

## Submission to Justice Committee: Crimes Legislation (Stalking and Harassment) Amendment Bill

As the independent advocate working for and with mokopuna (children and young people), Mana Mokopuna – Children and Young People's Commission (Mana Mokopuna)<sup>1</sup> makes the following submission on the Crimes Legislation (Stalking and Harassment) Amendment Bill (the Bill).

### Summary of our submission

“For almost nine years now, I have been stalked and sadistically harassed by a man I rejected when I was 17, who is eight years older than me. Apart from the fact that he has been terrorising me since January 2016, I do not know the perpetrator, Greg, at all.”

(Zeni Gibson, young person victim-survivor)<sup>2</sup>

1. All mokopuna have the right to be free from all forms of violence and harm,<sup>3</sup> including stalking and harassment which is often a feature of family and/or intimate partner violence.<sup>4</sup> We acknowledge Farzana Yaqubi<sup>5</sup> and all other victims, and victim-survivors, including children and young people (mokopuna) who have been victims and victim-survivors of stalking in Aotearoa New Zealand, including their whānau and communities.
2. Mana Mokopuna supports the establishment of a specific offence to criminalise stalking, and we commend the cross-Parliamentary support for this. We also thank the Justice Committee for providing the public with the option to give informal feedback on the Bill through an anonymous survey.<sup>6</sup>
3. From a children's rights perspective, Mana Mokopuna supports taking a strong stand against stalking and harassment, which can cause long-lasting and intergenerational harm to victim-survivors and their whānau and communities, and in the most serious instances can culminate in the death of victims, including mokopuna.<sup>7</sup>
4. Research into mokopuna attitudes on stalking and harassment behaviours in adolescent relationships indicates that further education is required to support children and young people to understand the harms of this behaviour.<sup>8</sup> Young people are both the victims and perpetrators of stalking and harassment.

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<sup>1</sup> Mana Mokopuna – Children and Young People's Commission 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, including young persons aged over 18 but under 25 years if they are, or have been, in care or custody.

<sup>2</sup> 'I need to make you suffer': My near decade of violent harassment by a man I barely know | The Spinoff

<sup>3</sup> United Nations Convention on the Rights of the Child (1989) Arts 19, 34, 39.

<sup>4</sup> Regulatory Impact Statement RIA-Establishing-an-Offence-of-Stalking.pdf; National Collective of Independent Women's Refuges (2019): Intimate-Partner-Stalking-.pdf

<sup>5</sup> IPCA investigation into Police response to Farzana Yaqubi's online report to her murder

<sup>6</sup> Have your say on stalking and harassment - New Zealand Parliament

<sup>7</sup> Family Violence Death Review Committee "Findings from Family Violence Death Review data relating to stalking: January 2020 - June 2024" Stalking Findings FVDR 2020-2024 FINAL 25.10.2024

<sup>8</sup> Beres et al., University of Otago (2020) "Youth Healthy and Safe Relationships: A literature Review": Youth healthy and safe relationships: a literature review - Beres et al YHSR Report Final.pdf - University of Otago

**5. In addition to the Bill, Mana Mokopuna recommends:**

- a. increased Government investment in education, awareness raising and sector training on the harms of stalking and harassment<sup>9</sup> (including amongst children and young people, and adults), which will go further to address associated issues, including underreporting and inconsistent and/or inadequate system responses to victim-survivors and perpetrators.
- b. adherence to the principles of youth justice<sup>10</sup> in responding to stalking and harassment carried out by young people, including by prioritising rehabilitation for mokopuna who may be convicted of this offence.

## Introduction

“We had to move towns, move schools, and he has done nothing to change or get help and he still won't leave us in peace.”

