

I TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI
IN THE WAITANGI TRIBUNAL

WAI 2700

Wai 2729

KEI RARO I TE MANA O
IN THE MATTER OF
ME
AND

te ture o te Tiriti o Waitangi 1975
the Treaty of Waitangi Act 1975

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

ko Susan Taylor i runga i te tono o
Georgia-May Morgan MacBeath mo
te whānau mo ngā katoa Māori
pākinikini mate ā-hinengaro

IN THE MATTER

of a claim by Susan Taylor for and on
behalf of the late Georgia-May
Morgan MacBeath, her whānau and
all Māori suffering from mental illness

AMENDED STATEMENT OF CLAIM OF WAI 2729

I tenei rā, I te 27 o Huitānguru 2026

Dated 27 February 2026

TamakiLegal
Barristers & Solicitors

Level 3, 2 Osterley Way, Merial Building, Manukau 2104
PO Box 75-517, Manurewa, Auckland 2243
P. 09 263 5240
E. stephanie@tamakilegal.com

Counsel Acting: S J Roughton

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THE CLAIMANTS SAY:

THE PARTIES

1. The Claimants, Susan Taylor, the late Georgia-May Morgan MacBeath, and her whānau, 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 Rangatiratanga Pou and 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:
 - a. First Amended Statement of Claim for Wai 2729 (Wai 2729, #1.1.1(a)) dated 31 August 2018; and
 - b. Third Amended Statement of Claim of Wai 2729 (Wai 2729, #1.1.1(c)) dated 11 September 2025.

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

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

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 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 motuhake⁹ 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

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.

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, *Haumarū: 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, *Haumarū: The COVID-19 Priority Report* (Wai 2575, 2023), at 43.

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, wāhine Māori are also political, spiritual and cultural leaders in their communities, both traditionally¹⁴ 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 KĀWANATANGA

The Principle of Kāwanatanga

7. Kāwanatanga is the right to govern and to make laws for the ‘good order and security’ of the country.¹⁸ Kāwanatanga must be exercised in accordance with the principle of good government and in a way that actively protects and does not diminish rangatiratanga.¹⁹

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.

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 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* (Wai 3300, 2024), at 71.

¹⁹ 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* (Wai 3300, 2024), at 71.

TE MĀTĀPONO O TE KĀWANATANGA TŌTIKA

The Principle of Good Government

8. The Treaty/te Tiriti principle of good government or ‘good governance’ applies to the Crown’s exercise of kāwanatanga. Deriving from article 3 of the Treaty/te Tiriti, this principle ‘requires the Crown to keep its own laws’ and ‘holds the Crown wholly responsible for complying with its own laws, rules and standards’.²⁰ This means that the Crown must abide by its own laws²¹ and not act outside them.²² This applies to the development, enacting and implementation of the Crown’s laws, policies, and strategies.²³ The principle of good government analyses any gap between law, policy and strategy, and their actual delivered results.²⁴
9. The Tribunal has characterised good government as part of the Treaty’s reciprocal exchange,²⁵ and as expressing the Crown’s fiduciary duty to Māori, where the Crown must correct adverse impacts of colonisation on Māori with affirmative action.²⁶ For Crown actions to constitute good government, they must be just and fair,²⁷ following legal, international human rights, and Treaty norms.²⁸ Good government is also underpinned by non-discrimination,²⁹ and is another term for the rule of law.³⁰ In terms of practical requirements, the Crown must provide Māori with a degree of legal certainty and administrative efficiency.³¹ This includes informing affected Māori groups of the purpose, functions and processes of relevant

²⁰ Waitangi Tribunal, *He Whiritaunoka: The Whanganui Land Report* (Wellington: Legislation Direct, Vol 1, 2015), at 158.

²¹ Waitangi Tribunal, *Kāinga Kore: The Stage One Report of the Housing Policy and Services Kaupapa Inquiry on Māori Homelessness* (Wai 2750, 2023), at 106.

²² Waitangi Tribunal, *He Maunga Rongo: Report on Central North Island Claims, Stage One* (Wai 1200, 2008), vol 2, at 429.

²³ Waitangi Tribunal, *Kāinga Kore: The Stage One Report of the Housing Policy and Services Kaupapa Inquiry on Māori Homelessness* (Wai 2750, 2023), at 106.

²⁴ Waitangi Tribunal, *Kāinga Kore: The Stage One Report of the Housing Policy and Services Kaupapa Inquiry on Māori Homelessness* (Wai 2750, 2023), at 106.

²⁵ Waitangi Tribunal, *Maori Development Corporation Report* (Wai 350, 1993), at 31-32.

²⁶ Waitangi Tribunal, *Kāinga Kore: The Stage One Report of the Housing Policy and Services Kaupapa Inquiry on Māori Homelessness* (Wai 2750, 2023), at 96.

²⁷ Waitangi Tribunal, *The Marine and Coastal Area (Takutai Moana) Act 2011 Inquiry Stage 2 Report* (Wai 2660, 2023), at 15.

²⁸ Waitangi Tribunal, *Report on the Crown’s Foreshore and Seabed Policy* (Wai 1071, 2004), at xiii.

²⁹ Waitangi Tribunal, *Report on the Crown’s Foreshore and Seabed Policy* (Wai 1071, 2004), at xiv.

³⁰ Waitangi Tribunal, *The Marine and Coastal Area (Takutai Moana) Act 2011 Inquiry Stage 2 Report* (Wai 2660, 2023), at 15.

³¹ Waitangi Tribunal, *The Marine and Coastal Area (Takutai Moana) Act 2011 Inquiry Stage 2 Report* (Wai 2660, 2023), at 128.

Crown strategy, and to discuss the strategy with them before it begins operating.³²

10. Good government requires the Crown discharge duties to Māori set out in Crown legislation, policies, and strategies.³³ Good government is a higher standard than merely enabling judicial review of Crown conduct. “Rather, the Crown must pre-emptively minimise the risk of unlawful actions by its servants or agents,” for example with transparent, objective, public and Treaty-compliant criteria for Ministers to follow.³⁴ The principle broadly prohibits illegal Crown action.³⁵ Ad hoc Crown practices that are uncompliant with Crown policies and the Treaty, and “an absence of robust, well-documented policies and processes” breach good government.³⁶ The Crown’s creation of statutory systems for Māori rights gives rise to a further obligation for the Crown to monitor those provisions.³⁷ Crown failure to implement or monitor progress with its policies breaches the principle of good government.³⁸ Further, the Crown must be accountable for its actions regarding Māori and be willing for independent scrutiny.³⁹
11. Ultimately, good government should facilitate truly transformational change towards Treaty-consistent systems, which can include the Crown empowering Māori to design and direct those systems.⁴⁰ In addition, the principle of good government requires the Crown to act in a timely fashion on important issues affecting Māori that are drawn to its attention.⁴¹ The Crown’s continued failure to address matters of its statutes and policies

³² Waitangi Tribunal, *He Maunga Rongo: Report on Central North Island Claims, Stage One* (Wai 1200, 2008), vol 2, at 457.

³³ Waitangi Tribunal, *Kāinga Kore: The Stage One Report of the Housing Policy and Services Kaupapa Inquiry on Māori Homelessness* (Wai 2750, 2023), at 102.

³⁴ Waitangi Tribunal, *The Marine and Coastal Area (Takutai Moana) Act 2011 Inquiry Stage 2 Report* (Wai 2660, 2023), at 129.

³⁵ See Waitangi Tribunal, *Kāinga Kore: The Stage One Report of the Housing Policy and Services Kaupapa Inquiry on Māori Homelessness* (Wai 2750, 2023), at 96.

³⁶ Waitangi Tribunal, *The Hauraki Settlement Overlapping Claims Inquiry Report* (Wai 2840, 2019), at 32.

³⁷ Waitangi Tribunal, *He Maunga Rongo: Report on Central North Island Claims, Stage One* (Wai 1200, Vol 2, 2008), at 429.

³⁸ Waitangi Tribunal, *Kāinga Kore: The Stage One Report of the Housing Policy and Services Kaupapa Inquiry on Māori Homelessness* (Wai 2750, 2023), at 193.

³⁹ Waitangi Tribunal, *Kāinga Kore: The Stage One Report of the Housing Policy and Services Kaupapa Inquiry on Māori Homelessness* (Wai 2750, 2023), at 106.

⁴⁰ Waitangi Tribunal, *Kāinga Kore: The Stage One Report of the Housing Policy and Services Kaupapa Inquiry on Māori Homelessness* (Wai 2750, 2023), at 98.

⁴¹ Waitangi Tribunal, *Kāinga Kore: The Stage One Report of the Housing Policy and Services Kaupapa Inquiry on Māori Homelessness* (Wai 2750, 2023), at 134.

not adequately meeting Treaty standards is a breach of the principle of good government,⁴² especially when the Crown inaction creates a crisis.⁴³

TE MĀTĀPONO O TE HOURUATANGA

The Principle of Partnership and Reciprocity

12. Partnership is a central Treaty principle. The Court of Appeal in *Lands*,⁴⁴ found the Treaty created a relationship akin to a partnership with mutual obligations to act reasonably and with the utmost good faith.⁴⁵ 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.”⁴⁶ As a founding relationship for a nation, the partnership does not have an expiry date and creates enduring obligations.⁴⁷ Te mātāpono applies to Māori collectively and not just iwi authorities⁴⁸ or tāne Māori. Te mātāpono emphasises the importance of wāhine Māori working together with agencies to achieve the best outcomes for wāhine Māori.⁴⁹ Importantly, a sense of pākehā and māori cultures “enriching and informing the other” is integral to te mātāpono.⁵⁰
13. Partnership goes beyond mere informing to substantive consultation, and true partnership is founded on reasonableness, mutual cooperation and trust.⁵¹ Reciprocity positions the Crown’s kāwanatanga as contingent on its protection of tino rangatiratanga.⁵² Accordingly, the Crown must ensure wāhine Māori are not disadvantaged in the Treaty partnership, as this relationship has a power imbalance favouring the Crown.⁵³ The requirement on the Crown to partner with Māori in policy development and implementation is heightened where Māori expressly seek it and where

⁴² Waitangi Tribunal, *Te Mana Whatu Ahuru: Report on Te Rohe Pōtae Claims* (Wai 898, Vol 1, 2023), at 210.

⁴³ Waitangi Tribunal, *Kāinga Kore: The Stage One Report of the Housing Policy and Services Kaupapa Inquiry on Māori Homelessness* (Wai 2750, 2023), at 138.

⁴⁴ *New Zealand Maori Council v Attorney-General* [1987] 1 NZLR 641.

⁴⁵ *New Zealand Maori Council v Attorney-General* [1987] 1 NZLR 641, at 663–664.

⁴⁶ Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wai 692, 2001), at 48.

⁴⁷ 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).

⁴⁸ Law Commission, *Justice: The Experiences of Māori Women* (NZLC R53, 1999), at [372].

⁴⁹ Law Commission, *Justice: The Experiences of Māori Women* (NZLC R53, 1999), at [369].

⁵⁰ Waitangi Tribunal, *The Wananga Capital Establishment Report* (Wai 718, 1999), at xi.

⁵¹ Waitangi Tribunal, *Maori Electoral Option Report* (Wai 413, 1994), at 15.

⁵² Waitangi Tribunal, *Te Whanau o Waipareira Report* (Wai 414, 1998), at 27.

⁵³ Waitangi Tribunal, *Haumarū: The COVID-19 Priority Report* (Wai 2575, 2023), at 42.

there are disparities in outcomes,⁵⁴ including for wāhine Māori. Any framework to implement partnership must be constantly evaluated and modified to ensure it meets Treaty obligations.⁵⁵

14. 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.⁵⁶ 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 hāpori Māori but supports their own development in a tikanga-affirming way.⁵⁷ Partnership also requires Māori employment in the workforce of state services, and Māori representation in the governance of regional Crown agencies.⁵⁸ Co-design is more than Māori consultation on a Crown design and likely includes Māori involvement in both policy design and implementation.⁵⁹

The Duty of Consultation

15. The Crown, in consulting wāhine Māori, is obliged to do more than merely informing wāhine Māori.⁶⁰ The Crown must seriously account for taha Māori perspectives which requires being prepared to alter its original proposals, for that engagement to be Treaty-compliant.⁶¹ 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.⁶²
16. Consultation does not require Māori and the Crown to reach an agreement,⁶³ but both parties should maintain an open mind and be ready

⁵⁴ Waitangi Tribunal, *Haumarū: The COVID-19 Priority Report* (Wai 2575, 2023), at 42.

⁵⁵ Waitangi Tribunal, *Haumarū: The COVID-19 Priority Report* (Wai 2575, 2023), at 42.

⁵⁶ Waitangi Tribunal, *Haumarū: The COVID-19 Priority Report* (Wai 2575, 2023), at 42.

⁵⁷ Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wai 692, 2001), at 59.

⁵⁸ Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wai 692, 2001), at 61.

⁵⁹ Waitangi Tribunal, *Hauora: Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry* (Wai 2575, 2019), at 141.

⁶⁰ Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wai 692, 2001), at 70.

⁶¹ Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wai 692, 2001), at 71.

⁶² Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wai 692, 2001), at 68.

⁶³ Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wai 692, 2001), at 70.

to change.⁶⁴ 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.⁶⁵

17. 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.⁶⁶ The Crown must allocate sufficient time and genuine effort, as well as adequately informing Māori to enable provision of intelligent and useful responses.⁶⁷ Where treaty obligations are engaged, the Crown must separately and specifically consult with Māori, outside of open public consultation.⁶⁸ Crown consultation should take a bicultural framework⁶⁹ determined in consultation with Māori.⁷⁰ The Crown must consult Māori about major changes in the status of an institution that is important to a sizeable hapori Māori,⁷¹ and on proposals to substantially change the range or location of services.⁷² The Crown must also consult Māori where a service is statutorily required to investigate and assess population needs, even where that statute does not specifically mention Māori.⁷³

TE MĀTĀPONO O TE MATAPOPORE MOROKI

The Principle of Active Protection

18. In *Lands*, the Court of Appeal found the Crown's obligations were 'analogous to fiduciary duties' and were 'not merely passive but extends

⁶⁴ Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wai 692, 2001), at 71.

