much funding has been or will be allocated to kaupapa Māori sexual violence support services.

Claimant Particulars

73. Ms Egen was a survivor of sexual abuse at a young age.

74. The perpetrator was a friend of a family member under the influence of alcohol.

75. Seeking out support is difficult and access to effective, culturally competent support services were limited.

Breach

76. In breach of ngā mātāpono o matapopore moroki (active protection), tino rangatiratanga and houruatanga (partnership), the Crown has failed to:

    a. protect wāhine Māori from sexual violence, caused by the impacts of colonisation.

    b. support the wellbeing of wāhine Māori and provide culturally appropriate services in the aftermath of harm. With low conviction rates and limited options to access restorative justice, the Crown fails to protect wāhine Māori in that the adversarial system fails to address whakamā and trauma.

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151 RNZ, *Election 2023: National Party fiscal plan promises lower taxes, disciplined government spending* dated 29 September 2023, accessed at <https://www.rnz.co.nz/news/political/499024/election-2023-national-party-fiscal-plan-promises-lower-taxes-disciplined-government-spending>.

152 Stuff, *Full transcript: Speech from the Throne, formal opening of Parliament* dated 6 December 2023, accessed at <https://www.stuff.co.nz/national/politics/301021676/full-transcript-speech-from-the-throne-formal-opening-of-parliament>.

c. take active steps to enable wāhine Māori to support wāhine Māori that have experienced sexual violence in a way that is best for them; and

d. the Crown has forced a western lens on sexual violence supports, particularly by emphasising the ACC system and by not adequately funding kaupapa Māori support services.

Prejudice

77. As a result of the Crown's foregoing acts and omissions, the Claimants and their wāhine tūpuna have experienced:

a. unaddressed trauma caused by sexual harm without adequate services to assist in the healing process.

b. difficulties with access to support services, resulting in unaddressed trauma.

c. perpetuated norms in relation to sexual violence.

d. diminished mana and harm.

e. further harm and traumatisation by being effectively forced to rely on a Eurocentric model, and culturally inappropriate supports; and

f. further traumatisation through engagement with the justice system.

Relief Sought

78. As a result of the foregoing breaches, the Claimants seek the following relief:

a. a finding that this cause of action is well-founded.

b. a sincere and public apology from the Crown to the Claimants for its actions in failing to actively protect their wellbeing and, for failing to recognise and affirm their tino rangatiratanga.

c. greater funding for sexual harm support services such as Rape Crisis and Youthline.

d. A recommendation that Te Puni Kōkiri and any other relevant agency publishes its progress in relation to Tribunal's recommendations publicly and in addition, any section 8(l) reports are made available to the claimants; and

e. such other findings and recommendations that the Tribunal consider appropriate in the circumstances.

SECOND CAUSE OF ACTION: CROWN FAILURE TO PROTECT WĀHINE MĀORI FROM INCEST

Allegation

79. In breach of te mātāpono o te matapopore moroki (active protection), the Crown has failed to:

a. protect wāhine Māori from familial sexual violence or incest; and

b. implement laws that would promote the safety of wāhine Māori from criminalisation in circumstances where they are a victim of familial sexual violence.

Treaty Principles and Corresponding Crown Duties

80. Te mātāpono o te matapopore moroki (active protection) is engaged. Accordingly:

a. the Crown both cannot interfere with Māori tino rangatiratanga (whether over people, lands or taonga), and must positively

support it, only as desired by wāhine Māori.[153] A Crown failure to actively protect the rights and interests of wāhine Māori is as much a Treaty breach as their active removal;[154] and

b. the Crown is obliged to inform itself of the needs of wāhine Māori, especially in the context of social services relating to incest harm, and then to take especially vigorous action to actively protect vulnerable taonga such as wāhine Māori and rangatahi wāhine Māori. The Crown must, in this context, address the cause of inequities such as the overrepresentation of wāhine Māori in incest harm statistics, and provide needs-based resources to ameliorate the historical and structural disadvantage.

