

Oranga Tamariki (Repeal of 7AA) Amendment Bill

Submission to the Social Services and
Community Committee - July 2024

Mana Mokopuna – Children and Young People’s Commission

Mana Mokopuna – Children and Young People’s Commission (Mana Mokopuna) is the Independent Crown Entity with the statutory responsibility to advocate for the rights, interests, participation and well-being of all children and young people (mokopuna) under 18 years old in Aotearoa New Zealand, and young people aged over 18 but under 25 years old if they are, or have been, in care or custody.

We have a statutory mandate to promote the UN Convention on the Rights of the Child (Children’s Convention) and monitor the Government’s implementation of its duties under the Convention, and to work in ways that uphold the rights of mokopuna Māori including under Te Tiriti o Waitangi. We place a focus on advocating for and with mokopuna who are experiencing disadvantage and recognise and celebrate the diversity of mokopuna in all its forms. We are committed to:

- giving effect to our obligations under Te Tiriti o Waitangi (Te Tiriti) and the Treaty of Waitangi (Treaty), recognising and respecting Māori participation, leadership and te ao Māori approaches in the performance of our functions;
- advancing and monitoring the application of the Children’s Convention, especially by Government.

The work of Mana Mokopuna is underpinned by:

- the Children’s Convention;
- the child or young person within (without limitation) the context of their family, whānau, hapū, iwi, and communities;
- the diversity of children and young people in all its forms;
- the need for high aspirations for the well-being of all children and young people, including responsive systems and structures that support them;
- the need to give priority to the children and young people who are disadvantaged, and the issues affecting them;
- the need to hear from, and be informed by, children and young people;
- other international instruments relevant to, and that affect, children and young people.

Note on our use of the word ‘mokopuna’

Drawing from the wisdom of Te Ao Māori, we have adopted the term mokopuna to describe all children and young people we advocate for in Aotearoa New Zealand. This acknowledges the special status held by mokopuna in their families, whānau, hapū and iwi and reflects that in all we do. Referring to the people we advocate for as mokopuna draws them closer to us and reminds us that who they are, and where they come from matters for their identity, belonging and well-being, at every stage of their lives.

For a full glossary of terms used in this submission, refer to Annex 1.

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Executive Summary

“... The connection between pēpi and their whānau, hapū and iwi is fundamental to their wellbeing and should never be severed. Pēpi deserve to be both safe, and with their whānau. It is not one or the other.”¹

1. Mana Mokopuna thanks the Social Services and Community Committee (the Committee) for the opportunity to submit on the Oranga Tamariki (Repeal of 7AA) Amendment Bill (the Bill). Mana Mokopuna strongly opposes the Bill. Section 7AA (s7AA) is a critical step towards recognising and reducing the ongoing harms of colonisation and systemic racism that affect mokopuna Māori within the child protection system.² A repeal now risks progress made, and would take our state care and protection system backwards.
2. We urge the Committee to recognise the importance of s7AA. This section was introduced in response to the Crown’s recognition of disparities experienced by mokopuna Māori in the custody of Oranga Tamariki and the history mokopuna Māori overrepresentation in state care.³ The provisions within s7AA directly respond to the critical areas within the care and protection system where the rights of mokopuna Māori have historically been most overlooked.⁴
3. All mokopuna have rights to be safe, loved, and cared for by whānau and families who are resourced and supported to undertake this crucial caring role.⁵ When this is not possible, “preference must be given for [mokopuna] to be living with a member of their wider family, whānau, hapū, iwi or family group who is able to meet their needs, including with their siblings where feasible”.⁶ s7AA mandates Oranga Tamariki to partner with and delegate functions to wider whānau, hapū, and iwi networks and work with Māori organisations to ensure that mokopuna Māori whakapapa to their caregivers. This is consistent with Aotearoa New Zealand’s international obligations to uphold and protect the rights of mokopuna under the Children’s Convention and in line with domestic obligations under te Tiriti o Waitangi.⁷
4. We call on the Committee to understand the significance of the full duty of care owed to mokopuna in state care. Care-experienced mokopuna have told us that by listening to them, including them in decisions affecting them and acknowledging the people who matter to them the most, we will ensure they have opportunities to live their best lives.