⁶⁵ 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.

⁶⁶ 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.

⁶⁷ Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wai 692, 2001), at 71.

⁶⁸ Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wai 692, 2001), at 72.

⁶⁹ Waitangi Tribunal, *Te Whanau o Waipareira Report* (Wai 414, 1998), at 224.

⁷⁰ Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wai 692, 2001), at 73.

⁷¹ Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wai 692, 2001), at 68.

⁷² Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wai 692, 2001), at 241.

⁷³ Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wai 692, 2001), at 69.

to active protection of Maori people in the use of their lands and waters to the fullest extent practicable'.⁷⁴

19. Matapopore Moroki (active protection) applies specifically to wāhine Māori as a non-kin-based Māori community.⁷⁵ This principle says that the Crown must actively protect te Tiriti/the Treaty rights and interests of wāhine Māori,⁷⁶ to the fullest extent reasonably practicable.⁷⁷ 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.⁷⁸ The Crown's active protection may extend to affirmative action to reduce structural or historical disadvantage.⁷⁹ Matapopore Moroki (active protection) must be balanced against other Treaty principles, for example rangatiratanga prohibits imposing restrictive interventions on Māori.⁸⁰
20. Matapopore Moroki (active protection) is always active, with its specific extent affected by context and possible practical Crown influence.⁸¹ Active protection prohibits the Crown from wilful ignorance,⁸² as Crown failure to actively protect the rights and interests of wāhine Māori is as much a Treaty breach as their active removal.⁸³ The active protection obligation is heightened with past Crown wrongs and enduring prejudice.⁸⁴ Active protection extends to taonga and mana over them,⁸⁵ made paramount by Article 2.⁸⁶ Mana wāhine, as a taonga, requires active protection. The Crown is required to take "especially vigorous

⁷⁴ *New Zealand Maori Council v Attorney-General* [1987] 1 NZLR 641, at 664.

⁷⁵ Waitangi Tribunal, *Te Whānau o Waipareira Report* (Wai 414, 1998), at 16.

⁷⁶ Waitangi Tribunal, *He Pāharakeke, he Rito Whakakīkinga Whāruarua: Oranga Tamariki Urgent Inquiry* (Wai 2915, 2021), at 19.

⁷⁷ Waitangi Tribunal, *Kāinga Kore: The Stage One Report of the Housing Policy and Services Kaupapa Inquiry on Māori Homelessness* (Wai 2750, 2023), at 87.

⁷⁸ Waitangi Tribunal, *Te Mana Whatu Ahuru: Report on Te Rohe Pōtae Claims* (Wai 898, Vol 1, 2023), at 211.

⁷⁹ Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wai 692, 2001), at 54.

⁸⁰ Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wai 692, 2001), at 54.

⁸¹ 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.

⁸² Waitangi Tribunal, *Report of the Waitangi Tribunal on the Manukau Claim* (Wai 8, 1985), at 79.

⁸³ Waitangi Tribunal, *Haumarū: The COVID-19 Priority Report* (Wai 2575, 2023), at 44.

⁸⁴ Waitangi Tribunal, *Tū Mai te Rangī! Report on the Crown and Disproportionate Reoffending Rates* (Wai 2540, 2017), at 22.

⁸⁵ Waitangi Tribunal, *Kāinga Kore: The Stage One Report of the Housing Policy and Services Kaupapa Inquiry on Māori Homelessness* (Wai 2750, 2023), at 87.

⁸⁶ See Waitangi Tribunal, *The Marine and Coastal Area (Takutai Moana) Act 2011 Inquiry Stage 2 Report* (Wai 2660, 2023), at 13.

action” to protect vulnerable taonga, especially where the vulnerability is attributable to Crown Treaty breaches.⁸⁷

21. 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.⁸⁸ Active protection includes addressing the cause of inequities, especially where Treaty-derived Māori interests (such as tino rangatiratanga) are gravely threatened.⁸⁹ The Crown must provide needs-based resources to reduce any structural or historical disadvantage which wāhine Māori experience disproportionately to non-Māori.⁹⁰
22. The Crown must be multilaterally accountable to wāhine Māori, which means they are able to independently scrutinise the Crown.⁹¹ This can include the Crown publishing information about outcomes for wāhine Māori to enable them to independently assess the Crown’s actions and omissions.⁹² This will enable the Crown to support wāhine Māori to be at all levels of the workforce and leadership,⁹³ to better access legal and social services, to access and develop information about themselves, and to be involved in decision-making.⁹⁴

Fiduciary Duties

23. 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,⁹⁵ connected to other fiduciary duties such as good faith.⁹⁶ The Tribunal has

⁸⁷ *New Zealand Maori Council v Attorney-General* [1994] 1 NZLR 513 at 517.

⁸⁸ Waitangi Tribunal, *Haumarū: The COVID-19 Priority Report* (Wai 2575, 2023), at 43.

⁸⁹ Waitangi Tribunal, *Haumarū: 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.

⁹⁰ 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.

⁹¹ Waitangi Tribunal, *Haumarū: The COVID-19 Priority Report* (Wai 2575, 2023), at 43.

⁹² Waitangi Tribunal, *Haumarū: The COVID-19 Priority Report* (Wai 2575, 2023), at 44.

⁹³ See Law Commission *Justice: The Experiences of Māori Women* (NZLC R53, 1999) at [367].

⁹⁴ Law Commission *Justice: The Experiences of Māori Women* (NZLC R53, 1999) at [385].

⁹⁵ Waitangi Tribunal, *Te Maunga Railways Land Report* (Wai 315, 1994), at 67; Waitangi Tribunal, *Haumarū: The COVID-19 Priority Report* (Wai 2575, 2023), at 42.

⁹⁶ Waitangi Tribunal, *The Marine and Coastal Area (Takutai Moana) Act 2011 Inquiry Stage 2 Report* (Wai 2660, 2023), at 210.

previously found the Treaty imposed a fiduciary duty on the Crown to protect Māori rights, property and taonga.⁹⁷ 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.⁹⁸

24. 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,⁹⁹ they have found that the Treaty relationship between Māori and the Crown “creates responsibilities analogous to fiduciary duties”.¹⁰⁰ 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)”.¹⁰¹ In the circumstances of these independent property interests, the Crown’s fiduciary obligations towards Māori are 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.¹⁰² 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.¹⁰³

⁹⁷ Waitangi Tribunal, Radio Spectrum Management and Development Final Report (Wai 776, 1999), at 40.

⁹⁸ Waitangi Tribunal, Radio Spectrum Management and Development Final Report (Wai 776, 1999), at 40.

⁹⁹ *Proprietors of Wakatu v Attorney-General* [2017] NZSC 17 at [391].

¹⁰⁰ *New Zealand Maori Council v Attorney-General* [1987] 1 NZLR 641 [Lands] at 664.

¹⁰¹ *Proprietors of Wakatu v Attorney-General* [2017] NZSC 17 at [391].

¹⁰² *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]).

¹⁰³ *Proprietors of Wakatu v Attorney-General* [2017] NZSC 17 at [386].

TE MĀTĀPONO O TE MANA TAURITE

The Principle of Equity

25. The Treaty principle of equity emanates from article 3 of the Treaty,¹⁰⁴ and imposes on the Crown a duty “to act fairly and with justice to all citizens.”¹⁰⁵ This requires the Crown to both ensure that wāhine Māori do not suffer inequity, and to actively inform itself of any inequity,¹⁰⁶ regardless of the cause.¹⁰⁷ Importantly, the Tribunal in *Hauora* found that article 3:¹⁰⁸

not only guarantees Māori freedom from discrimination but also obliges the Crown to positively promote equity. It is through article 3 that Māori, along with all other citizens, are placed under the protection of the Crown and are therefore assured equitable treatment from the Crown to ensure fairness and justice with other citizens.

26. Equity under the Treaty includes formal and substantive equality of opportunity, equality of process, equality of outcomes, and equality of autonomy.¹⁰⁹ These conceptions incur various Crown obligations, including that “Māori women as an identifiable group with particularly pressing needs” must be made visible in the law.¹¹⁰ The Tribunal has found that this requires “recognition and restoration of rangatiratanga”, beyond achieving outcomes proportional to the Māori population size, so as to enable wāhine Māori to thrive as wāhine Māori.¹¹¹ Within the process of achieving equity:

¹⁰⁴ Waitangi Tribunal, *Haumarū: The COVID-19 Priority Report* (Wai 2575, 2023), at 42.

¹⁰⁵ Waitangi Tribunal, *He Pāharakeke, he Rito Whakakīkinga Whāruarua: Oranga Tamariki Urgent Inquiry* (Wai 2915, 2021), at 21.

¹⁰⁶ Waitangi Tribunal, *Haumarū: The COVID-19 Priority Report* (Wai 2575, 2023), at 43.

¹⁰⁷ Waitangi Tribunal, *He Pāharakeke, he Rito Whakakīkinga Whāruarua: Oranga Tamariki Urgent Inquiry* (Wai 2915, 2021), at 21.

¹⁰⁸ Waitangi Tribunal, 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 78.

¹⁰⁹ TJ Hearn, *The Economic Rehabilitation of Maori Military Veterans* dated 15 May 2018, Wai 2500, #A248, at 5-6.

¹¹⁰ A Mikaere, *Māori Women: Caught in the Contradictions of a Colonised Reality* (Waikato Law Review, Vol 2, 1994), at 143.

¹¹¹ Waitangi Tribunal, *He Pāharakeke, he Rito Whakakīkinga Whāruarua: Oranga Tamariki Urgent Inquiry* (Wai 2915, 2021), at 22.

- a. *Equity of outcomes*: this is dependent on the provision of state services.¹¹² Where Māori suffer the worst status of any population group for a particular outcome, the Crown must do more than reduce negative outcomes for Māori along with other population groups.¹¹³ This Crown obligation should extend to instances of wāhine Māori experiencing worse outcomes than other population groups, whether those be non-Māori women, or Māori of other genders.
- b. *Equity guarantees freedom from discrimination, both conscious and not*:¹¹⁴ The Tribunal has identified a Crown duty to actively address racism both personal and institutional.¹¹⁵ This finding should extend to the intersection of racism and sexism that wāhine Māori experience, which results in wāhine Māori being harmed not only for being Māori, but specifically for being wāhine Māori.¹¹⁶ Addressing these dual oppressions is supported by the Tribunal having used both “the principle of equity, which concerns the treatment of Māori in relation to non-Māori, and the principle of equal treatment, which concerns the treatment of Māori in relation to other Māori.”¹¹⁷ As these principles are “inter-related”,¹¹⁸ the Tribunal has jurisdiction to consider both the treatment of wāhine Māori in relation to Māori of other genders, and also in relation to non-Māori women.
- c. *Equity for both wāhine Māori and tāne Māori*:¹¹⁹ It is vital that general equity for Māori is not conflated with equity for wāhine Māori, as this obscures that wāhine Māori are oppressed by

¹¹² Waitangi Tribunal, *Haumarū: The COVID-19 Priority Report* (Wai 2575, 2023), at 43.

¹¹³ Waitangi Tribunal, *Haumarū: The COVID-19 Priority Report* (Wai 2575, 2023), at 42.

¹¹⁴ Waitangi Tribunal, *Haumarū: The COVID-19 Priority Report* (Wai 2575, 2023), at 43.

¹¹⁵ Waitangi Tribunal, *Haumarū: The COVID-19 Priority Report* (Wai 2575, 2023), at 43.

¹¹⁶ See L Pihama, *Tihei mauri ora honouring our voices: Mana wahine as a kaupapa Māori theoretical framework* (University of Auckland, 2001) at 18; D Wilson, A Mikahere-Hall et al., Using indigenous kaupapa Māori research methodology with constructivist grounded theory: generating a theoretical explanation of indigenous women’s realities (International Journal of Social Research Methodology, Vol 25, Issue 3, 2021), at 390.

¹¹⁷ Waitangi Tribunal, *The Marine and Coastal Area (Takutai Moana) Act 2011 Inquiry Stage 2 Report* (Wai 2660, 2023), at 17.

¹¹⁸ Waitangi Tribunal, *The Marine and Coastal Area (Takutai Moana) Act 2011 Inquiry Stage 2 Report* (Wai 2660, 2023), at 18.

¹¹⁹ N Simmonds, *Never-Ending Beginnings: The Circularity of Mana Wāhine in Mana Wāhine Reader A Collection of Writings 1999–2019, Volume II* (Te Kotahi Research Institute, Hamilton, Vol 2, 2019), at 157.

distinct ideologies and institutions, differently to Māori generally.¹²⁰ Further, the Crown is required to treat Māori groups, including those of wāhine Māori and of other genders, “in a manner that is not intended to create division”.¹²¹ The Tribunal has characterised this as the Treaty principle of equal treatment and stipulated that the Crown must act fairly between Māori groups and not create new grievances among groups the Crown chooses not to negotiate or deal with, respecting tino rangatiratanga.¹²²

- d. *Crown accountability*: the complexity of achieving equity for wāhine Māori in modern circumstances means that every Crown entity and social sector agency is accountable for its contributions towards equity for Māori.¹²³ The Crown is required to work comprehensively towards socio-economic equity for wāhine Māori, and to be held accountable by Māori for its performance¹²⁴ in accordance with the other Treaty principles, particularly partnership and active protection.