(12year old mokopuna, referring to her abusive father)<sup>11</sup>

6. Data shows that stalking and harassment is gendered, disproportionately affecting women.<sup>12</sup> As discussed below at para 10, there is a lack of data specific to mokopuna experiences of stalking. However, adults who are overrepresented in experiencing stalking and harassment include wahine Māori, LGBTQIA+ people, tāngata whaikaha and disabled people, and refugee, resettled and ethnic women.<sup>13</sup> Stalking and harassment as defined by the Bill predominantly occurs in the context of family violence and/or intimate partner violence.<sup>14</sup>
7. Mokopuna are harmed both directly and indirectly by stalking and harassment, and their experiences of harm, as well as what helps them to heal from that harm, will differ to adults.<sup>15</sup> It is crucial that mokopuna are regarded as active participants in initiatives to address stalking and harassment, and that specific efforts are made to uphold their rights, wellbeing and interests as mokopuna, including their full range of rights under the UN Convention on the Rights of the Child (the Children's Convention).<sup>16</sup>
8. We refer the Justice Committee to our recently published report, *A Place to Talk Peacefully: Mokopuna voices on healing from family violence and sexual violence in Aotearoa*,<sup>17</sup> which contains the views and experiences of mokopuna with lived experience of family and/or sexual violence, and brings forward their recommendations for what works well when healing from violence.

<sup>9</sup> Regulatory Impact Statement at paras 99-107.

<sup>10</sup> Oranga Tamariki Act 1989, s 208.

<sup>11</sup> National Collective of Independent Women's Refuges "Evaluation of Kōihi ngā Rito": [womensrefuge.org.nz/wp-content/uploads/2023/11/Womens-Refuge-Evaluation-of-Kohihi-nga-Rito-digital.pdf](https://womensrefuge.org.nz/wp-content/uploads/2023/11/Womens-Refuge-Evaluation-of-Kohihi-nga-Rito-digital.pdf)

<sup>12</sup> [RIA-Establishing-an-Offence-of-Stalking.pdf](#)

<sup>13</sup> [RIA-Establishing-an-Offence-of-Stalking.pdf](#)

<sup>14</sup> [RIA-Establishing-an-Offence-of-Stalking.pdf](#)

<sup>15</sup> The National Collective of Independent Women's Refuges (2021) "Kids in the Middle": [KITM-WHOLE-FINAL.pdf](#)

<sup>16</sup> The United Nations Committee on the Rights of the Child has recommended that New Zealand take urgent measures to address violence against children. CRC/C/NZL/CO/6 at paras 23-24.

<sup>17</sup> ["A place to talk peacefully: Mokopuna voices on healing from family violence and sexual violence in Aotearoa | Mana Mokopuna"](#)

9. In this submission, we advocate for mokopuna as children of primary victims/victim-survivors in families and whānau where stalking and harassment is a feature of family violence; and mokopuna as primary victims/victim-survivors of stalking and harassment in the context of intimate partner violence. We also highlight the rights of mokopuna who might be convicted of stalking and harassment under the Bill.

## The scale and prevalence of harm for mokopuna

10. It is difficult to quantify the prevalence of rates of stalking and harassment against mokopuna (either as primary victims themselves, or children of primary victims as described above) due to a lack of official data collection. However:
- The Regulatory Impact Statement (RIS) states that young people are overrepresented as both victims and perpetrators of cyberstalking compared with the general population.<sup>18</sup>
  - Data from the National Collective of Independent Women's Refuges shows that high numbers of victim-survivors experience their children being used by perpetrators to stalk and harass them both pre- and post-separation.<sup>19</sup> Evidence shows that the use of mokopuna as a means to stalk is a clear risk factor for familial homicide.<sup>20</sup>
  - New Zealand and international research indicates that young people are experiencing high levels of stalking and harassment within adolescent relationships, particularly via digital and technology-based means.<sup>21</sup> Although this behaviour constitutes a form of intimate partner violence, research further demonstrates that some stalking and harassment behaviour is normalised among young people.<sup>22</sup> This is the case even though it is in conflict with their human rights.
11. Evidence grounded in mokopuna voices demonstrate that there are gaps and inconsistencies in the policing of, and system-responses to, stalking and harassment.<sup>23</sup> This problem is also acknowledged in the RIS,<sup>24</sup> and by the Independent Police Conduct Authority.<sup>25</sup> However, the RIS suggests that the establishment of a stalking offence (and associated specific offence code) may support improved policing of stalking.<sup>26</sup>