Recommendation 1

5. The Oranga Tamariki Act 1989 **is not amended** to repeal section 7AA.

¹ The Office of the Children’s Commissioner (2020) Te Kuku o Te Manawa: Ka puta te riri, morimori te ngākau, ka heke ngā roimata mo tōku pēpi (Part One of Two) and Te Kuku o Te Manawa: Moe ararā! Haumanutia ngā moemoeā o ngā tūpuna mō te oranga o ngā tamariki (Part Two of Two).

² The Māori Perspective Advisory Committee (1988), Puao-Te-Ata-Tu (Day Break) The report of the Ministerial Advisory Committee on a Māori Perspective for the Department of Social Welfare; Ihi Research (2021) Hāhā-uri, hāhā-tea - Māori Involvement in State Care 1950-1999, Report prepared for the Crown Secretariat.; Waitangi Tribunal (2021) WAI 2915 He Pāharakeke, He Rito Whakakīkinga Whāruarua Oranga Tamariki Urgent Inquiry.

³ Oranga Tamariki (2024) Regulatory Impact Statement: Repeal of section 7AA.

⁴ At 2.

⁵ United Nations (1989) The Convention on the Rights of the Child.

⁶ Oranga Tamariki (2024) Policy: Care arrangements.

⁷ United Nations (1989) The Convention on the Rights of the Child, art 5. The UN Committee on the Rights of the Child in its most recent [Concluding Observations on New Zealand](#) (2023) called for urgent action in relation to mokopuna Māori in state care - see paras. 4; 28; 39.

Recommendation 2

6. The Government continues to recognise mokopuna Māori:

- 6.1. with ongoing understanding of how the impacts of colonisation and disregard for the protections promised within Te Tiriti have led to systemic and structural discrimination, and perpetuated experiences of racism and discrimination toward mokopuna Māori and their whānau, both within and by the oranga tamariki system and more broadly⁸.
- 6.2. within the context of its self-acknowledged historic failure – through Oranga Tamariki and its predecessors – to appropriately care for and protect mokopuna Māori in their custody, and the harmful intergenerational impacts of this failure.⁹ We urge the Committee to recognise the recommendations from key research and reports, including:
 - 6.2.1. Puaote-Ata-Tu,¹⁰
 - 6.2.2. The Royal Commission of Inquiry into Abuse in State Care reports and commissioned research,¹¹
 - 6.2.3. WAI 2915 Report He Pāharakeke, He Rito Whakakīkinga Whāruarua Oranga Tamariki Urgent Inquiry,¹²
 - 6.2.4. Hipokingia ki te Kahu Aroha Hipokingia ki te Katoa,¹³
 - 6.2.5. Te Kuku o Te Manawa Part One and Two,¹⁴
 - 6.2.6. The Independent Review of the Children’s Sector: Identification and response to suspected abuse,¹⁵ and
 - 6.2.7. Oranga Tamariki Hawkes Bay Practice Review.¹⁶
- 6.3. within the context of the efforts undertaken by Oranga Tamariki in recent years to demonstrably honour the articles and principles of te Tiriti through its practice approach and operating model, such as partnerships with iwi Māori.¹⁷

Recommendation 3

7. The Government continues to invest in responses that:

- 7.1. recognise mana tamaiti and the importance of whakapapa and whanaungatanga and which support strengthening relationships between mokopuna and their whānau, hapū and iwi, with a view to ongoing reductions of mokopuna entering into custody of the State and being safe in the care of their whānau, hapū and iwi.
- 7.2. build on examples of good practice, evidence-based approaches and solutions from whānau, hapū, iwi Māori and communities, including the lived experience of mokopuna and whānau Māori.