TE MĀTĀPONO O TE WHAKATIKA

The Principle of Redress

27. The Crown has a duty to provide fair redress for Treaty breaches.¹²⁵ Redress should not be ‘legalistic’, but rather remedial and proportionate.¹²⁶ Redress should be feasible,¹²⁷ which is a higher bar than convenient. Redress must be positive¹²⁸ and address economic, political, cultural, psychological, spiritual, and community prejudice.¹²⁹ Redress must be equitable and not create fresh grievances, which requires being

¹²⁰ N Simmonds, *Never-Ending Beginnings: The Circularity of Mana Wāhine in Mana Wāhine Reader A Collection of Writings 1999–2019, Volume II* (Te Kotahi Research Institute, Hamilton, 2019) 155 at 159.

¹²¹ Waitangi Tribunal, *Te Mana Whatu Ahuru: Report on Te Rohe Pōtae Claims* (Wai 898, 2023), Vol 1, at 216.

¹²² Waitangi Tribunal, *Kāinga Kore: The Stage One Report of the Housing Policy and Services Kaupapa Inquiry on Māori Homelessness* (Wai 2750, 2023), at 91–92.

¹²³ Waitangi Tribunal, *Haumarū: The COVID-19 Priority Report* (Wai 2575, 2023), at 43.

¹²⁴ Waitangi Tribunal, *Haumarū: The COVID-19 Priority Report* (Wai 2575, 2023), at 43.

¹²⁵ *New Zealand Maori Council v Attorney-General* [1987] 1 NZLR 641 [Lands] at 693.

¹²⁶ Waitangi Tribunal, *The Mangatū Remedies Report* (Wai 814, 2014), at 24.

¹²⁷ Waitangi Tribunal, *The Mangatū Remedies Report* (Wai 814, 2014), at 25.

¹²⁸ *New Zealand Maori Council v Attorney-General* [1992] 2 NZLR 576 [Broadcasting] at 583.

¹²⁹ Waitangi Tribunal, *The Mangatū Remedies Report* (Wai 814, 2014), at 25.

fair and proportionate.¹³⁰ The right of redress is reconstructive,¹³¹ and necessary to restore the Crown's integrity and the mana of wāhine Māori.¹³² Further, redress requires the Crown to provide factual reconciliation by removing outstanding prejudice and preventing future similar prejudice to wāhine Māori.¹³³

28. Te mātāpono can require the Crown to provide group compensation for group deprivation.¹³⁴ Where the nature and extent of prejudice are particularly large, the Tribunal will adopt a restorative or re-establishment approach to redress,¹³⁵ which assures a better arrangement for Māori in the future.¹³⁶
29. Wāhine Māori as a distinct group of Māori with distinct needs and experiences,¹³⁷ obliges the Crown to provide group compensation for any group deprivation of wāhine Māori. A restorative approach considers what remedy will “restore the claimant group’s mana and rangatiratanga, assure them of an economic base on which to rebuild their whānau, hapū, and community, and restore their relationship with the Crown.”¹³⁸ This looks to providing fair and durable settlements and assisting wāhine Maori to reclaim sufficient economic and political autonomy.¹³⁹

TE MĀTĀPONO O OPTIONS

The Principle of Options

30. Te mātāpono o options concerns the right of wāhine Māori to choose between traditional customary ways, Pākehā ways, or to walk in both.¹⁴⁰

¹³⁰ Waitangi Tribunal, *The Mangatū Remedies Report* (Wai 814, 2014), at 27.

¹³¹ Waitangi Tribunal, Report of the Waitangi Tribunal on the Waiheke Island Claim (Wai 10, 1987), at 41–42.

¹³² Te Puni Kōkiri, *He Tirohanga o Kawa ki te Tiriti o Waitangi: A Guide to the Principles of the Treaty of Waitangi as expressed by the Courts and the Waitangi Tribunal* dated 2001, accessed at <<https://www.tpk.govt.nz/en/o-matou-mohiotanga/crownmaori-relations/he-tirohanga-o-kawa-ki-te-tiriti-o-waitangi>>, at 103.

¹³³ Waitangi Tribunal, *The Taranaki Report: Kaupapa Tuatahi* (Wai 143, 1996), at 314.

¹³⁴ See Waitangi Tribunal, *The Taranaki Report: Kaupapa Tuatahi* (Wai 143, 1996), at 276.

¹³⁵ Waitangi Tribunal, *The Mangatū Remedies Report* (Wai 814, 2014), at 25.

¹³⁶ Waitangi Tribunal, *Muriwhenua Land Report* (Wai 45, 1997), at 406.

¹³⁷ See LT Smith, Māori Women: Discourses, Projects and Mana Wahine in Mana Wahine Reader A Collection of Writings 1987-1998, Volume I (Te Kotahi Research Institute, Hamilton, Vol 1, 2019), at 40.

¹³⁸ Waitangi Tribunal, *The Mangatū Remedies Report* (Wai 814, 2014), at 26.

¹³⁹ Waitangi Tribunal, *The Mangatū Remedies Report* (Wai 814, 2014), at 26.

¹⁴⁰ Waitangi Tribunal, Report of the Waitangi Tribunal on the Muriwhenua Fishing Claim (Wai 22, 1988), at 195.

The Crown must not force a choice of Pākehā ways,¹⁴¹ but rather provide wāhine Māori with adequate options to choose how to express their mana wāhine, including traditional customary expressions.¹⁴² For example, wāhine Māori must have the option of expressing their mana wāhine through a whare tangata model.¹⁴³ This principle is key to reciprocity, with the combination of the Article 2 guarantee of protection of tino rangatiratanga, and the Article 3 guarantee of equity with other British subjects.¹⁴⁴ This principle requires that the Crown:

- a. provide a range of services which are responsive to Māori and include services for Māori by Māori.¹⁴⁵ The Crown must enable Māori a genuine choice between Māori or non-Māori health providers and must equitably protect all these pathways.¹⁴⁶ In this regard, the Crown must provide and properly resource kaupapa Māori services in a culturally appropriate way, supporting the expression of tikanga.¹⁴⁷
- b. ensure wāhine Māori are fully informed about the advantages and disadvantages of choosing kaupapa Māori options or mainstream options.¹⁴⁸
- c. ensure wāhine Māori are not disadvantaged by their choice of service, and that all options are well supported.¹⁴⁹
- d. must not force a choice of non-Māori services.¹⁵⁰

¹⁴¹ Waitangi Tribunal, Report of the Waitangi Tribunal on the Muriwhenua Fishing Claim (Wai 22, 1988), at 195.

¹⁴² Waitangi Tribunal, *The Marine and Coastal Area (Takutai Moana) Act 2011 Inquiry Stage 2 Report* (Wai 2660, 2023), at 15.

¹⁴³ A Mikaere, *Māori Women: Caught in the Contradictions of a Colonised Reality* (Waikato Law Review, Vol 2, 1994), at 126.

¹⁴⁴ Waitangi Tribunal, *The Marine and Coastal Area (Takutai Moana) Act 2011 Inquiry Stage 2 Report* (Wai 2660, 2023), at 14.

¹⁴⁵ Law Commission *Justice: The Experiences of Māori Women* (NZLC R53, 1999), at [379].

¹⁴⁶ Waitangi Tribunal, *Hauora: Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry* (Wai 2575, 2019), at 35.

¹⁴⁷ Waitangi Tribunal, *Haumarū: The COVID-19 Priority Report* (Wai 2575, 2023), at 44.

¹⁴⁸ Waitangi Tribunal, *Hauora: Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry* (Wai 2575, 2019), at 36.

¹⁴⁹ Waitangi Tribunal, *Haumarū: The COVID-19 Priority Report* (Wai 2575, 2023), at 44.

¹⁵⁰ Waitangi Tribunal, Report of the Waitangi Tribunal on the Muriwhenua Fishing Claim (Wai 22, 1988), at 195.

- e. should provide more specific needs-based options for wāhine Māori where they experience greater prejudice than other Māori, for example in education.¹⁵¹ Further, all individuals (whether Māori or not) have the same rights to pursue individual employment or gain.¹⁵²

The Right to Development

31. The right to development is key to interpreting the Treaty principle of options. This principle is the idea that Māori interests are not confined to their state in traditional or pre-Treaty times but rather extend as time and technology change.¹⁵³ This principle is sourced in the article 2 guarantee of tino rangatiratanga over taonga.¹⁵⁴ The Tribunal does place some guidelines on the principle of development:

- a. The principle is generally accepted for properties and taonga specified in the Treaty (such as land, forests and fisheries),¹⁵⁵ and is increasingly applied more broadly to Māori affairs, although less so to natural resources shared by iwi and the general population.¹⁵⁶ This means that the transmission of knowledge specific to an iwi, hapū or whānau is more likely to fall within the Treaty right to development.
- b. The principle recognises the right to develop tikanga Māori, in recognition that all peoples have the right to both have their own laws and develop them over time.¹⁵⁷

¹⁵¹ Law Commission *Justice: The Experiences of Māori Women* (NZLC R53, 1999), at [380].

¹⁵² Waitangi Tribunal, Report of the Waitangi Tribunal on the Muriwhenua Fishing Claim (Wai 22, 1988), at 195.

¹⁵³ Waitangi Tribunal, Preliminary Report on the Te Arawa Representative Geothermal Resource Claims (Wai 153, 1993), at 22.

¹⁵⁴ Waitangi Tribunal, *Te Ika Whenua Rivers Report 1993* (Wai 212, 1993), at 134.

¹⁵⁵ J Hayward "Flowing From the Treaty's Words" in J Hayward and N Wheen (eds) *The Waitangi Tribunal: Te Roopu Whakamana i te Tiriti o Waitangi* (Bridget Williams Books, Wellington, 2015), at 38.

¹⁵⁶ Waitangi Tribunal, *Radio Spectrum Management and Development Final Report* (Wai 776, 1999), at 42, and Waitangi Tribunal, *The Kiwifruit Marketing Report 1995* (Wai 449, 1995), at 11.

¹⁵⁷ Waitangi Tribunal, *The Ngati Awa Raupatu Report* (Wai 46, 1999), at 30.

RANGATIRATANGA POU

FIRST CAUSE OF ACTION: EXCLUSION AND MARGINALISATION OF WĀHINE MĀORI FROM PUBLIC HEALTH POLICY

Allegation

32. The Crown, in breach of ngā mātāpono o te tino rangatiratanga, houruatanga (partnership) and mana taurite (equity) has failed to:
- a. ensure that wāhine Māori can advance to leadership positions within the health sector.
 - b. ensure that wāhine Māori exercise tino rangatiratanga over public health policy. Instead wāhine are represented at low levels within decision making positions in the public health sector; and
 - c. promote wāhine Māori to leadership positions within the health sector, in a way that is equitable with both Māori of other genders, and women of other ethnicities.

Treaty Principles and Corresponding Crown Duties

33. Ngā mātāpono o tino rangatiratanga, houruatanga (partnership) and mana taurite (equity) are engaged. Accordingly:
- a. wāhine Māori must be able to exercise control over the design, delivery and execution of service. To do this, wāhine Māori must be appropriately positioned to progress to leadership roles in the public health sector. Accordingly, it is not enough for tāne Māori to be appointed to leadership roles, the Crown must protect the leadership and power of wāhine Māori. In the health context, this means making provision for tino rangatiratanga to be exercised by wāhine Māori.

- b. the Crown is to engage meaningfully with wāhine Māori as partners in public health policy development to ensure that the Crown can improve health outcomes. Further, it is not enough, for tāne Māori to be involved in shaping public health policy, or for wāhine Māori to only be involved in the leadership of kaupapa Māori services. True partnership requires wāhine Māori are integral to governance, decision-making and policy development; and
- c. the Crown is to ensure that wāhine Māori have a place within leadership that is equitable in relation to both other Māori, and women of other ethnicities.

Background

- 34. Prior to te Tiriti, both tāne and wāhine were viewed as essential parts of the collective whole.¹⁵⁸
- 35. Hauora was viewed as a holistic process, where the spirit, body, society and natural environment were interconnected.¹⁵⁹
- 36. Since 1840, the Crown has exercised its kāwanatanga authority in providing public healthcare policy and services to Aotearoa New Zealand.¹⁶⁰

Particulars

- 37. The key entities responsible for managing the public health system are the Minister of Health,¹⁶¹ Manatū Hauora – The Ministry of Health¹⁶² and Te Whatu Ora – Health New Zealand.¹⁶³

¹⁵⁸ A Mikaere, *Māori Women: Caught in the Contradictions of a Colonised Reality* (Te Kotahi Resesarch Institute, Hamilton, 2019), at 138.

¹⁵⁹ R Wirihana and C Smith, *Historical Trauma, Healing and Well-being in Māori Communties* (Mai Journal, 3, 3, 2014), at 201.

¹⁶⁰ See Municipal Corporation Act 1842, Public Health Act 1872, Public Health Act 1876, Public Health Act 1900, Health Act 1920, Health Act 1956, Health and Disability Services Act 1993, New Zealand Public Health and Disability Act 2000 and Pae Ora (Healthy Futures) Act 2022.

¹⁶¹ Pae Ora (Healthy Futures) Act 2022, s 10(1)(a).

¹⁶² Health Act 1956, s 3A.

¹⁶³ Pae Ora (Healthy Futures) Act 2022, ss 13-14.

38. Until June 2024, Te Aka Whai Ora also played a significant role in managing public health service provision to Māori.¹⁶⁴
39. Within these entities, senior leadership roles are responsible for setting public health policy for Aotearoa.¹⁶⁵
40. Very few wāhine Māori progress to senior decision-making and policy-development roles.¹⁶⁶

Manatū Hauora – The Ministry of Health

41. Of the 258 individuals appointed to Boards by the Minister of Health, 63.8 percent are women.¹⁶⁷ Yet, only 30.7 percent of all Board appointments are Māori.¹⁶⁸
42. As of 11 September 2025, the leadership of Manatū Hauora consists of:
 - a. Eight members of the Executive Leadership, none of the members are a wāhine Māori. One is tāne Māori.¹⁶⁹
 - b. There are four Chief Clinical Officers. Two are wāhine Maori, these are the Chief Nursing Officer and Chief Maternity Officer.¹⁷⁰ The other two Chief Clinical Officers are tane and non-Māori.