Particulars

Traditional Māori Society Prohibited Ngau Whiore

81. Within Māori tradition, "incest (ngau whiore) and incestuous relationships were prohibited. Acts of incest violated the intrinsic tapu of wāhine and whakapapa. [155]

82. Māori viewed incest as transgressing the mana, status, dignity and the future birth right of not only the victim, but also the abuser and their people.[156]

83. Sexual violence is not only a crime against the individual but is an attack on the person's entire being and mana.[157]

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153 Waitangi Tribunal, *Te Mana Whatu Ahuru: Report on Te Rohe Pōtae Claims* (Wai 898, 2023), Vol 1, at 211.

154 Waitangi Tribunal, *Haumaru: The COVID-19 Priority Report* (Wai 2575, 2023), at 44.

155 F Cram, *Mana Wāhine – Whānau & Whakapapa, c.1840-2023* dated 31 March 2025, Wai 2700, #B11 at 173; D Wilson, *Violence within whānau and mahi tūkino – A litany of sound revisited* dated March 2023, Te Pūkotahitanga – Tangata Whenua Advisory Group for the Minister of the Prevention of Family Violence and Sexual Violence, at 23.

156 L Pihama, R Te Nana, N Cameron et al., *Māori Cultural Definitions of Sexual Violence* (Sexual Abuse in Australia and New Zealand, Vol 7(1), June 2016), at 9; M Pitman, *The Māori Experience* (Rape: Ten years progress? An interdisciplinary conference, Wellington, 1996), at 44 – 47.

157 L Pihama, R Te Nana, N Cameron et al., *Māori Cultural Definitions of Sexual Violence* (Sexual Abuse in Australia and New Zealand, Vol 7(1), June 2016), at 9; A Sykes, *Getting the case to trial: Me aro koe ki te haa o Hineahuone* (Rape: Ten years progress? An interdisciplinary conference, Wellington, 1996), at 64 - 67.

The Impact of Colonisation on Incidence of Ngau Whiore (Incest)

84. The disruption of Māori social structures, land alienation, and urban migration left many wāhine Māori vulnerable to sexual and other violence. [158]

85. The erosion of traditional whānau and Iwi networks, which previously offered protection and accountability, exposed wāhine Māori to heightened risks of exploitation and violence from tāne. [159]

86. From 1920 to 1930 the number of rapes per 100,000 of the male population was 36 for Māori males, compared to 8 for non-Māori males (aged 15-45 years).[160]

87. Colonisation exposed wāhine Māori to the risk of sexual violence within their homes, from whānau members who should be their protectors. [161]

88. The high prevalence of sexual violence within Māori communities is a consequence of colonisation.[162]

89. The intergenerational trauma caused by incest has led to an internalisation of the brutality experienced.[163]

Crown Law and Policy

90. In 1896, incest was criminalised. The Act limited the definition of incest to carnal knowledge by a male person above fourteen with a woman or girl, who is *to his knowledge*, is his daughter or other lineal descendance, or his mother, or sister. [164]

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158 F Cram, *Mana Wāhine – Whānau & Whakapapa, c.1840-2023* dated 31 March 2025, Wai 2700, #B11 at 174.

159 F Cram, *Mana Wāhine – Whānau & Whakapapa, c.1840-2023* dated 31 March 2025, Wai 2700, #B11 at 174.

160 F Cram, *Mana Wāhine – Whānau & Whakapapa, c.1840-2023* dated 31 March 2025, Wai 2700, #B11 at 174; Department of Justice, *Crime in New Zealand, Department of Justice, New Zealand* (Government Printer, Wellington, 1968), at 135.

161 F Cram, *Mana Wāhine – Whānau & Whakapapa, c.1840-2023* dated 31 March 2025, Wai 2700, #B11 at 173.

162 T Kruger, M Pitman, D Grennell et al., *Transforming Whānau Violence – A Conceptual Framework* dated September 2004, accessed at <https://files.vine.org.nz/koha-files/transforming_whanau_violence.pdf>, at 9-13.