⁸ Questioning of Gráinne Moss, 7 August 2020. He pāharakeke, he rito whakakīkinga whāruarua oranga tamariki urgent inquiry

⁹ Oranga Tamariki (2021). Making sense of being in care, adopted, or whāngai: Perspectives of rangatahi, young people, and those who are raising them; Oranga Tamariki (2021). Section 7AA. Oranga Tamariki Section 7AA Annual Report; Oranga Tamariki (2022). Section 7AA Report 2022; Oranga Tamariki (2023). Section 7AA Report 2023.

¹⁰ The Māori Perspective Advisory Committee (1988), Puaote-Ata-Tu (Day Break) The report of the Ministerial Advisory Committee on a Māori Perspective for the Department of Social Welfare.

¹¹ Please refer here for research and reports produced by the Royal Commission thus far: [Reports | Abuse in Care - Royal Commission of Inquiry](#) and [Other publications | Abuse in Care - Royal Commission of Inquiry](#)

¹² At 2.

¹³ Oranga Tamariki Ministerial Advisory Board (2021) Hipokingia ki te Kahu Aroha Hipokingia ki te Katoa.

¹⁴ At 1.

¹⁵ Dame Karen Poutasi (2022) “Ensuring strong and effective safety nets to prevent abuse of children – Joint Review into the Children’s Sector: identification and response to suspected abuse.”

¹⁶ Oranga Tamariki Professional Practice Group (2019) Practice Review into the Hastings Case.

¹⁷ At 8.

- 7.3. measure the progress and impacts of the Crown’s investment in the safety and well-being of mokopuna in care, particularly mokopuna Māori, who remain over-represented in the care and protection system, and transparently report on this.

Introduction

8. We firstly acknowledge all mokopuna, mokopuna Māori, their families, whānau, hapū, and iwi who have experienced harm through the child protection system in Aotearoa New Zealand.¹⁸
9. The introduction of s7AA was an intentional response. It was designed to address failures of the state care and protection system over decades to exercise a full duty of care for and protect mokopuna Māori in their custody, which too often included unwarranted removals of mokopuna Māori from their whānau, severing their links to whānau, hapū and iwi, creating life-long damage.¹⁹
10. We are concerned that the stated rationale for the repeal of s7AA – that it is has driven practice decisions that prioritise cultural factors over safety and stability of children is not supported by evidence, and that protecting the safety of mokopuna Māori and their rights as mokopuna Māori are not mutually exclusive. We note that the practice of ‘reverse uplifts’ by Oranga Tamariki was suspended with immediate effect in December 2020. As stated in the Bill’s Regulatory Impact Statement:

“There is no empirical evidence to support the notion that section 7AA has driven practice decisions that have led to changing care arrangements. We have heard anecdotal concerns from a small number of caregivers that care decisions are more strongly influenced by cultural factors, than by the immediate safety of children. There is, however, no evidence to suggest that these concerns are related to the duties outlined in section 7AA.”²⁰

11. Evidence from Oranga Tamariki and others including whānau, hapū and iwi Māori over the last five years since the introduction of s7AA contradicts concerns about potentially harmful impacts of its implementation, instead highlighting correlations between greater whānau, hapū and iwi involvement in decision-making and fewer mokopuna Māori entering care²¹.
12. We question the basis for the Bill; not only is there no evidence to show s7AA has caused harm, but a review of evidence in the years leading up to the introduction of 7AA, including the Crown’s own research, makes clear that repealing s7AA will return mokopuna Māori in care to a status quo that will be of significant detriment to their rights, interests, and well-being.
13. This submission sets out our evidence and rationale for opposing the Bill. The Chief Children’s Commissioner is available to speak to this submission before the Committee.