¹⁶⁴ Pae Ora (Healthy Futures) Act 2022, ss 18-19.

¹⁶⁵ See Public Health Act 1956, ss 3B(2), 3D(1), 3E(3) and Pae Ora (Healthy Futures) Act 2022, s 12(3).

¹⁶⁶ Ministry of Women's Affairs, *Māori Women: Mapping Inequalities and Pointing Ways Forward* dated September 2001, accessed at <http://www.mwa.govt.nz/pub/Mapping_Inequalities_and_Pointing_Ways_Forward.pdf>, at 92.

¹⁶⁷ Manatu Wāhine, *2024 Stocktake of Gender and Ethnic Diversity on Public Sector Boards and Committees* dated June 2025, accessed at <<https://www.women.govt.nz/library/2024-stocktake-gender-and-ethnic-diversity-public-sector-boards-and-committees-2025>>, at 10.

¹⁶⁸ Manatu Wāhine, *2024 Stocktake of Gender and Ethnic Diversity on Public Sector Boards and Committees* dated June 2025, accessed at <<https://www.women.govt.nz/library/2024-stocktake-gender-and-ethnic-diversity-public-sector-boards-and-committees-2025>>, at 17.

¹⁶⁹ Manatu Hauora Ministry of Health, *Executive Leadership Team* dated 22 August 2025, accessed at <<https://www.health.govt.nz/about-us/organisation-and-leadership/executive-leadership-team>>.

¹⁷⁰ Manatu Hauora Ministry of Health, *Chief clinical officers* dated 23 May 2025, accessed at <<https://www.health.govt.nz/about-us/organisation-and-leadership/chief-clinical-officers>>.

- c. There are six Chief-Executives, yet none are Māori and half are tane.¹⁷¹
- d. None of the four Chief Health Advisors are Māori, and half are tane.¹⁷²

Te Whatu Ora

43. As of the date of the Amended Statement of Claim, the Te Whatu Ora leadership team consists of:
- a. Fourteen members within the Governance group. Two members affiliate with iwi. These individuals are the Chair of the Hauora Māori Advisory Committee, and the lead of the Health Assurance Unit. Only one individual is wāhine.¹⁷³
 - b. Sixteen members within the Executive Team; with only three who whakapapa Māori including the Chief Executive, the National Director of Hauora Māori Services and the Chief of Tikanga. Only one is a wāhine Māori.¹⁷⁴
 - c. Seven members within the Clinical Leadership Team. Two whakapapa Māori: the Interim National Chief Midwife and the National Chief Nurse. Both are wāhine Māori.¹⁷⁵

¹⁷¹ Manatu Hauora Ministry of Health, *Statutory roles* dated 6 May 2025, accessed at <<https://www.health.govt.nz/about-us/organisation-and-leadership/statutory-roles>>.

¹⁷² Manatu Hauora Ministry of Health, *Chief advisory roles* dated 12 February 2024, accessed at <<https://www.health.govt.nz/about-us/organisation-and-leadership/chief-advisory-roles>>.

¹⁷³ Te Whatu Ora Health New Zealand, *Our Governance* dated 6 August 2025, accessed at <<https://www.tewhatoru.govt.nz/corporate-information/about-us/our-leadership-and-structure/our-governance>>.

¹⁷⁴ Te Whatu Ora Health New Zealand, *Our executive team* dated 6 August 2025, accessed at <<https://www.tewhatoru.govt.nz/corporate-information/about-us/our-leadership-and-structure/our-executive-team>>.

¹⁷⁵ Te Whatu Ora Health New Zealand, *Our clinical leadership team* dated 24 July 2025, accessed at <<https://www.tewhatoru.govt.nz/corporate-information/about-us/our-leadership-and-structure/our-clinical-leadership-team>>.

44. Intersectional data on individuals employed by Te Whatu Ora is not published. In 2024, most employees were female, although only 8.6 percent of employees reported as being Māori.¹⁷⁶

Te Aka Whai Ora

45. Per the 2022-2026 Te Aka Whai Ora Statement of Intent, the Te Aka Whai Ora leadership team consisted of:
- a. Six members within the Board of Te Aka Whai Ora. All members whakapapa Māori. Five were wāhine Māori.¹⁷⁷
 - b. The Chief Executive was a wāhine Māori.¹⁷⁸
46. The strong wāhine Māori leadership present within Te Aka Whai Ora no longer exists within the public health sector.
47. The limited number of wāhine Māori in senior leadership roles continues to prevent Māori from having a significant influence over public health policy.

Wāhine Māori in the Public Service

48. In 2020, the Public Service Association conducted an independent survey of 900 wāhine Māori. The results showed 68 percent of survey participants had experienced unconscious bias, 60 percent had experienced conscious bias, and 54 percent had experienced discrimination or racism in the workplace.¹⁷⁹

¹⁷⁶ Te Whatu Ora Health New Zealand, *Health New Zealand Employed Workforce Quarterly Report* dated 28 April 2025, accessed at <<https://www.tewhatauora.govt.nz/publications/health-new-zealand-employed-workforce-quarterly-report-2024-25-quarter-two>>, at 8 – 9.

¹⁷⁷ Te Aka Whai Ora, *Te Aka Whai Ora Statement of Intent* dated September 2022, accessed at <<https://www.tewhatauora.govt.nz/assets/Uploads/Te-Aka-Whai-Ora-Statement-of-Intent.pdf>>, at 8 - 9.

¹⁷⁸ Te Aka Whai Ora, *Te Aka Whai Ora Statement of Intent* dated September 2022, accessed at <<https://www.tewhatauora.govt.nz/assets/Uploads/Te-Aka-Whai-Ora-Statement-of-Intent.pdf>>, at 11.

¹⁷⁹ Dr A Te One, *Wāhine Rangatira me te Kāwanatanga: Wāhine Māori Access to Decision-Making Roles in the Public Sector from 1990 to 2020* dated 20 October 2023, *Wai 2700*, #B1, at 108.

49. Wāhine Māori often spend longer at lower levels within organisations before being promoted compared to their male counter parts.¹⁸⁰
50. Wāhine Māori face limited opportunities to be promoted into leadership positions. Where wāhine do advance into leadership positions, they face struggles of tokenism and cultural expectations.¹⁸¹
51. There is a lack of support for wāhine Māori who also have whānau and caregiving commitments, which can limit wāhine ability to meet the demands of leadership roles.¹⁸²
52. Initiatives and legislation are either based on gender or ethnicity and thus the Crown fails to recognise wāhine Māori as a distinct group which compounds inequities.¹⁸³
53. The named Claimant was contracted to the Lakes Te Whatu Ora/District Health Board as a Suicide Prevention and Postvention Coordinator (“**SPPC**”) at Rotorua Hospital from 2020 until June 2024.
- a. During her tenure with Te Whatu Ora,
- i. the named Claimant struggled to see policy changed to accord with te ao Māori understandings and tikanga Māori, for instance, to adopt a koha policy.
- ii. The named Claimant saw adverse understandings of te ao Māori endanger the treatment and engagement of staff with Māori clients.
- b. In June 2024, Te Whatu Ora decided not to re-contract the role to the named Claimant.

¹⁸⁰ Dr A Te One, *Wāhine Rangatira me te Kāwanatanga: Wāhine Māori Access to Decision-Making Roles in the Public Sector from 1990 to 2020* dated 20 October 2023, Wai 2700, #B1, at 108.

¹⁸¹ A Reynolds, *Maori Women CEOs A glimpse of the future* (Research Project, University of Waikato, 2013), at 61.

¹⁸² A Reynolds, *Maori Women CEOs A glimpse of the future* (Research Project, University of Waikato, 2013), at 62.

¹⁸³ Dr A Te One, *Wāhine Rangatira me te Kāwanatanga: Wāhine Māori Access to Decision-Making Roles in the Public Sector from 1990 to 2020* dated 20 October 2023, Wai 2700, #B1, at 107.

- c. In February 2022, the named Claimant could no longer work with her pākehā line manager due to interpersonal and systemic racism and discriminatory conduct including funds earmarked by Te Whatu Ora for Suicide Postvention and Prevention initiatives being withheld which included the named Claimants contract income being capped.
 - d. A pākehā wāhine was appointed to take over the role, was offered a long-term contract, the contract income was doubled to \$100,000 and a senior advisor title provided.
54. The named Claimant was marginalised and excluded from continuing her role and advancing within the Te Whatu Ora health system.
55. The named Claimant is now contracted to Manaaki Ora Trust, a Kaupapa Maaori Health Provider as the SPPC for the Rotorua and Southern Lakes district, despite this, the named Claimant still struggles to access much-needed resources that are controlled by non-Māori tāne.

Data Issues

56. Quality data is essential for informing policy making.¹⁸⁴
57. The Crown fails to provide adequate data and documentation of the number of wāhine Māori in decision making and leadership roles within the public sector despite the issue of data collection being raised as early as 1998.¹⁸⁵
58. There is very limited data on wāhine Māori representation within Local Government,¹⁸⁶ with data disaggregated by women and Māori, but not wāhine Māori.

¹⁸⁴ A Anyebe, *An Overview of Approaches to the Study of Public Policy* (International Journal of Political Science, Vol 4, Issue 1, January 2018), at 16.

¹⁸⁵ Dr A Te One, *Wāhine Rangatira me te Kāwanatanga: Wāhine Māori Access to Decision-Making Roles in the Public Sector from 1990 to 2020* dated 20 October 2023, Wai 2700, #B1, at 132

¹⁸⁶ Dr A Te One, *Wāhine Rangatira me te Kāwanatanga: Wāhine Māori Access to Decision-Making Roles in the Public Sector from 1990 to 2020* dated 20 October 2023, Wai 2700, #B1, at 59.

59. Crown initiatives use broad, homogenous language, most commonly the terms inclusion and diversity and do not explicitly recognise and target wāhine Māori.¹⁸⁷
60. The lack of data on wāhine Māori as a distinct, disaggregated group in local government positions contributes to the ongoing invisibilisation of wāhine Māori.¹⁸⁸

Breach

61. The Crown, in breach of ngā mātāpono o tino rangatiratanga, houruatanga (partnership) and mana taurite (equity), has failed to:
- a. ensure that wāhine Māori can advance to leadership positions within the health sector.
 - b. ensure that wāhine Māori exercise tino rangatiratanga over public health policy. Instead wāhine are represented at low levels within decision making positions in the public health sector; and
 - c. promote wāhine Māori to leadership positions within the health sector, in a way that is equitable with both Māori of other genders, and women of other ethnicities.

Prejudice

62. As a result of the Crown's above actions and omissions, the Claimants have and continue to suffer the following prejudice:
- a. Harm and diminution to mana and the role and status of wāhine Māori.

¹⁸⁷ Dr A Te One, *Wāhine Rangatira me te Kāwanatanga: Wāhine Māori Access to Decision-Making Roles in the Public Sector from 1990 to 2020* dated 20 October 2023, Wai 2700, #B1, at 107.

¹⁸⁸ Dr A Te One, *Wāhine Rangatira me te Kāwanatanga: Wāhine Māori Access to Decision-Making Roles in the Public Sector from 1990 to 2020* dated 20 October 2023, Wai 2700, #B1, at 65.

- b. Lack of recognition and support within the health sector to advance in their area or discipline.
- c. Inequitable opportunity to develop and establish meaningful careers within the health sector.
- d. Inability to exercise rangatiratanga over hauora Māori; and
- e. The health system is not meeting the needs of wāhine Māori or Māori generally.

Relief

63. 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 excluding and marginalising wāhine Māori in the health sector.
 - c. A recommendation that the Crown promote affirmative action in respect of wāhine Māori in the health sector.
 - d. Such other findings and recommendations that the Tribunal consider appropriate in the circumstances.

WHĀNAU AND WHAKAPAPA POU

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

Allegation

64. In breach of ngā mātāpono o matapopore moroki (active protection), tino rangatiratanga and houruatanga (partnership), the Crown has failed to:
- a. take active steps to enable wāhine Māori to exercise rangatiratanga in the provision of support services to wāhine Māori who have experienced sexual harm.
 - b. forced a western lens on sexual violence supports, particularly by emphasising the ACC system and by not adequately funding kaupapa Māori support services.
 - c. support the hauora of wāhine Māori in providing adequate support and culturally appropriate services in the aftermath of sexual harm.
 - d. consult with Māori in the development of post-trauma support services; and
 - e. 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

65. 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;¹⁸⁹ 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.

Particulars

Sexual Harm Statistics

- 66. 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.¹⁹⁰
- 67. The Ministry of Justice estimates that:

¹⁸⁹ Waitangi Tribunal, *Haumaru: The COVID-19 Priority Report* (Wai 2575, 2023), at 42.

¹⁹⁰ 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.

- a. one in three women experience sexual assault in their lifetime;¹⁹¹
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.¹⁹²
68. Research has indicated that rangatahi wāhine Māori may be twice as likely to experience child sexual abuse than non-Māori girls.¹⁹³

69. The named Claimant is a survivor of sexual harm.

Inadequacies in Criminal Justice Responses to Sexual Harm

70. The criminal justice system is monocultural and individualistic.¹⁹⁴
71. Only about eight percent of cases of sexual harm will be reported to police.¹⁹⁵ Of those reported, only a third result in charges against the perpetrator.¹⁹⁶
72. 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.¹⁹⁷
73. Restorative justice is not regularly offered for sexual harm cases. Referrals are only made from the court once a guilty plea has been made,

¹⁹¹ 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/>>.