163 M Jackson, *Moana Jackson: Colonisation and the suffering of children*, dated 29 April 2017, accessed at <https://e-tangata.co.nz/comment-and-analysis/moana-jackson-colonisation-and-the-suffering-of-children/>.

164 Criminal Code Act 1893 Amendment Bill 1896 (74-3), cl 2(1).

91. The 1896 Act also punished any woman or girl above 16 years old, who "permitted" incest to occur to imprisonment for a period not exceeding one year. [165]

92. Charges under the 1896 Act had to be brought within two years of the incest occurring[166] and had to have the consent of the Attorney-General[167] increasing the difficulty of bringing charges.

93. Incest continued to have a low reporting rate.[168]

94. Under the Crimes Act 1908, incest was specifically defined as sexual intercourse between parent and child, siblings related by blood, or grandparent and grandchild.[169] The offence required knowledge of the relationship between the parties.

95. The 1961 amendment to the offence simplified the law[170] and included illegitimate grandchildren in the definition of a grandchild.

Incest Statistics

96. More than one in four females (26 percent) and one in nine (11 percent) males reported experiencing sexual abuse before age 15.[171]

97. Māori girls may be twice as likely to experience child sexual abuse than non-Māori girls.[172]

98. Wāhine Māori are also more twice as likely as Pākehā women to report childhood sexual abuse, with a family member most likely to be identified as the perpetrator of this abuse.[173]

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165 Criminal Code Act 1893 Amendment Bill 1896 (74-3), cl 2(4).
166 Criminal Code Act 1893 Amendment Bill 1896 (74-3), cl 2(6).
167 Criminal Code Act 1893 Amendment Bill 1896 (74-3), cl 2(7).
168 J. Fanslow and E. Robinson. *Sticks, stones, or words? Counting the prevalence of different types of intimate partner violence reported by New Zealand women* (Journal of Aggression, Maltreatment & Trauma, Vol 20(7), 2011), at 741-759.
169 Crimes Act 1908, s 139, as enacted.
170 Crimes Act 1961, s 130(1).
171 HELP, *Sexual Abuse Statistics – Summary* dated 29 September 2023, accessed at <https://helpauckland.org.nz/resources/sexual-abuse-statistics-summary/>.
172 HELP, *Sexual Abuse Statistics – Summary* dated 29 September 2023, accessed at <https://helpauckland.org.nz/resources/sexual-abuse-statistics-summary/>.
173 J L.Fanslow, E M.Robinson, S Crengle et al., *Prevalence of child sexual abuse reported by a cross-sectional sample of New Zealand women*, (Child Abuse & Neglect, Vol 31(9), 17 September 2007), at 940-944.

99. More than a quarter (26 percent) of sexual assaults were perpetrated by a family member of the survivor.[174]

Psychological and Emotional Effects

100. A child's sensitive brain is much more malleable to experience. To sense, process, store, perceive, and act on internal and external information, over 100 billion neurons are organised.[175]

101. A child learns about concepts like trust, safety, and self-worth in these relationships with important people like parent(s), caregivers, and siblings.[176]

102. Abuse by a family member, someone in a trusted position in the child's community, or a friend involves serious betrayal of roles and relationships.[177]

103. When incest occurs within a family, it is also likely that there are:[178]

a. disturbed family relationships and dynamics such as parental discord and immaturity.

b. parent-child role reversals and triangulation.

c. boundary violations; and

d. entrenched patterns of denial, secrecy, rigidity and shame.

104. Child sexual abuse can have a profound psychological effect that lasts into and throughout adult life.[179] Some long-term effects may include:

a. Difficulties with sexual relationships in adulthood.

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174 HELP, *Sexual Abuse Statistics – Summary* dated 29 September 2023, accessed at <https://helpauckland.org.nz/resources/sexual-abuse-statistics-summary/>.

175 K McGregor, *Guidelines for Therapists Working with Adult Survivors of Child Sexual Abuse* (Accident Compensation Corporation, 2001), at 5.