Applying Children’s Rights

For Māori kids in general, we need to know where we’re from and who we belong to, which maunga are ours and this and that.... It’s a sense of self-

¹⁸ The Royal Commission of Inquiry into Abuse in Care (2020) “Tāwharautia: Pūrongo o te Wā – Interim Report”;

¹⁹ At 2; At 1.

²⁰ Oranga Tamariki (2024) Regulatory Impact Statement: Repeal of section 7AA, para 27.

²¹ [Section 7AA works as intended: to reduce child protection disparities for Māori \(newsroom.co.nz\)](https://www.newsroom.co.nz)

“ belief. You know who you are and you get more understanding about who you are – and it opens you up to more opportunities, straight up. It’s buzzy ‘cause most of these guys round here... when we actually get in-depth about who we are, we find out that everyone’s connected in some way.”²²

14. Mana Mokopuna’s view is that the Bill is inconsistent with Aotearoa New Zealand’s international obligations under the United Nations Convention on the Rights of the Child (Children’s Convention).
15. Children’s rights are universal, indivisible and interdependent,²³ meaning that all rights must be considered holistically. For example, the right of mokopuna to be safe from violence (article 19) must be considered with and balanced against other rights including the right to non-discrimination (article 2), the right to be raised and guided by parents, whānau and communities (article 5), the rights of mokopuna when in state care (article 20), and all other rights in the Children’s Convention, including the four guiding principles²⁴.
16. The United Nations Committee on the Rights of the Child (CRC Committee) issued its most recent recommendations to New Zealand in 2023. The CRC Committee identified the rights of indigenous children as a matter of urgent priority to be progressed. It stated that it remains “seriously concerned” about “the persistent overrepresentation of Māori children in State care, including among the high numbers of infants taken into State custody, and the incidents of harm disproportionately experienced by such children”.²⁵
17. As such, the CRC Committee specifically recommended Aotearoa New Zealand.²⁶ See the following paragraphs of the Concluding Observations on New Zealand (2023) which states:
 - 17.1. para 28 (a) “strongly invest in measures developed and implemented by Māori children and communities to prevent their placement in out-of-home care, limit removal, when it is deemed necessary, to the shortest time possible, provide them with adequate support while in alternative care, including access to mental health and therapeutic services, and facilitate reintegration into their families and communities”, and
 - 17.2. para 28 (b) “prevent and reduce the number of children removed from their family environment by providing appropriate assistance and support services to parents and caregivers in the performance of child-rearing responsibilities, including through education, counselling and community-based programmes for parents”; and
 - 17.3. para 28 (c) “harmonize, make transparent and publicize the criteria, based on the needs as well as the best interests of the child, for removing and placing children in alternative care, with a view to providing the highest level of protection”;
 - 17.4. para 28 (d) “ensure that the need for the placement of each child in out-of-home care is always assessed by competent, multidisciplinary teams of professionals and is regularly

²² Oranga Tamariki (2021) “Making sense of being in care, adopted or whāngai: Qualitative Study”.

²³ United Nations Committee on the Rights of the Child (2023) “Concluding observations on the sixth periodic review of New Zealand”, para 4.

²⁴ These are also substantive rights under the Children’s Convention, namely the the right to non-discrimination (Art. 2); best interests of the child (Art. 3); e right to life, survival and development (Art. 6); and the right to participation (Art. 12).

²⁵ Above, para 27a.

²⁶ Above, para 28.

reviewed, and that children and their families participate in decision-making in order to guarantee an individualized, culturally and community-sensitive approach”.