¹⁹² 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/>>.

¹⁹³ HELP, *Sexual Abuse Statistics – Summary* dated 29 September 2023, accessed at <<https://helpauckland.org.nz/resources/sexual-abuse-statistics-summary/>>.

¹⁹⁴ 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.

¹⁹⁵ HELP, *Sexual Abuse Statistics*, dated November 2021, accessed at <<https://helpauckland.org.nz/wp-content/uploads/SexualAbuseStatistics-Detailed.pdf>>, at 7.

¹⁹⁶ HELP, *Sexual Abuse Statistics*, dated November 2021, accessed at <<https://helpauckland.org.nz/wp-content/uploads/SexualAbuseStatistics-Detailed.pdf>>, at 7.

¹⁹⁷ 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>>.

or if the Judge requests a diversion.¹⁹⁸ The Crown, prosecution and the parties all must agree to the referral in these instances.¹⁹⁹

74. On average, just three people are charged and one person convicted for every 100 instances of sexual harm.²⁰⁰
75. The adversarial system is known to retraumatise survivors of sexual harm.²⁰¹
76. Initial experiences with the court and wider medical legal services has long-term consequences for a survivor's recovery.²⁰²
77. There is limited sexual harm court support, with significant geographic gaps, in that funding does not cover the whole country.²⁰³

The Eurocentric Trauma Support Model

78. Support services²⁰⁴ can include crisis support, restorative justice support,²⁰⁵ counselling, and ACC funded therapy.
79. The existing dominant models in Aotearoa fail to engage with trauma from a taha Māori perspective:²⁰⁶
 - a. An understanding and awareness of the intergenerational impact of colonial violence and the subsequent manifestations of that in

¹⁹⁸ Project Restore NZ, *Referrals to project restore*, dated n.d., accessed at <<https://www.projectrestore.nz/referrals/#typesofreferral>>.

¹⁹⁹ Project Restore NZ, *Referrals to project restore*, dated n.d., accessed at <<https://www.projectrestore.nz/referrals/#typesofreferral>>.

²⁰⁰ HELP, *Sexual Abuse Statistics*, dated November 2021, accessed at <<https://helpauckland.org.nz/wp-content/uploads/SexualAbuseStatistics-Detailed.pdf>>, at 8.

²⁰¹ N Slade, *Literature review on international best court support models for victim-survivors of sexual violence* (Ministry of Social Development, Wellington, 2020) at 7.

²⁰² N Slade, *Literature review on international best court support models for victim-survivors of sexual violence* (Ministry of Social Development, Wellington, 2020) at 8.

²⁰³ Te Puna Aonui, *List of Family Violence and Sexual Violence Service Gaps*, dated March 2023, accessed at <https://tepunaonui.govt.nz/assets/Other-Agencies/FVSV-gaps-list-for-public-consultation_March-2023.pdf>.

²⁰⁴ Support services refer to the care that wāhine receive, after a traumatic sexual violence incident. HELP, *Justice Services*, dated n.d., accessed at <<https://helpauckland.org.nz/wp-content/uploads/HELP-Justice-Services-DIGITAL.pdf>>.

²⁰⁶ 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.²⁰⁷

- b. Sexual harm supports are focused on addressing harm from an individualistic perspective and fail to address the harm experienced by the whanau.²⁰⁸
 - 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.²⁰⁹
 - d. The current model of care fails to address the collective nature of trauma, including intergenerational trauma that is caused by colonisation.²¹⁰
 - 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.²¹¹
80. There is no clear measurement or monitoring of victim services and systems, with no responsible body²¹² meaning that cultural competency goes unchecked.

ACC Sensitive Claims Inappropriate

81. In 1988, the Accident Compensation Corporation (“**ACC**”) created a special condition of those who had experienced sexual violence.²¹³ This means that ACC provides a significant level of sexual harm support.

²⁰⁷ 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.

²⁰⁸ J Te Wiata and R Smith, *Working with Māori survivors of sexual violence* (Toah-Nnest, 2016), at 4.

²⁰⁹ J Te Wiata and R Smith, *Working with Māori survivors of sexual violence* (Toah-Nnest, 2016), at 3.

²¹⁰ 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.

²¹¹ 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.

²¹² 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>>.

²¹³ ACC, *Our history* dated 9 May 2025, accessed at <<https://www.acc.co.nz/about-us/who-we-are/our-history>>.

82. ACC operates under a social insurance model; its fundamental aim is to rehabilitate clients so they can return to work.
83. ACC does not seek to ensure its clients attain a holistic sense of hauora and so there is a disconnection between ACC's operating principles and the needs of wāhine Māori survivors of sexual harm who need wraparound holistic services and support.

ACC Therapy Supports

84. ACC therapy entitlements are for 48 hours of one-on-one therapy in one year.²¹⁴
85. To be entitled to sexual harm supports, ACC must be satisfied that the mental injury is significantly linked to specific sexual offence(s).²¹⁵ ACC service centre staff decide on the level of the claim, namely 'no risk', 'low-to-medium risk', 'high-risk'.²¹⁶
86. In the financial year of 2019/2020, 10,335 sensitive claims were made. Just 32 percent of these claims were approved.²¹⁷
87. ACC developed a new process in extensive consultation with providers, suppliers, sector groups, agencies and professional bodies.²¹⁸ There is no indication that any consultation with wāhine Māori took place.
88. It is unknown whether ACC is working to increase wāhine Māori and kaupapa Māori workforce within the sensitive claims processes.²¹⁹

²¹⁴ ACC, *Integrated Services for Sensitive Claims (ISSC) Hui* dated December 2021, accessed at <<https://www.acc.co.nz/assets/provider/supplementary-faqs-provided-prior-to-hui.pdf>>.

²¹⁵ ACC, *Mental Injury Assessments for ACC*, accessed at

<<https://www.acc.co.nz/assets/provider/edb599d6ad/mental-injury-assessment-guide.pdf>>, at 6.

²¹⁶ Community Law, *Health & disability – Making a claim and dealing with ACC* dated n.d., accessed at <<https://communitylaw.org.nz/community-law-manual/test/making-a-claim-and-dealing-with-acc/how-acc-processes-the-claim/>>.

²¹⁷ ACC, *Integrated Services for Sensitive Claims (ISSC) Hui*, dated December 2021, accessed at <<https://www.acc.co.nz/assets/provider/supplementary-faqs-provided-prior-to-hui.pdf>>, at 3.

²¹⁸ ACC, *Evolving the Integrated Services for Sensitive Claims*, dated 31 March 2025, accessed at <<https://www.acc.co.nz/for-providers/provider-contracts-and-services/sensitive-claims-service/evolution>>.

²¹⁹ R Thomas, *ACC to offer therapy faster for abuse victims* (The Post, 28 November 2024).

Lump Sum/Allowance Eligibility Criteria and Process

89. The survivor must also have been an ‘earner’ at the time of the sexual harm, or under the age of 18.²²⁰
90. The mental injury and sexual abuse event(s) must be a significant or a material cause of the diagnosed mental injuries²²¹ and the injury must be permanent or long-term.²²²
91. Survivors are required to undergo an ACC assessment²²³ which includes disclosing details regarding the sexual harm to a professional unknown to the ACC client.²²⁴
92. The timeframe for determination of the outcome (after the assessment) is two-months. ACC can extend this timeframe up to a total of nine months.²²⁵
93. On average, the wait list to be assessed is 9.3 weeks.²²⁶ There are often lengthy delays due to a shortage of assessors.²²⁷
94. Between 2010 and 2021, lump sum payments and independence allowances were only paid to 2.4 per cent and 6.6 per cent of claims respectively.²²⁸

²²⁰ J Miller and B Peck, *Issues Faced by ACC Claimants* (Abuse in Care Royal Commission of Inquiry, 2021), at [32].

²²¹ ACC, *Mental Injury Assessments for ACC*, accessed at <<https://www.acc.co.nz/assets/provider/edb599d6ad/mental-injury-assessment-guide.pdf>>, at 6.

²²² Abuse in Care Royal Commission of Inquiry, *He Purapura Ora, he Māra Tipu from Redress to Puretumu Torowhānui* dated n.d., accessed at <<https://www.abuseincare.org.nz/reports/from-redress-to-puretumu/from-redress-to-puretumu-4/1-1-introduction-11/1-1-introduction-7>>.

²²³ ACC, *Mental Injury Assessments for ACC*, accessed at <<https://www.acc.co.nz/assets/provider/edb599d6ad/mental-injury-assessment-guide.pdf>>, at 6.

²²⁴ Abuse in Care Royal Commission of Inquiry, *He Purapura Ora, he Māra Tipu from Redress to Puretumu Torowhānui* dated n.d., accessed at <<https://www.abuseincare.org.nz/reports/from-redress-to-puretumu/from-redress-to-puretumu-4/1-1-introduction-11/1-1-introduction-7>>.

²²⁵ Community Law, *Health & disability – Making a claim and dealing with ACC*, dated n.d., accessed at <<https://communitylaw.org.nz/community-law-manual/test/making-a-claim-and-dealing-with-acc/how-acc-processes-the-claim/>>.

²²⁶ ACC, *Integrated Services for Sensitive Claims (ISSC) Hui*, dated December 2021, accessed at <<https://www.acc.co.nz/assets/provider/supplementary-faqs-provided-prior-to-hui.pdf>>.

²²⁷ J Miller and B Peck, *Issues Faced by ACC Claimants* (Abuse in Care Royal Commission of Inquiry, 2021), at [154].

²²⁸ Abuse in Care Royal Commission of Inquiry, *He Purapura Ora, he Māra Tipu from Redress to Puretumu Torowhānui* dated n.d., accessed at <<https://www.abuseincare.org.nz/reports/from-redress-to-puretumu/from-redress-to-puretumu-4/1-1-introduction-11/1-1-introduction-7>>.

95. As of 2021, 95 percent of ACC sensitive claims were not granted, with most survivors giving up their claims, saying that the process is too traumatic.²²⁹

Other Mental Injury Ignored

96. During the assessment, the cause of various disorders may be assessed.²³⁰
97. The Sensitive Claims Unit may determine that some disorders are linked to sexual violence, while others are not.²³¹ Anything unrelated to sexual harm would not be covered by ACC.²³²
98. The scope of sexual violence related Sensitive Claims is set by the Accident Compensation Act 2001.²³³ Its scope is limited to sexual violence as defined in the Crimes Act 1961.²³⁴ The definition of sexual violence does not provide adequately for understanding the te ao Māori context and impact of sexual harm.²³⁵
99. The ability for ACC to truncate mental health difficulties, fails to recognise the compounding impact of trauma. Wāhine Māori may have several traumatic instances that led to the mental injury.²³⁶

Cultural Appropriateness of ACC Sensitive Claims

100. The ACC Sensitive Claims process is not culturally appropriate for wāhine Māori:

²²⁹ Insurance Business, *95% of sexual abuse claims fall through ACC system*, dated 19 May 2021, accessed at <<https://www.insurancebusinessmag.com/nz/news/breaking-news/95-of-sexual-abuse-claims-fall-through-acc-system-255431.aspx>>.

²³⁰ ACC, *Mental Injury Assessments for ACC*, accessed at <<https://www.acc.co.nz/assets/provider/edb599d6ad/mental-injury-assessment-guide.pdf>>, at 7.

²³¹ ACC, *Mental Injury Assessments for ACC*, accessed at <<https://www.acc.co.nz/assets/provider/edb599d6ad/mental-injury-assessment-guide.pdf>>, at 7.

²³² J Miller and B Peck, *Issues Faced by ACC Claimants* (Abuse in Care Royal Commission of Inquiry, 2021), at [55].

²³³ ACC, *Mental Injury Assessments for ACC*, accessed at <<https://www.acc.co.nz/assets/provider/edb599d6ad/mental-injury-assessment-guide.pdf>>, at 3.

²³⁴ ACC, *Mental Injury Assessments for ACC*, accessed at <<https://www.acc.co.nz/assets/provider/edb599d6ad/mental-injury-assessment-guide.pdf>>, at 6.

²³⁵ 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 8.

²³⁶ Abuse in Care Royal Commission of Inquiry, *He Purapura Ora, he Māra Tipu from Redress to Puretumu Torowhānui* dated n.d., accessed at <<https://www.abuseincare.org.nz/reports/from-redress-to-puretumu/from-redress-to-puretumu-4/1-1-introduction-11/1-1-introduction-7>>.

- a. ACC did not engage with wāhine Māori in its review of funding sensitive claims counselling.²³⁷
- b. To be eligible, wāhine Māori must provide full details of the traumatic incident that lead to the claim to an assessor who is unknown to them.²³⁸

101. Rongoā Māori is not available within the sensitive claims process.²³⁹

Barriers to Accessing Culturally Appropriate Supports

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

- a. general shortage of psychologists, psychiatrists and therapists in Aotearoa;²⁴⁰
- b. scarcity of Māori psychologists, psychiatrists and therapists;²⁴¹
- c. lack of culturally appropriate support services providers;²⁴²
- d. increased difficulty of accessing skilled and qualified support in rural areas;²⁴³ and
- e. gap in supports between crisis support, and long-term support delivered via ACC sensitive claims;²⁴⁴

²³⁷ 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.

²³⁸ J Miller and B Peck, *Issues Faced by ACC Claimants* (Abuse in Care Royal Commission of Inquiry, 2021), at [163]-[164].

²³⁹ ACC, *The Sensitive Claims Service* dated n.d., accessed at

²⁴⁰ <<https://www.acc.co.nz/assets/provider/Supplier-Workshop-Resource-Pack-v2.pdf>>, at 12.

²⁴¹ 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>>.