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<sup>18</sup> [RIA-Establishing-an-Offence-of-Stalking.pdf](#)

<sup>19</sup> National Collective of Independent Women's Refuges: [Intimate-Partner-Stalking-.pdf](#)

<sup>20</sup> [RIA-Establishing-an-Offence-of-Stalking.pdf](#), at para 8; Family Violence Death Review Committee: [Stalking Findings FVDR 2020-2024 FINAL 25.10.2024](#)

<sup>21</sup> [Youth healthy and safe relationships: a literature review - Beres et al YHSR Report Final.pdf](#) - University of Otago

<sup>22</sup> [Youth healthy and safe relationships: a literature review - Beres et al YHSR Report Final.pdf](#) - University of Otago

<sup>23</sup> ['I need to make you suffer': My near decade of violent harassment by a man I barely know | The Spinoff](#)

<sup>24</sup> [RIA-Establishing-an-Offence-of-Stalking.pdf](#), at para 27.

<sup>25</sup> [IPCA investigation into Police response to Farzana Yaqubi's online report to her murder](#)

<sup>26</sup> [RIA-Establishing-an-Offence-of-Stalking.pdf](#), at para 27.

## Awareness raising, education and training required for a culture shift

### Awareness raising and education for mokopuna

12. The insidious nature of stalking and harassment behaviours (such as coercive control) alongside mokopuna familiarity with digital technology may contribute to a normalisation of some behaviours that constitute stalking and harassment.<sup>27</sup>
13. Research shows that in some instances, mokopuna view coercive behaviour as a show of love.<sup>28</sup> Other mokopuna dismiss these behaviours as merely annoying, rather than harmful or dangerous.<sup>29</sup> The term 'stalking' itself is often ascribed by mokopuna to the harmless use of social media to 'look up' potential partners, or investigate or spy on partners or ex-partners in a way that would not be acceptable offline: "The normalisation of the use of the word "stalking" in online contexts has resulted in a fluidity of the boundary between harmless and harmful behaviour which possibly makes it difficult for young people to identify where actions cross into unhealthy."<sup>30</sup>
14. However, the evidence is clear that stalking and harassment, particularly in the context of intimate partner violence, is dangerous, and raises significant children's rights and human rights concerns. Stalking is strongly associated with escalating patterns of dangerous behaviour,<sup>31</sup> and is a clear predictor of homicide.<sup>32</sup>
15. Mana Mokopuna strongly advocates for investment into education on healthy and safe relationships for mokopuna from their earliest years, throughout childhood and adolescence, to support mokopuna to recognise the risks and harms of stalking and harassment, which will in turn foster a culture of respectful relationships and which rejects stalking and harassment as unacceptable behaviour.

### Awareness raising and training for improved systems responses

16. Awareness raising and training is also required to improve system responses. The inadequacy of system responses to stalking were most clearly seen following the murder of 21 year old Farzana Yaqubi by her stalker.<sup>33</sup> Farzana had repeatedly sought help from Police about the stalking she experienced.<sup>34</sup>
17. Zeni Gibson, a young woman from Te Whanganui-a-Tara Wellington, shared her experiences of stalking and harassment following Farzana's murder, stating: "Until last year, I kept the entire ordeal a secret. But reading Farzana's story shifted my perspective: if relaying my experience can trigger in someone else the same reaction hers did in me – the flash of recognition; the realisation I was downplaying a serious and dangerous situation – I figure it's worth telling my story in full."<sup>35</sup>

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<sup>27</sup> Youth healthy and safe relationships: a literature review - Beres et al YHSR Report Final.pdf - University of Otago

<sup>28</sup> Youth healthy and safe relationships: a literature review - Beres et al YHSR Report Final.pdf - University of Otago

<sup>29</sup> Youth healthy and safe relationships: a literature review - Beres et al YHSR Report Final.pdf - University of Otago

<sup>30</sup> Youth healthy and safe relationships: a literature review - Beres et al YHSR Report Final.pdf - University of Otago

<sup>31</sup> Youth healthy and safe relationships: a literature review - Beres et al YHSR Report Final.pdf - University of Otago, p 23.