18. To fulfil its duties as a States Party to the Children’s Convention, the Government must ensure that all of its actions give effect to children’s rights, from the policy and legislation development stages, right through to decision-making, service delivery and implementation. Rather than fulfilling the recommendations of the Committee on the Rights of the Child outlined above, the Bill takes Aotearoa New Zealand’s state care system further away from these things in relation to the rights of mokopuna Māori.
19. We note that the Ministry of Social Development has developed the Child Impact Assessment Tool for use by policy-makers.²⁷ We advocate for a child impact assessment to be undertaken as part of all policy and legislative development processes to ensure comprehensive, intentional and meaningful consideration of children and their rights is incorporated into the policy and legislative process.
20. Mana Mokopuna calls on the Committee to prioritise the rights, interests, and well-being of mokopuna Māori within the context of the Bill, by applying a children’s rights approach to its analysis of the Bill. In Aotearoa New Zealand, a children’s rights approach includes:
 - 20.1. Respecting, protecting, fulfilling and promoting the Children’s Convention, its optional protocols and implementing guidance of the CRC Committee outlined in its General Comments and recommendations it has made through Concluding Observations; and
 - 20.2. The realisation of tangata whenua rights as embodied and affirmed in Te Tiriti o Waitangi and the Treaty of Waitangi for all whānau Māori.
21. Removal of children from culture (and the subsequent stressors of assimilation) is an added burden and a well-documented risk for poor outcomes.²⁸ Article 30 of the Children’s Convention establishes that: *“In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.”* Article 7 states that children shall, as far as possible, have the right to know and be cared for by his or her parents.
22. These articles should be read in conjunction with Article 20(1) of the Children’s Convention which outlines the rights of children in relation to alternative care. Article 20(3) states that *“When considering solutions, due regard shall be paid to the desirability of continuity in a child’s upbringing and to the child’s ethnic, religious, cultural and linguistic background.”*
23. Repealing s7AA contradicts the practice guidance of Oranga Tamariki,²⁹ which was in place long before the introduction of s7AA, yet with little effect until legislated through 7AA. Article 5 of the Children’s Convention underpins this Guidance and states:

“States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal

²⁷Child Impact Assessment Tool - Ministry of Social Development (msd.govt.nz)

²⁸ Royal Commission (2022) Beautiful Children, Inquiry into Alice Springs.

²⁹ The Office of the Children’s Commission (2020). Report of the children’s commissioner: In the matter of the oranga tamariki urgent inquiry (WAI 2915).

guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.”³⁰

24. Additionally, Article 27 of the Children’s Convention requires States Parties to support parents and whānau with material assistance and support programmes to ensure they have a standard of living that supports their development. This means all children in Aotearoa New Zealand have the right to access the necessary resources to support them to thrive.

Section 7AA is important for Māori and for all of us

“ When their children are removed you can see the hope leave their eyes ... the spirit leaves the parent until they are reunited ... OT [Oranga Tamariki] have come along and just severed everything. It destroys them ..., you’ve just ripped an iwi off, not just a whānau, they ripped an entire whānau, hapū and iwi by doing that ...” (Community support staff)³¹

25. We are concerned that without the Chief Executive of Oranga Tamariki having clear statutory obligations to the effect established under s7AA, current progress in reducing disparities experienced by mokopuna Māori within the care system will be lost. A key part of our concern surrounds the removal of the reporting requirements of s7AA. Without a legislated requirement for transparent public reporting on actions and measures, it will more difficult to understand whether mokopuna Māori in the state care and protection system are having their rights, interests and well-being upheld.
26. The Bill’s Regulatory Impact Statement states that a significant research and evidence constraint is that the impacts of the Bill on the youth justice system have not been considered, which is a significant limitation given the implications of the proposed repeal for short- and long-term justice and well-being outcomes.³² We are concerned about the lack of consideration of flow-on effects of the Bill when there is such clear evidence to demonstrate the nexus between the care and protection system and the youth justice system, particularly for mokopuna Māori who are overrepresented at every step.³³
27. From Oranga Tamariki and others³⁴, evidence from the last five years since the introduction of s7AA has highlighted the correlation between greater whānau, hapū and iwi involvement in decision-making and fewer mokopuna entering care.³⁵ Monitoring and evaluation has highlighted an increase in placements of mokopuna Māori with whānau, hapu, iwi rather than non-kin.³⁶
28. Since the introduction of s7AA, there have been three key findings that may be attributed to the implementation of s7AA:

³⁰ United Nations (1989) Convention on the Rights of the Child, art 5.