²⁴² M Levy, *Indigenous Psychology in Aotearoa: Realising Māori Aspirations* (Doctorate Thesis, University of Waikato, 2007), at 107.

²⁴³ 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].

²⁴⁴ 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.

²⁴⁴ 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>.

103. Few government strategic mental health and addiction services documents explicitly support a dedicated investment in a trauma informed care approach.²⁴⁵
104. The shortage of psychologists in New Zealand, both Māori and non-Māori is at a critical level.²⁴⁶
105. Not enough psychologists are being trained to meet the growing need.²⁴⁷
106. In 1999, Māori psychologists comprised 3.5 percent of the total psychology workforce. This decreased in 2000 to 1.3 percent. In 2002 and 2003, Māori psychologists increased to 4.7 percent of the workforce, and then in 2005 this had decreased to 3.8 percent.²⁴⁸
107. At 31 March 2024, there were 4026 registered psychologists practicing in Aotearoa New Zealand.²⁴⁹ Of those practicing, for the 2024 registration period, 223 (or 5 percent) identified as Māori.²⁵⁰
108. A significant barrier to Māori participation in the psychology workforce, is its overreliance on western paradigms.²⁵¹
109. The relevance of psychology for Māori is questionable given that the system fails to recognise or allow for integration of Māori concepts and practices.²⁵²

²⁴⁵ 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.

²⁴⁶ K Boland, *Psychology sector calls for urgent funding to train more psychologists*, dated 24 August 2023, accessed at <[²⁴⁷ L Forman, *Psychologist group warns not enough youth and child specialists to meet growing demand*, dated 27 May 2023, accessed at <\[>\]\(https://www.rnz.co.nz/news/national/490775/psychologist-group-warns-not-enough-youth-and-child-specialists-to-meet-growing-demand\)>.](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.>>.</p>
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²⁴⁸ M Levy, *Indigenous Psychology in Aoteroa: Realising Māori Aspirations* (PhD Thesis, University of Waikato, 2007) at 107.

²⁴⁹ 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.

²⁵⁰ 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.

²⁵¹ M Levy, *Barriers and Incentives to Maori Participation in the Profession of Psychology*, (University of Waikato, September 2002), at 32-33.

²⁵² M Levy, *Barriers and Incentives to Maori Participation in the Profession of Psychology*, (University of Waikato, September 2002), at 32-33.

Lack of Kaupapa Māori Mahi Tūkinō Support Services

110. Kaupapa Māori support services can help to restore whanau ora.²⁵³
Kaupapa Māori services are extremely valuable.²⁵⁴
111. 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.²⁵⁵
112. 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.²⁵⁶
113. 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.²⁵⁷
114. Western based therapy models, are typically based on a one hour allotted appointment.²⁵⁸ A kaupapa Māori model, which holds space for flexible timeframes has shown to be validating and support the healing process.²⁵⁹

Funding of Sexual Harm Supports

115. The most significant issue is insufficient funding relative to demand:²⁶⁰

²⁵³ V Kingi and J Jordan, *Responding to sexual violence: Pathways to recovery* dated October 2009, Ministry of Women's Affairs, at 25.

²⁵⁴ V Kingi and J Jordan, *Responding to sexual violence: Pathways to recovery* dated October 2009, Ministry of Women's Affairs, at 161.

²⁵⁵ Te Puna Aonui, *List of Family Violence and Sexual Violence Service Gaps*, dated March 2023, accessed at <https://tepunaonui.govt.nz/assets/Other-Agencies/FVSV-gaps-list-for-public-consultation_March-2023.pdf>.

²⁵⁶ 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.

²⁵⁷ V Kingi and J Jordan, *Responding to sexual violence: Pathways to recovery* (Minitatanga Mō Ngā Wāhine, Wellington, October 2009), at 27.

²⁵⁸ The Counselling Hub, *How Long Does Each Counseling Session Last?* accessed at <[²⁵⁹ V Kingi and J Jordan, *Responding to sexual violence: Pathways to recovery* \(Minitatanga Mō Ngā Wāhine, Wellington, October 2009\), at 113.](https://thecounselinghub.com/how-long-does-a-session-last#:~:text=If%20you're%20going%20for,sessions%20or%2060%2Dminute%20sessions.>>.</p></div><div data-bbox=)

²⁶⁰ 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].

- a. The Crown funds support service providers with less than two thirds of the required budget, forcing them to raise funds privately.²⁶¹ Providers are not adequately funded to deliver the required services.²⁶²
 - 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, all with separate requirements, and auditing and reporting processes.²⁶³
 - 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.²⁶⁴
116. The current funding model creates uncertainty for service providers. Funding is regularly cut for Kaupapa Māori services.²⁶⁵
117. When there are budget impacts on non-Māori support services, Kaupapa Māori supports are doubly impacted.²⁶⁶
118. Budget 2023 stated that \$8.603 million was committed to kaupapa Māori specialist Sexual Violence services for Māori over a period of three years.²⁶⁷

²⁶¹ M Jenkins, *Social Service System: The Funding Gap and How To Bridge It* (Social Service Providers Aotearoa, August 2019), at 77.

²⁶² M Jenkins, *Social Service System: The Funding Gap and How To Bridge It* (Social Service Providers Aotearoa, August 2019), at 74.

²⁶³ 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.

²⁶⁴ 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.

²⁶⁵ 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>>.

²⁶⁶ 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>>.

²⁶⁷ 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>>.

- a. 2023/2024: \$2.996 million was committed;²⁶⁸
- b. 2024/2025: \$2.988 million was committed; and
- c. 2025/2026: \$2.619 million was committed.²⁶⁹

119. The incumbent government has signalled that it will reduce government and social spending.²⁷⁰ It has also indicated movement away from services that are specifically for Māori.²⁷¹

120. As of 2026, it is unclear how much funding has been or will be allocated to kaupapa Māori sexual violence support services.

Breach

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

- a. 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.
- b. 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

²⁶⁸ 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>>.

²⁶⁹ 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>>.

²⁷⁰ 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>>.

²⁷¹ 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. 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

122. As a result of the Crown's foregoing acts and omissions, the Claimants and their wāhine tūpuna have experienced:
- a. perpetuated norms in relation to sexual violence.
 - b. diminished mana and harm.
 - c. further harm and traumatisation by being effectively forced to rely on a Eurocentric model, and culturally inappropriate supports.
 - d. further traumatisation through engagement with the justice system; and
 - e. further traumatisation through engagement with the ACC sensitive claims process.

Relief Sought

123. 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. 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

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

THIRD CAUSE OF ACTION: CROWN FAILURE TO PROTECT WĀHINE MĀORI FROM SIGNIFICANT INCIDENCE OF FAMILY VIOLENCE

Allegation

124. The Crown, in breach of ngā mātāpono o te matapopore moroki (active protection), houruatanga (partnership), mana taurite (equity), kāwanatanga tōtika (good government), and the right to development:
- a. Prevented Māori communities from the ongoing adaptation and development of their social structures, customs, and practices to maintain the safety of wāhine Māori from family violence and uphold balanced gender relations with tāne.
 - b. Failed to take appropriate steps to remedy the disproportionate and inequitable incidence of family violence towards wāhine Māori, despite decades of evidence of its occurrence.
 - c. Relied primarily on short-term risk management through deterrence and accountability-focused responses to family violence, which do not address its structural causes, in the long term; thereby perpetuating harm to wāhine Māori.
 - d. Created structural inequities through its services that remove agency, victim-blame, discrimination, and make remedying family violence unnecessarily difficult.
 - e. Maintained family violence systems that do not adequately address the intersection of hetero-patriarchal violence and systemic discrimination that wāhine Māori uniquely experience within family violence services.
 - f. Failed to work in genuine partnership with wāhine Māori and Māori communities in the design, delivery, and monitoring of family violence services that wāhine Māori may access when experiencing violence from non-Māori; and

- g. Created a persistent gap between policy intent and outcomes and failed to monitor whether deterrence and accountability-focused approaches protect wāhine Māori.

Treaty Principles and Corresponding Duties

125. Ngā mātāpono o tino rangatiratanga, matapopore moroki (active protection), tino rangatiratanga, houruatanga (partnership), kāwanatanga tōtika, and the right to development are engaged. Accordingly, the Crown:

- a. must appropriately and adequately protect wāhine Māori from the ongoing and disproportionate incidence of family violence.
- b. must work comprehensively towards equity for wāhine Māori, who disproportionately experience family violence, and to be held accountable by Māori for its performance²⁷² in accordance with the other Treaty principles. In this regard, the complexity of achieving equity for wāhine Māori in modern circumstances means that every Crown entity and social sector agency is accountable for its contributions towards equity for Māori.²⁷³
- c. must actively prevent inequitable disparities and uphold the mana and safety of wāhine Māori within all social and institutional contexts; and
- d. must take action to remedy the inequitably disproportionate family violence that wāhine Māori experience. However, this should not be done in a manner that causes new or compounded harm to tāne, whether immediate or long-term, and thereby compounds family violence towards wāhine Māori.
- e. must work in genuine partnership with wāhine Māori and Māori in the design, delivery, and monitoring of family violence prevention, response, and justice services. This includes ensuring that mainstream services that wāhine Māori and Māori may access in stations where family violence has occurred are

²⁷² Waitangi Tribunal, *Haumarū: The COVID-19 Priority Report* (Wai 2575, 2023), at 43.

²⁷³ Waitangi Tribunal, *Haumarū: The COVID-19 Priority Report* (Wai 2575, 2023), at 43.

co-designed with wāhine Māori and Māori and reflect their needs, experiences, and cultural perspectives.

- f. must act promptly on issues affecting wāhine Māori brought to its attention.²⁷⁴ Where the Crown fails to address statutes and policies intended to reduce family violence against wāhine Māori in a way that meets Treaty standards, it would be in breach of the principle of good government.²⁷⁵
- g. must monitor and evaluate its family violence policies and laws, and their effectiveness in addressing the persistent and disproportionate harm experienced by wāhine Māori. The Crown must also consider the systemic impacts of colonisation and act with urgency to remedy the historical and ongoing harms that have contributed to the crisis of family violence within Māori communities.
- h. must ensure kaupapa Māori services for responding to family violence are equitably resourced alongside mainstream services. This means that kaupapa Māori family violence services are required not to be constrained by arbitrary reporting requirements, and targets that mainstream services are not required to adhere to or reach.
- i. must ensure that kaupapa Māori family violence services remain by Māori for Māori, and genuinely accessible by wāhine Māori if they so choose, the Crown is required not to assert western frameworks and allow these services to function within a mātauranga Māori paradigm; and
- j. is obliged to actively support the development of Māori balanced and collective social structures, norms, and practices in a manner that maintained their integrity and relevance over time. This may require the Crown to foster conditions that enabled

²⁷⁴ Waitangi Tribunal, *Kāinga Kore: The Stage One Report of the Housing Policy and Services Kaupapa Inquiry on Māori Homelessness* (Wai 2750, 2023), at 134.

²⁷⁵ Waitangi Tribunal, *Te Mana Whatu Ahuru: Report on Te Rohe Pōtae Claims* (Wai 898, 2023), Vol 1, at 210.

Māori-led development of social frameworks that uphold collective safety and balance, ensuring wāhine Māori are protected from environments that devalue them or normalise family violence.

Background

Gender and Roles

126. Wāhine Māori were not traditionally regarded as possessions.²⁷⁶
127. There was no hierarchy or binary of genders.²⁷⁷
128. Wāhine and tane gender dynamics were understood as essential, complementary, reciprocal, and balanced.²⁷⁸
129. Whanau was central to reinforcing the communal consciousness.²⁷⁹
130. Marriage was, in essence, a union with the collective, not solely individuals.²⁸⁰

Whanau Violence Rare Within Collective Framework

131. Social, legal, and cultural systems in traditional Māori Societies were grounded in flexible values and principles.²⁸¹
132. As te whare tangata, the protection of wāhine Māori was essential.²⁸²
133. Members were guided by a responsibility for the welfare of the

²⁷⁶ R M R Pere, *To Us the Dreamers Are Important in Mana Wāhine Reader A Collection of Writings 1987-1998 Volume I* (Te Kotahi Research Institute, Hamilton, New Zealand, 1998), at 7.

²⁷⁷ M Jackson, *Brief of Evidence of Moana Jackson* dated 31 May 2022, Wai 2700, #A85 at [19]-[21], [106].

²⁷⁸ M Jackson, *Brief of Evidence of Moana Jackson* dated 31 May 2022, Wai 2700, #A85 at [19]-[21], [106], at [19]-[21]; N Re Rangi, *Brief of Evidence of Nayda Te Rangi* dated 26 July 2022, Wai 2700, #A120, at [5]-[6], [20]-[21].

²⁷⁹ L Pihama, K Jenkins, A Middleton, *Te Rito Action Area 13 Literature Review Family Violence Prevention for Māori Research Report* (Auckland Uniservices Limited, 2003), at 25, 27-30.

²⁸⁰ B Biggs, *Māori Marriage An Essay in Reconstruction* (Reed for the Polynesian Society, Wellington, 1970), at 23-53; Waitangi Tribunal, *Te Mana Whatu Ahuru: Report on Te Rohe Pōtae Claims Vol. 1* (Wai 898, 2023), at 38-45.

²⁸¹ V Toki, *Will Therapeutic Jurisprudence provide a path forward for Māori?* (Waikato Law Review, Vol 13, 2005), at 169, 174-177.