<sup>32</sup> Regulatory Impact Statement, at para 8.

<sup>33</sup> Family Violence Death Review Committee Stalking Findings FVDR 2020-2024 FINAL 25.10.2024

<sup>34</sup> PCA investigation into Police response to Farzana Yaqubi's online report to her murder

<sup>35</sup> 'I need to make you suffer': My near decade of violent harassment by a man I barely know | The Spinoff

18. Zeni's experiences demonstrate the shortcomings of system responses to stalking, outlining a range of issues, including a lack of recognition of the seriousness of stalking by Police, making it difficult for victim-survivors to seek support; and system settings that fail to enable an holistic view of the scale of the stalking and harassment – features common to Farzana's experiences as outlined by the Independent Police Conduct Authority's reporting.
19. The Independent Police Conduct Authority identified the following systemic failures in its investigation into how Police responded to Ms Farzana Yaqubi's online Police report:
  - a. the initial assessment matrix Police use to assess allegations of stalking to determine whether there will be further investigation is not fit-for purpose as it does not adequately take into account all lines of enquiry, and, critically, the risk posed to victims such as Ms Yaqubi;
  - b. Police did not adequately take into account cultural and religious factors which influenced how Ms Yaqubi engaged with Police, nor did they provide her with appropriate support;
  - c. Police failed to ensure significant matters raised in Ms Yaqubi's formal statement were immediately addressed; and
  - d. Police failed to link Ms Yaqubi's file and the file of another young girl who was also being threatened by the same man, thereby missing an opportunity to gain a fuller picture of the extent of his actions.
20. Mana Mokopuna strongly recommends awareness raising and education for the prevention and response sector, including Police and the Judiciary, to strengthen responses to and interventions in instances of stalking and harassment. We recommend inclusion of a children's rights perspective within this awareness raising and education. This is required so that the specific impacts of stalking and harassment on mokopuna, and the importance of preventing these behaviours among mokopuna, including in the digital landscape, are well understood by those working in response and intervention spaces.

## **Rehabilitation for perpetrators of stalking and harassment**

21. The RIS acknowledges that young people are overrepresented as both victims and perpetrators of cyberstalking.<sup>36</sup> Limited research suggests potentially high rates of stalking and harassment between mokopuna in adolescent relationships.<sup>37</sup>
22. Although not covered by the RIS, Mana Mokopuna draws the Justice Committee's attention to the rights, interests, wellbeing and participation of mokopuna who may be charged with offences under the Bill. We advocate strongly for responses to these mokopuna that uphold their rights under the United Nations Convention on the Rights of the Child and adhere to youth justice principles, including ensuring rehabilitation and reintegration is a central focus of any justice system responses.<sup>38</sup> This is important so that mokopuna who offend in this

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<sup>36</sup> [RIA-Establishing-an-Offence-of-Stalking.pdf](#)

<sup>37</sup> [Youth healthy and safe relationships: a literature review - Beres et al YHSR Report Final.pdf - University of Otago](#)

<sup>38</sup> UN Convention on the Rights of the Child (1989) Art 40.

way are able to experience effective rehabilitation and go on to have safe and respectful relationships in their lives, and be safe and contributing members of the community.

## Conclusion and recommendations

23. Stalking and harassment can cause significant harm to victims/victim-survivors and their mokopuna, whānau and communities. Mana Mokopuna supports the Bill in establishing an offence of stalking and harassment.
24. In addition to the Bill, we recommend:
  - a. investment in mokopuna-specific education healthy and safe relationships, including on the harms of stalking and harassment, and alongside this, rehabilitation for young offenders to foster a broader culture that rejects stalking and harassment in relationships;
  - b. strengthening approaches to preventing and responding to stalking and harassment by addressing system inadequacies through awareness raising and training, which includes a children's rights perspective, for sectors and agencies that intervene and respond to stalking and harassment; and
  - c. adherence to the principles of youth justice in responding to stalking and harassment carried out by young people, including an emphasis on rehabilitation.