³¹ At 1.

³² Oranga Tamariki (2024) “Regulatory Impact Statement: Repeal of section 7AA”.

³³ Professor Ian Lambie, Dr Jerome Reil, Judge Andrew Becroft and Dr Ruth Allen (2022) “How we fail children who offend and what to do about it: ‘a breakdown across the whole system’ – reseach and recommendations”, refer here: borrinfoundation.nz/wp-content/uploads/2022/04/Children-Who-Offend-Final-research-report-March2022.pdf

³⁴ At 11.

³⁵ At 8.

³⁶ At 8.

- 28.1. Funding for iwi and Māori organisations, including for care partnerships as well as iwi and Māori-based social service provision and care arrangements that support mokopuna and their whānau, has steadily increased.³⁷
- 28.2. The numbers of mokopuna in placements with whānau has risen; over the last few years, over three quarters of mokopuna living with caregivers have been placed with whānau.³⁸
- 28.3. From 1 July 2018 to 30 June 2023 the number of tamariki Māori entering care has been steadily decreasing to some of the lowest levels in five years. It should be noted that mokopuna Māori still account for more than half of all mokopuna engaged across the oranga tamariki system.³⁹
29. These are early ‘wins’ of s7AA, which have been able to be captured thanks to rigorous reporting against carefully developed measures, as required under s7AA itself. While we acknowledge that there is much further to go in upholding the rights, interests and well-being of mokopuna Māori within the oranga tamariki system, we point to these early wins as evidence of s7AA being an integral ingredient towards getting there.

Section 7AA strengthens other protections in place for mokopuna Māori

“... Whānau and whakapapa are important. Knowing where you come from builds confidence” (Mokopuna, ‘What Makes a Good Life?’ report)⁴⁰

30. Section 7AA creates a legally binding connection between Te Tiriti o Waitangi, the Oranga Tamariki Act and the Children’s Convention, and provides practical direction to the Crown to deliver on its legal obligations under both Te Tiriti o Waitangi and the Children’s Convention. In this regard, we note that:
- 30.1. Mokopuna have a right to know their whakapapa under te Tiriti, which is essential for their sense of belonging and their right to identity as they grow up. s7AA recognises that knowing who you are and who you belong to, and growing up with a sense of whānau belonging is an integral part of being loved and cared for.
- 30.2. Article 3 of Te Tiriti affirms equal rights and privileges for all, expressed through participation, access, options, equality, and equity. These rights, supported by the Children’s Convention, provide specific protections for mokopuna Māori and their whānau that the Crown must uphold.
- 30.3. The provision of tino rangatiratanga under article 2 of Te Tiriti affirms and guarantees Māori self-determination and agency over their taonga. Mokopuna Māori are a taonga and must be protected. By Māori, for Māori leadership is essential to realising this provision of self-determination, which is facilitated by s7AA.

³⁷ At 8.

³⁸ At 8.

³⁹ At 8.

⁴⁰ Oranga Tamariki and The Office of the Children’s Commissioner (2019) “What Makes a good life? Children and young people’s views on wellbeing”, refer here: [What Makes a Good Life? | Mana Mokopuna](#)

31. The Ombudsman's report published in February 2024⁴¹ calls for "urgent and sweeping changes to the children's ministry" and references 2000 complaints and enquiries made between 2020-2024. This continues to highlight our belief that the state care and protection system hasn't yet provided the equitable outcomes and are still directly impacting Mokopuna.