²⁸² D Wilson, *A Literature Review, Violence within whānau and mahi tūkino – A litany of sound revisited* (Te Pūkōtāhitanga, March 2023), at 16-17 and 19.

collective.²⁸³

134. Punitive models were not needed, as internal violence rarely occurred.²⁸⁴
135. Though rare, where internal violence did occur, this prompted a collective restorative response to heal the loss of balance, dignity, and mana.²⁸⁵
136. Serious instances of whānau violence included exiling wrongdoers.²⁸⁶
137. Records confirm an absence of abuse towards wāhine.²⁸⁷

Particulars

138. International law requires the Crown to ensure violence is eliminated against wāhine.²⁸⁸

Overrepresentation of Wāhine Māori as Victims of Family Violence

139. Wāhine Māori are over-represented as victims of family violence.²⁸⁹
140. Māori are three times more likely than other population groups to die in incidents of family violence.²⁹⁰
141. Wāhine Māori have the highest lifetime prevalence of family violence out

²⁸³ D Wilson, A Mikahere-Hall, et al., *Aroha Manaakitanga – That’s What It Is About: Indigenous Women, “Love,” and Interpersonal Violence* (Journal of Interpersonal Violence, Vol 1, Issue 30, 2019), at 3.

²⁸⁴ D Wilson, *A Literature Review, Violence within whānau and mahi tūkino – A litany of sound revisited* (Te Pūkotahitanga, March 2023), accessed at <preventfsv.govt.nz/assets/Te-Pukotahitanga/2023-10-A-Litany-of-Sound-Revisited.pdf>, at 17, 23, 110, and 174.

²⁸⁵ Te Puni Kōkiri, *Arotake Tūkino Whānau: Literature Review on Family Violence* (June 2010) accessed at <www.tpk.govt.nz/documents/download/262/tpk-family-violence-literature-review.pdf>, at 10-13; D Wilson, *A Literature Review, Violence within whānau and mahi tūkino – A litany of sound revisited* (Te Pūkotahitanga, March 2023), at 16-17, 23, 174.

²⁸⁶ L Pihama, K Jenkins, A Middleton, *Te Rito Action Area 13 Literature Review Family Violence Prevention for Māori Research Report* (The Ministry of Health and Te Rito Māori Advisory Committee, August 2003), at 58.

²⁸⁷ D Wilson, A Mikahere-Hall, et al., *Aroha Manaakitanga – That’s What It Is About: Indigenous Women, “Love,” and Interpersonal Violence* (Journal of Interpersonal Violence, Vol 1, Issue 30, 2019), at 4.

²⁸⁸ United Nations Entity for Gender Equality and the Empowerment of Women, *2011-2010 Progress of the World’s Women in pursuit of Justice* (UN Women, 2011), at 33.

²⁸⁹ T Dobbs, M Eruera, *Kaupapa Māori Wellbeing Framework: The basis for whānau violence prevention and intervention* (New Zealand Family Violence Clearinghouse, Issue 6, April 2014) at 1, 5.

²⁹⁰ Family Violence Death Review Committee, *Fifth Report Data: January 2009 to December 2015* (Health Quality and Safety Commission New Zealand, 2015), at 42.

of any other female population group.²⁹¹

142. A 2019 study confirmed that 64.61 per cent of wāhine Māori experience family violence in their lifetime.²⁹²
143. Wāhine Māori are at three times the average risk of experiencing family violence compared to other women.²⁹³

Erosion of Traditional Māori Social Structures as a Contributing Cause

144. Wāhine Māori became vulnerable to family violence through the dismantling of collective Māori social and legal mechanisms.
145. This dismantlement occurred from:
 - a. The decimation of gender balance²⁹⁴ from the establishment of patriarchal legal mechanisms.²⁹⁵
 - b. The replacement of collective customs and indigenous property understandings by favouring individualistic frameworks.²⁹⁶
 - c. The assertion of Eurocentric family, gender, domestic and labour models through assimilative education systems.²⁹⁷
 - d. Urbanisation that compounded deprivation and fractured

²⁹¹ J Fanslow, B Mellar, et al., *Ethnic-specific prevalence rates of intimate partner violence against women in New Zealand* (Australian and New Zealand Journal of Public Health, Vol 47, Issue 6, December 2023), accessed at

<www.sciencedirect.com/science/article/pii/S1326020023052822?via%3Dihub#sec3>, at 2.

²⁹² J Fanslow, B Mellar, et al., *Ethnic-specific prevalence rates of intimate partner violence against women in New Zealand* (Australian and New Zealand Journal of Public Health, Vol 47, Issue 6, December 2023), at 2.

²⁹³ Families Commission, *Family violence statistics report* (2019), accessed at <thehub.sia.govt.nz/assets/documents/family-violence-statistics-report.pdf>, at 19.

²⁹⁴ A Mikaere, *Cultural Invasion Continued: The Ongoing Colonisation of Tikanga Māori* (New Zealand Yearbook New Zealand Jurisprudence, 2005), at 142-150.

²⁹⁵ A Mikaere, *Cultural Invasion Continued: The Ongoing Colonisation of Tikanga Māori* (New Zealand Yearbook New Zealand Jurisprudence, 2005), at 150-151, 153-155.

²⁹⁶ D Wilson, *A Literature Review, Violence within whānau and mahi tūkino – A litany of sound revisited* (Te Pūkōtahitanga, March 2023), at 24, 63, 130; L Pihama, K Jenkins, A Middleton, *Te Rito Action Area 13 Literature Review Family Violence Prevention for Māori Research Report* (Auckland Uniservices Limited, 2003), at 16; A Mikaere, *Cultural Invasion Continued: The Ongoing Colonisation of Tikanga Māori* (New Zealand Yearbook New Zealand Jurisprudence, 2005), at 152.

²⁹⁷ K Jenkins, & K M Matthews, *Knowing Their Place: The Political Socialisation of Māori Women in New Zealand Through Schooling Policy and Practice, 1867–1969* (Women's History Review, Vol 7, Issue 6, 1998), at 85-105.

collective identities.²⁹⁸

- e. The undermining of intergenerational protections from state child welfare mechanisms.²⁹⁹

Statutory Changes to Family Violence Regime

- 146. The Domestic Protection Act 1982 (“**DPA 1982**”), the first statutory instrument to formally address family violence,³⁰⁰ allowed the Police to intervene in domestic affairs for the first time.³⁰¹
- 147. The DPA 1982 provided for non-violence and non-molestation orders.³⁰²
- 148. However, significant issues arose with the DPA 1982, including:³⁰³
 - a. its narrow and binary definition of relationship types; and
 - b. the inability to adequately protect victims, due to justice-system attitudes and certain orders lapsing when cohabitation resumed.
- 149. The Victims Offences Act 1987 was the first statute to recognise specific rights for crime victims, but agencies did not have to implement them.³⁰⁴
- 150. To reduce repeat family violence, the Domestic Violence Act 1995 (“**DVA 1995**”) required offenders to attend mandatory stopping-violence

²⁹⁸ J Reid, M Rout, et al., *The Colonising Environment an Aetiology of the Trauma of Settler Colonisation and Land Alienation on Ngāi Tahu Whanau*, (Ngāi Tahu Research Centre, Contemporary Research Division Series, 2017), at 40-47, 161.

²⁹⁹ C Savage, P C Moyle, et al., *Hāhā-uri, hāhā-tea – Māori Involvement in State Care 1950-1999* (Ihi Research, 2021); New Zealand Government, *State Care Timeline* (Crown Response to the Abuse in Care Inquiry, last update at time of access November 2024).

³⁰⁰ Domestic Protection Act 1982 (*repealed*).

³⁰¹ J Fenrich, J Contesse, “*Its Not ok*”: *New Zealand’s Efforts to Eliminate Violence Against Women* (Fordham International Law Journal, New York, 2009), at 43; Domestic Protection Act 1982 (*repealed*).

³⁰² N Robertson, *Living at the Cutting Edge: Women’s Experiences of Protection Orders Volume 1: The Women’s Stories* (University of Waikato, School of Law and the Māori and Psychology Research Unit, August 2007), at 4-5.

³⁰³ J Fenrich, J Contesse, “*Its Not ok*”: *New Zealand’s Efforts to Eliminate Violence Against Women* (Fordham International Law Journal, New York, 2009), at 43; N Robertson, *Living at the Cutting Edge: Women’s Experiences of Protection Orders Volume 1: The Women’s Stories* (University of Waikato, School of Law and the Māori and Psychology Research Unit, August 2007), at 4, 7, 230, 256.

³⁰⁴ Victims and Offences Act 1987 (*repealed*); Ministry of Justice, *History of Victims Rights in Aotearoa | Chief Victims Advisor to Government*, dated February 2025, accessed at <chiefvictimsadvisor.justice.govt.nz/rights-and-system/history/>.

programmes teaching non-abusive conflict resolution.³⁰⁵

151. Premised on Western nuclear-family models, the DVA 1995 perpetuated structural violence against wāhine Māori and disconnected them from collective familial supports.³⁰⁶
152. The DVA 1995's protection-order system suffered major implementation failures, including inconsistent police enforcement, poor community education of protections, removal of court processes that previously affirmed wrongdoing, and inadequate police training on breaches.³⁰⁷
153. In 2010, the DVA 1995 was amended, letting Police issue Police Safety Orders (“**PSOs**”), allowing removal and arrest where insufficient evidence justified it. The amendment gave Police the following powers.³⁰⁸
 - a. the ability to issue PSOs (by Constables).
 - b. the ability to issue PSOs without the person whom it was intended to protect consenting to the PSO.
 - c. The requirement to suspend the firearm licence of a person receiving a PSO;
 - d. To detain a person up to 2 hours; and
 - e. The ability to take into custody a person who contravenes a PSO.³⁰⁹
154. The Domestic Violence Amendment Act 2013 introduced flexibility in programme delivery and accountability mechanisms by:
 - a. Expanding psychological abuse definitions to include financial or

³⁰⁵ M Slabber, *Community-based Domestic Violence Interventions: A Literature Review - 2012* (Psychological Services, Department of Corrections, Wellington, 2012), accessed at <www.corrections.govt.nz/_data/assets/pdf_file/0011/10721/COR_Community_Based_Domestic_Violence_Interventions_WEB_2.pdf>, at 3.

³⁰⁶ Te Puni Kōkiri, *Arotake Tūkinu Whānau: Literature Review on Family Violence* dated June 2010, accessed at <www.tpk.govt.nz/documents/download/262/tpk-family-violence-literature-review.pdf>, at 31.

³⁰⁷ H Barwick, A Gray and R Mackay, *Domestic Violence Act 1995 Process Evaluation* (Ministry of Justice, 2000), at 105-107.

³⁰⁸ E Mossam, V Kingi, et al., *An Outcome Evaluation of Police Safety Orders* (New Zealand Police, June 2014), accessed at <www.police.govt.nz/sites/default/files/publications/pso-outcome-evaluation-report.pdf>, at 1; Domestic Violence Amendment Act 2009.

³⁰⁹ Domestic Violence Amendment Act 2009.

economic abuse.³¹⁰

- b. Replacing programme structures with interventions based on individual assessments.³¹¹
- c. Redefining the purpose of safety programmes to be the same, irrespective of whether the protected person is an adult or a child.³¹²
- d. Removing 3-year referral time limits for safety programmes, allowing protected persons to seek help when they are ready.³¹³
- e. Requiring providers to report respondent safety concerns and non-compliance directly to the courts.³¹⁴

155. The Family Violence Act 2018, despite its focus on safety and accountability, does not require rehabilitative measures to address the underlying drivers of wrongdoers committing family violence.³¹⁵

Police Policy: Pro-Arrest and Removal of Wāhine Agency

156. Police adopted the Family Violence Policy in 1987, requiring arrest where sufficient evidence existed of an assault or a breach of a protection order, except in cases of very minor assaults or extenuating circumstances.³¹⁶

157. The Police Family Violence Policy asserts it was based on two key

³¹⁰ Ministry of Justice, *Changes to Domestic Violence Programmes* (Ministry of Justice, Wellington, 2014), accessed at <files.vine.org.nz/misc/Changes%20to%20Domestic%20Violence%20Programmes%20-%20final%20-%20Feb%202014%20.pdf>, at 6.

³¹¹ Ministry of Justice, *Changes to Domestic Violence Programmes* (Ministry of Justice, Wellington, 2014), accessed at <files.vine.org.nz/misc/Changes%20to%20Domestic%20Violence%20Programmes%20-%20final%20-%20Feb%202014%20.pdf>, at 11.

³¹² Ministry of Justice, *Changes to Domestic Violence Programmes* (Ministry of Justice, Wellington, 2014), accessed at <files.vine.org.nz/misc/Changes%20to%20Domestic%20Violence%20Programmes%20-%20final%20-%20Feb%202014%20.pdf>, at 14.

³¹³ Ministry of Justice, *Changes to Domestic Violence Programmes* (Ministry of Justice, Wellington, 2014), accessed at <files.vine.org.nz/misc/Changes%20to%20Domestic%20Violence%20Programmes%20-%20final%20-%20Feb%202014%20.pdf>, at 19.

³¹⁴ Ministry of Justice, *Changes to Domestic Violence Programmes* (Ministry of Justice, Wellington, 2014), accessed at <files.vine.org.nz/misc/Changes%20to%20Domestic%20Violence%20Programmes%20-%20final%20-%20Feb%202014%20.pdf>, at 7, 25.

³¹⁵ Family Violence Act 2018, s 4.

³¹⁶ G Newbold, J Cross, *Domestic Violence Pro-Arrest Policy* (Social Policy Journal of New Zealand Te Puna Whakaaro, Issue 33, March 2008), at 5; see also Commissioner's Circular 1987/11.

principles:³¹⁷

- a. victim protection; and
- b. accountability of family violence wrongdoers.

158. As at 2025:

- a. pro-arrest where suspected family violence has occurred remains the prominent police policy.³¹⁸
- b. prosecution is decided by the Police and not influenced by the victim's views.³¹⁹

159. A solely deterrence and criminalisation focused policy, without accounting for victim views, does not meet all needs of wāhine Māori, or seek to provide support to the survivor and their partner to heal and build healthy long-term relationships.