176 K McGregor, *Guidelines for Therapists Working with Adult Survivors of Child Sexual Abuse* (Accident Compensation Corporation, 2001), at 5.

177 K McGregor, *Guidelines for Therapists Working with Adult Survivors of Child Sexual Abuse* (Accident Compensation Corporation, 2001), at 5.

178 K McGregor, *Guidelines for Therapists Working with Adult Survivors of Child Sexual Abuse* (Accident Compensation Corporation, 2001), at 6.

179 Independent Inquiry Child Sexual Abuse, *3.2 The effects of child sexual abuse*, accessed at <https://www.iicsa.org.uk/reports-recommendations/publications/inquiry/interim/nature-effects-child-sexual-abuse/effects-child-sexual-abuse.html>.

b. Depression.

c. Self-destructive behaviours (drugs/alcohol abuse).

d. Parenting difficulties (Distress around becoming a pregnant, childbirth).

e. Somatic complaints like chronic pain, headaches, or nausea; and

f. Eating difficulties.

Claimant Particulars:

105. Incest and rape has occurred on multiple occasions within the Claimant's whānau.

106. Sodomy, sexual and non-sexual acts were committed by men onto female whānau members.

107. Procedural issues barred the police from punishing the perpetrators, with the perpetrators remaining unpunished.

108. Consequently, there has been breakdowns in various familial relationships, including between the survivors, parents and grandparents.

Breach

109. In breach of te mātāpono o te matapopore moroki (active protection), the Crown has failed to:

a. protect wāhine Māori from familial sexual violence or incest; and

b. implement laws that would promote the safety of wāhine Māori from criminalisation in circumstances where they are a victim of familial sexual violence.

Prejudice

110. As a result of the foregoing Crown's actions and omissions the Claimants have endured the following prejudice:

a. diminution of mana, and stigma.

b. perpetuated norms in relation to sexual violence.

c. diminished mana and harm to Te Whare Tapa Whā; and

d. lifelong trauma.

Relief Sought

111. As a result of the foregoing breaches, the Claimants seek the following relief:

a. a finding that this cause of action is well-founded.

b. a sincere and public apology from the Crown to the Claimants for its actions in failing to actively protect them from sexual harm.

c. a recommendation that the Crown engage with wāhine Māori in relation to policy changes they would like to see to protect tamariki from sexual violence.

d. a recommendation that the Crown engage with wāhine Māori in relation to policy changes they would like to see to support tamariki if sexual violence is reported.

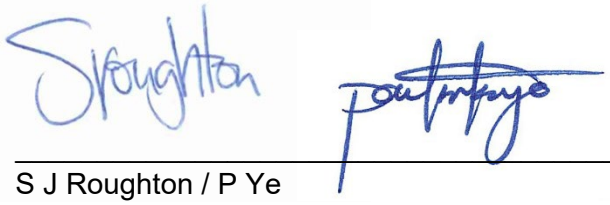
e. a recommendation that strategies are put in place to prevent future trauma cycles, including adequate and culturally appropriate support for victim-survivors on the healing journey.

f. a recommendation that Te Puni Kōkiri and any other relevant agency publishes its progress in relation to Tribunal's

recommendations publicly and in addition, any section 8(l) reports are made available to the claimants; and

g. such other findings and recommendations that the Tribunal consider appropriate in the circumstances.

DATED this 2nd day of Poutūterangi 2026



S J Roughton / P Ye
Counsel Acting

This Statement of Claim is filed by **STEPHANIE JOY ROUGHTON** AND **PATRICK YE**, Solicitors for the Claimants, of the firm **TĀMAKI LEGAL LIMITED.** The address for service of the Claimants is at the office of Tamaki Legal Ltd, Barristers and Solicitors, Level 3, 2 Osterley Way, Manukau, Auckland. Documents for service on the Claimants may be left at that address for service or may be:

(a) Posted to the Solicitor at PO Box 75-517, Manurewa, Auckland 2243; or

(b) Emailed to the solicitors at stephanie@tamakilegal.com and patrick@tamakilegal.com.