 I mostly feel safe when somebody understands me, like my family and friends”
(Mokopuna, 'Without racism Aotearoa would be better' report)⁴²

32. s7AA represents the Crown's recognition that in order to improve outcomes for mokopuna Māori in state care, the Crown must work in practical partnership under under te Tiriti. This includes sharing power and resources to enable Māori to meaningfully determine the care and protection needs of mokopuna Māori in ways that express a tikanga and whānau approach, with special consideration of whakapapa and whānaungatanga, and mokopuna as taonga.
33. s7AA is also a product of the Crown's recognition of the correlation between the disparities experienced by mokopuna Māori in state care and the Crown's long-standing denial of opportunities for Māori to meaningfully be involved in the the care and protection of mokopuna Māori. Our concern about the likely impact of undercutting this recognition by the Crown cannot be overstated, and we believe that a repeal will mean the momentum on progress in this regard will be lost.
34. Since the 1989 publication of Puao-te-Ata-tu, the Crown has acknowledged its failings towards mokopuna Māori and their whānau. Puao-te-Ata-tu and subsequent Crown acknowledgement of failings towards mokopuna and whānau Māori led to the Children, Young Persons and Their Families Act 1989, the establishment of Child Youth and Family in 1999, the 2017 replacement of Child Youth and Family with Oranga Tamariki, and the introduction of s7AA in 2019. This historical context and trajectory is important to bear in mind in considering this Bill.
35. Oranga Tamariki and its predecessors have undergone numerous reviews; 14 reviews between 1989 and 2015, and seven reviews since the establishment of Oranga Tamariki in 2019 up until 2023⁴³.
36. Across all these reviews, findings have highlighted significant disparities experienced by care-experienced mokopuna Māori and their whānau compared with their non-Māori counterparts, a need for better cultural capability and understanding of te ao Māori, and greater involvement of whānau, hapū, iwi and communities in decision-making and delivery of services. Reviews that emerged after the establishment of Oranga Tamariki shared a strong focus on the importance of mokopuna belonging and identity, with links to whakapapa and cultural values and connections. Grounded in evidence, the recommendations of these many reviews have emphasised the need to continue to strengthen and deepen this focus, if the Crown is to fulfil its duties and obligations to mokopuna Māori.

⁴¹ The Ombudsman New Zealand (2024) Children in care: complaints to the Ombudsman 2019–2023

⁴² Mana Mokopuna (2024) "'Without racism Aotearoa would be better": Mokopuna share their experiences of racism and solutions to end it." Refer here: "[Without racism Aotearoa would be better": Mokopuna share their experiences of racism and solutions to end it | Mana Mokopuna](#)

⁴³ <https://www.orangatamariki.govt.nz/about-us/performance-and-monitoring/reviews-and-inquiries/>

Don't make decisions about us, without us - the importance of mokopuna voice

“ I don't know... I don't know my culture.. I think I'm Māori... but I don't know where... I wish I did” (Mokopuna, 'Without racism Aotearoa would be better' report)

37. We are concerned about the lack of consultation that has taken place regarding this Bill, including with mokopuna who are in care and their whānau. Mokopuna have the right to be consulted and taken seriously in relation to decisions that affect them.⁴⁴ We are not aware of any consultation with mokopuna in State care in the development of the Bill, which is inconsistent with their right to participate in matters affecting them under Article 12 of the Children's Convention.⁴⁵ We urge comprehensive consultation with whānau, hapū and iwi Māori.
38. We note that significant work has been done with and within the care-experienced community to develop an ethical framework to support Government and others to consult with them.⁴⁶