Te Aorerekura – Government Family Violence Strategy

160. Te Aorerekura is the Government's current family violence strategy for family violence response in Aotearoa New Zealand.³²⁰

161. Despite decades of Crown policy activity, Te Aorerekura has not shown meaningful progress beyond raising awareness of family violence.³²¹

162. The strategy leaves unresolved its plans to remedy the structural drivers of reducing inequitable incidences of family violence against wāhine Māori.

163. With a focus on Crown agency coordination rather than community

³¹⁷ G Newbold, J Cross, *Domestic Violence Pro-Arrest Policy* (Social Policy Journal of New Zealand Te Puna Whakaaro, Issue 33, March 2008), at 5; see also Commissioner's Circular 1987/11.

³¹⁸ New Zealand Police, *Police Instructions, Family Harm Policy and Procedures* (New Zealand Police, February 2024), accessed at <www.police.govt.nz/sites/default/files/publications/family-harm-policy-and-procedures-160224.pdf>, at 34.

³¹⁹ New Zealand Police, *Police Instructions, Family Harm Policy and Procedures* (New Zealand Police, February 2024), accessed at <www.police.govt.nz/sites/default/files/publications/family-harm-policy-and-procedures-160224.pdf>, at 39.

³²⁰ New Zealand Government, *Te Aorerekura National Strategy to Eliminate Family Violence and Sexual Violence* (New Zealand Government and Te Puna Aonui, December 2021), accessed at <<https://preventfvsv.govt.nz/assets/National-strategy/Finals-translations-alt-formats/Te-Aorerekura-National-Strategy-final.pdf>>.

³²¹ E Eppel, C Gear, et al., *Te Aorerekura towards eliminating family violence – reflections from the Atawhai protect* (Policy Quarterly, Vol 21, Issue 1, February 2025), at 97.

stakeholder engagement, the Strategy fails to bridge the gap between crisis response and long-term prevention.³²²

164. Implementation of the family violence strategy is constrained by the Public Finance Act 1989, and the Crown funding and commissioning arrangements that limit both genuine partnership with tangata whenua and locally led community prevention responses.³²³
165. Independent oversight by the auditor general has confirmed that the Crown's engagement under Te Aorerekura has been rushed and dismissive, with feedback often disregarded, undermining effective long-term solutions for family violence.³²⁴

Family Violence Services

Prevention and Rehabilitation Not Appropriately Accounted For

166. The Crown's prioritisation of crisis services and short-term service interventions that are efficiency-driven have been at the expense of prevention, long-term recovery and rehabilitation, and kaupapa Māori approaches.³²⁵
167. Current response frameworks rely on siloed non-violent programmes that fail to address entrenched patterns of family violence rooted in deprivation, trauma, mental health issues, and addiction,³²⁶ and are not aligned with international standards of safe practice.³²⁷

³²² E Eppel, C Gear, et al., Te Aorerekura towards eliminating family violence – reflections from the Atawhai protect (Policy Quarterly, Vol 21, Issue 1, February 2025), at 97, 121.

³²³ E Eppel, C Gear, et al., Te Aorerekura towards eliminating family violence – reflections from the Atawhai protect (Policy Quarterly, Vol 21, Issue 1, February 2025), at 101-102.

³²⁴ E Eppel, C Gear, et al., Te Aorerekura towards eliminating family violence – reflections from the Atawhai protect (Policy Quarterly, Vol 21, Issue 1, February 2025), at 97.

³²⁵ Family Violence Death Review Committee, *Fifth Report January 2014 to December 2015* (Health Quality & Safety Commission, Wellington, 2016), at 93; S Carswell, J Paulin, et al, *Experiences of the family violence system in Aotearoa: An overview of research 2010 – early 2020* (Carswell Consultancy, prepared for the Office of the Auditor-General, September 2020), at 65-66.

³²⁶ Family Violence Death Review Committee, *Fifth Report January 2014 to December 2015* (Health Quality & Safety Commission, Wellington, 2016) accessed at <img.scoop.co.nz/media/pdfs/1602/FVDRC_fifth_report.pdf>, at 96.

³²⁷ Family Violence Death Review Committee, *Fifth Report January 2014 to December 2015* (Health Quality & Safety Commission, Wellington, 2016) accessed at <img.scoop.co.nz/media/pdfs/1602/FVDRC_fifth_report.pdf>, at 96.

Cultural Discrimination, Institutional Entrapment and Financial Dependency

168. State welfare policies and services have reinforced the economic dependency of wāhine Māori by structuring social support around male-breadwinner models,³²⁸ creating financial barriers to leaving abusive relationships.³²⁹
169. Crown agencies have monitored and controlled wāhine Māori access to resources, creating further barriers to escaping violence and deepening their financial vulnerability.³³⁰
170. Victim-blaming by agencies and a focus on what wāhine Māori are doing wrong, discourages them from seeking help and traps them in violent relationships.³³¹
171. Wāhine Māori seeking support for abuse have, in some cases, had their tamariki removed,³³² creating state-induced trauma that deters them from seeking help for fear of losing their children.³³³

³²⁸ Ministry of Social Development, *Families and whānau and the benefit system – A high-level initial briefing* (Ministry of Social Development, 16 May 2018), accessed at <www.msd.govt.nz/documents/about-msd-and-our-work/publications-resources/information-releases/weag-report-release/families-and-whanau-and-the-benefit-system-a-high-level-initial-briefing.pdf>, at 2, 19.

³²⁹ I Sin, S Minehan, et al., *Motu Working Paper 24-01 Who can leave a partner who uses violence?* (Ministry of Social Development and Ministry of Justice, March 2024), at 1-2, 9-12, 20-21, 70-71, 77-78, 98-99; University of Auckland, *Economic abuse affects one in seven NZ women* dated March 2024, accessed at <<https://www.auckland.ac.nz/en/news/2024/03/05/Economic-abuse-common-in-NZ.html>>.

³³⁰ D Wilson, A Mikahere-Hall, et al., *Wāhine Māori keeping safe in unsafe relationships* (Taupua Waiora Māori Research Centre, Auckland, November 2019), accessed at <niphmhr.aut.ac.nz/_data/assets/pdf_file/0011/330302/REPORT_E-Tu-Wahine,-E-Tu-Whanau-Wahine-Maori-keeping-safe-in-unsafe-relationships.pdf>, at 32-37.

³³¹ D Wilson, A Mikahere-Hall, et al., *Wāhine Māori keeping safe in unsafe relationships* (Taupua Waiora Māori Research Centre, Auckland, November 2019) accessed at <niphmhr.aut.ac.nz/_data/assets/pdf_file/0011/330302/REPORT_E-Tu-Wahine,-E-Tu-Whanau-Wahine-Maori-keeping-safe-in-unsafe-relationships.pdf>, at 32-33.

³³² D Wilson, A Mikahere-Hall, et al., *Wāhine Māori keeping safe in unsafe relationships* (Taupua Waiora Māori Research Centre, Auckland, November 2019) accessed at <niphmhr.aut.ac.nz/_data/assets/pdf_file/0011/330302/REPORT_E-Tu-Wahine,-E-Tu-Whanau-Wahine-Maori-keeping-safe-in-unsafe-relationships.pdf>, at 67-71.

³³³ D Wilson, A Mikahere-Hall, et al., *Wāhine Māori keeping safe in unsafe relationships* (Taupua Waiora Māori Research Centre, Auckland, November 2019) accessed at <niphmhr.aut.ac.nz/_data/assets/pdf_file/0011/330302/REPORT_E-Tu-Wahine,-E-Tu-Whanau-Wahine-Maori-keeping-safe-in-unsafe-relationships.pdf>, at 67-71.

172. Wāhine Māori who experience family violence are often retraumatised when their experiences are minimised or disbelieved within the justice system.³³⁴
173. As a result of these systemic biases, many wāhine Māori avoid mainstream agencies even in times of serious need,³³⁵ leaving them further entrapped in abusive relationships.
174. The named Claimant has been significantly affected by family violence and attests that her experience is a result of the indoctrination she experienced in New Zealand society, the education system, and by non-Māori family members that Māori wahine were second class citizens.

Breach

175. The Crown, in breach of ngā mātāpono o Matapopore Moroki (active protection), Houruatanga (partnership), Mana Taurite (equity), Kāwanatanga Tōtika (good government), and the right to development:
- a. Prevented Māori communities from the ongoing adaptation and development of their social structures, customs, and practices to maintain the safety of wāhine Māori from family violence and uphold balanced gender relations with tāne. This was achieved through the non-recognition of Māori customary practices and dynamics within its statutory frameworks, and the continued deprivation and oppression of wāhine Māori, which continue to be contributing factors to their disproportionate experience of family violence from tāne.
 - b. Failed to take appropriately remedy the disproportionate and inequitable incidence of family violence towards wāhine Māori, despite decades of evidence of its occurrence. This included continuing policies that perpetuate harm, such as under-

³³⁴ S Carswell, J Paulin, et al., *Experiences of the family violence system in Aotearoa: An overview of research 2010-early 2020* (Commissioned by the Office of the Auditor-General, Wellington, September 2020), accessed at <oag.parliament.nz/2021/literature-review/carswell-report/docs/carswell-report.pdf>, at 48.

³³⁵ The Māori Reference Group, Whānau, *Programme of Action for Addressing Family Violence 2013-2018* dated 2013, accessed at <etuwhanau.org.nz/wp-content/uploads/2016/12/E_Tu_Whanau_POA.pdf>, at 12.

resourcing services, and maintaining economic vulnerability. In addition, its services failed to respond in culturally appropriate and protective ways to wāhine Māori, instead turning to victim-blaming and discrimination of wāhine Māori, thereby entrapping wāhine in violent relationships.

- c. Relied primarily on short-term risk management through deterrence and accountability-focused responses to family violence, which do not address its structural causes, in the long term; thereby perpetuating harm to wāhine Māori. This includes its failure to establish appropriate and clear preventive and rehabilitative frameworks within its statutory and policy regimes. In addition, its addiction and mental health services, and broader social services fails to prioritise the remedying of core drivers of family violence.
- d. Created structural inequities through its services that remove agency, victim-blame, discrimination, and make remedying family violence unnecessarily difficult. This retraumatised wāhine Māori and increased their vulnerability to continued family violence.
- e. Maintained family violence systems that do not adequately address the intersection of hetero-patriarchal violence and systemic discrimination that wāhine Māori uniquely experience within family violence services. This has resulted in wāhine Māori receiving inadequate protection and support compared to non-Māori women experiencing violence.
- f. Failed to work in genuine partnership with wāhine Māori and Māori communities in the design, delivery, and monitoring of family violence services that wāhine Māori may access when experiencing violence from non-Māori. The Crown has maintained power and control over mainstream service design, resourcing and delivery without adequate involvement of wāhine Māori; and

- g. Created a persistent gap between policy intent and outcomes and failed to monitor whether deterrence and accountability-focused approaches protect wāhine Māori. This is evidenced by responses to its recent family violence strategy, its police policy and justice regimes, which focus on accountability and deterrence, without focusing on long-term prevention and rehabilitation, and have not resulted in a meaningful reduction in the occurrence of family violence.

Prejudice

176. As a result of the Crown's above actions and omissions, the Claimants have and continue to suffer the following prejudice:
- a. Inequitable outcomes compared to non-Māori women including inferior protection, support, and justice; and
 - b. Harm, hurt and a loss of mana.

Relief Sought

177. As a result of the foregoing Crown breaches, the Claimants seek the following relief:
- a. A finding that this cause of action is well-founded.
 - b. A full public apology from the Crown to wāhine Māori for:
 - i. Failing to reduce disproportionate rates of family violence against wāhine Māori, despite having created the structural conditions for it; and
 - ii. Causing ongoing intergenerational trauma.
 - c. A recommendation that the Crown develop, fund, and deliver family violence prevention, rehabilitation, and healing services in true partnership with Māori.
 - d. A recommendation that wāhine Māori, as experts in their own lived experience, hold meaningful decision-making roles in

governance, policy, and service structures relating to family violence.

- e. A recommendation that the Crown resource kaupapa Māori programmes that enable intergenerational healing, transmission of and the rebuilding of Māori collective protective systems.
- f. A recommendation that the Crown address structural drivers that heighten wāhine Māori vulnerability to family violence, including socioeconomic deprivation, housing insecurity, unemployment, inequitable education opportunities, and systemic discrimination and hetero patriarchy.
- g. A recommendation that the Crown fundamentally reform its approach to incorporate prioritisation on prevention and rehabilitation, while ensuring wāhine Māori safety remains paramount.
- h. A recommendation that family violence regimes recognise and provide for Māori whānau dynamics, collective structures, and tikanga-based frameworks, rather than only Western nuclear-family models.
- i. A recommendation that the Crown support kaupapa Māori programmes for tamariki and rangatahi that teach:
 - i. Traditional concepts of balanced, respectful relationships.
 - ii. Healthy relationship skills and collective responsibility.
 - iii. Pathways for intergenerational healing.
- j. A recommendation that the Crown establish robust monitoring, accountability, and reporting mechanisms for its family violence regime; developed in genuine partnership with Māori and wāhine Māori.
- k. A recommendation that the Crown fully and appropriately

resource Māori kaupapa services across the family violence prevention and response system.

- l. A recommendation that the Crown conduct Treaty impact assessments for its family violence regime and make these public.
- m. 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
- n. Such other findings and recommendations as the Tribunal considers appropriate.

DATED at TĀMAKI MAKĀURAU this 27th day of FEBRUARY 2026



S J Roughton
Counsel Acting

This Statement of Claim is filed by **STEPHANIE JOY ROUGHTON**, Solicitor 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.