Conclusion

39. This Bill does not demonstrate a children's rights nor an evidence-based approach. It fails to acknowledge the drivers of harm and the measures necessary to disrupt this cycle. Aotearoa New Zealand's history and the Crown's track record in the care and protection space shows that if s7AA is repealed, special protections for mokopuna in State care will continue being overlooked, especially for mokopuna Māori who are in the care and protection system. Repeal risks undermining the momentum towards progress for mokopuna and whānau Māori, and is highly problematic from a children's rights perspective, as outlined in this submission.
40. Repealing s7AA goes against the collective voices of mokopuna in state care. We urge the Committee to understand the importance of this legislation and the current needs of mokopuna in State care, including mokopuna Māori. We also urge seeking out the views and experience of whānau, hapū and iwi Māori to inform the Committee's consideration of the Bill, as well as those with deep mātauranga and expertise across the Māori children's sector.
41. An effective care and protection system includes ensuring that high regard is given to mana tamaiti, the whakapapa of Māori children and young people, and the whanaungatanga responsibilities of their whānau, hapū and iwi. The Government has duties to give effect to these things, and the holistic rights of mokopuna under the Children's Convention and Te Tiriti.
42. In conclusion, we hold the highest aspirations for all mokopuna:
Kia kuru pounamu te rongo - All mokopuna live their best lives.
We urge the Committee to hold this vision central in consideration of this Bill and to recommend that it does not progress further.

⁴⁴ United Nations Children's Convention (1989), Article 12.

⁴⁵ The Regulatory Impact Statement notes insufficient time to undertake consultation with affected stakeholders (limitations and constraints p 2; para 38): [RIS 7AA repeal \(orangatamariki.govt.nz\)](https://www.orangatamariki.govt.nz)

⁴⁶ At 27 and [Kia Tika, Kia Pono – Honouring Truths - VOYCE - WHAKARONGO MAI](#).

Annex One – Glossary of terms

Term	Definition
Hapū	the kinship, clan, clan, sub-tribe, to be pregnant, conceived in the womb
Iwi	strength, bone and the extended kinship group, the tribe
Mana Mokopuna	The Children and Young People’s Commission
Mana tamaiti	Mana tamaiti (tamariki) means the intrinsic value and inherent dignity derived from a child or young person's whakapapa (genealogy) and their belonging to whānau, hapū, iwi, or family group, in accordance with tikanga Māori or its equivalent in the culture of the child or young person.
Mokopuna	When we use the kupu ‘mokopuna’ in our work, we are referring to all children and young people in Aotearoa New Zealand.
Mokopuna atawhai	Children and young people in care of the State (or those who have been in care)
Oranga Tamariki	Ministry for Children
Rangatahi	Youth, young adult
Pēpi	Baby
Tamariki	This translates to children and normally used only in the plural. We must ensure that when using the term children, it always includes Māori. When we are referring to non-Māori children, in the absence of Māori, we use the term children.
Tangata whenua	Indigenous people of this land
Taonga	Treasured things
Te Ao Māori	A Māori worldview
Te Tiriti o Waitangi	The founding legal document of Aotearoa New Zealand, signed in 1840. It establishes the partnership between Māori and the Crown

Tino rangatiratanga	Self-determination, sovereignty, autonomy, self-government, domination, rule, control, power
Whaikaha	To have strength, to have ability, otherly abled, enabled
Whakapapa	Genealogy, lineage, descent
Whānau	<p>Whānau is often translated as ‘family’, but its meaning is more complex. It includes physical, emotional, and spiritual dimensions and is based on whakapapa. Whānau can be multi-layered, flexible, and dynamic. Whānau relationships include those with whāngai (foster children) and those who have passed on. There are roles and responsibilities for individuals and for the collective. The structure of whānau can vary from immediate family to much broader collectives. The most important features of whānau that distinguish it from family and other social groupings are whakapapa, spirituality, and the responsibility to marae and hapū.</p> <p>Whānau is also used as a metaphor for close friends or associates, intended to be inclusive and build a sense of group unity. Whānau begins with the individual. The relationship between the individual and the whānau is subtle and complex. Individuals have rights of their own, but they exist because of the whānau and have responsibilities to the whānau.</p>
Whanaungatanga	Centrality of kinship and careful attention to relationships. The process of establishing relationships, preserving relationships, strengthening relationships, maintaining relationships and the importance of these relationships to family in being able to keep whakapapa links.