



MANAAKITIA Ā TĀTOU TAMARIKI

Children's
Commissioner

The New Zealand Children's Commissioner's report to the United Nations Committee on the Rights of the Child

New Zealand's Sixth Periodic Review under the
United Nations Convention on the Rights of the Child

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Reporting Stage: Alternative Report

Submission of The Children's Commissioner

15 August 2022

The Children's Commissioner is an Independent Crown Entity established under the Children's Commissioner Act 2003 and represents 1.2 million mokopuna (children and young people) in Aotearoa New Zealand (Aotearoa) under the age of 18.ⁱ

The Children's Commissioner is Judge Frances Eivers.

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Note on our use of the word 'mokopuna', a word drawn from our indigenous Māori knowledge, and used in this document to refer to all children and young people under the age of 18 years

Moko - Māori tattoo, logo, trademark; puna - spring, pool

Mokopuna is commonly known as the Māori word for grandchild. It also has meanings from the two words which make it up – moko and puna.

Moko can refer to a logo, a trademark. Thinking about that meaning, moko is a traditional Māori tattoo on the face or body, a logo or trademark of their ancestors – a sacred vessel containing the wisdom of their ancestors. This sits well with kōrero (discussion) that whānau (extended family unit) have about characteristics and traits of ancestors being visible and observable in the behaviour of mokopuna.

Connecting moko with puna links the idea of intergenerational connectivity across whakapapa (genealogy), with the notion of a residual place that the collective wisdom of one's forebears can be found in. How poetic to be referred to as 'a sacred vessel containing the wisdom of your ancestors'.

For a full glossary of terms, refer to Annex 1.

ⁱ At the time of submission of this report the Children's Commissioner's Act 2003 was being repealed, to be replaced with the Children and Young People's Commission (see page 11).

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Mihi

(acknowledgement
and message)

from the

Children's

Commissioner



Mihi (acknowledgement and message) from the Children's Commissioner

E ngā mana, e ngā reo, e ngā iwi o ngā hau e whā. E rau rangatira mā, me ngā mokopuna mai ngā motu whānui, tēnā koutou katoa.

Nei rā te mihi maioha ki a koutou ngā mokopuna e pou kaha ana ki te whakaputa ngā whakaaro kia hāpai i ēnei rangahau, kia mōhio, kia mārama ai tātou katoa kia kuru pounamu te rongo. Tēnā koutou.

Tēnā hoki koutou ngā whānau whānui, ngā kaiako, ngā kura wānanga me ngā kaimahi e poipoiā ngā mokopuna. Ko tō mātou manako ia kia rere tonu ēnei kōrero mō te oranga o ngā mokopuna, kia tū rangatira ai rātou ki roto i tēnei ao hurihuri.

He taonga te mokopuna, kia whāngaia, kia tipu, kia rea. Nō reira manaakitia a tātou mokopuna.

To all the peoples, speakers, and tribes across the four winds. To all the chiefly people, and to the mokopuna around the world, greetings to you all.

I want to acknowledge and appreciate all the mokopuna who have shared their voice, thoughts, and knowledge with us to help support this research, to learn and understand so mokopuna can live their best lives.

I acknowledge all the families, teachers, learning institutes and those who work with our children and young people, our mokopuna. Our aspirations are that this report helps improve the wellbeing of mokopuna, so they stand strong in this ever-evolving world.

A child is a treasure, to be nurtured, to grow, to flourish. Therefore, take care of our mokopuna.

I am Frances Eivers, the Children's Commissioner for Aotearoa. I was appointed to the role on 1 November 2021. Previously I was a District Court Judge, working extensively with mokopuna in the court system.

I have the statutory responsibility to raise awareness and understanding of the United Nations Convention on the Rights of the Child (the Children's Convention), and to advance and monitor the application of it by departments of the State and other Instruments of the Crown.¹

One of the ways I fulfil this mandate is by convening the Children's Convention Monitoring Group (CMG), which includes the Human Rights Commission (New Zealand's National Human Rights Institution); the Children's Rights Alliance Aotearoa (comprised of civil society organisations and academics who advance mokopuna rights); Save the Children New Zealand; and UNICEF Aotearoa. This report along with

other reports from members of the CMG, give the Committee a detailed and holistic view of developments on mokopuna rights in Aotearoa

I have chosen to focus my efforts on three priorities, to advocate:

1. For all mokopuna to have access to, and participate in, inclusive and equitable education
2. For the mental wellbeing of mokopuna to be prioritised, so that they may thrive and flourish
3. To end family violence and to help families heal.

He mokopuna, he taonga. Mokopuna are the most treasured and important people in our society and deserve to be treated as such by everyone, especially those of us who makes laws and policies.



Judge Frances Eivers

Ngāti Maniapoto, Waikato

Children's Commissioner

Te moemoeā: Kia kuru pounamu te rongō

Our vision: All mokopuna live their best lives

Introduction

Ko ngā kaihoe o te kaikomihana
 Mo ngā tamariki, o Aotearoa
 Manaakitia a tātou tamarikiⁱⁱ

I am supported by an office of dedicated staff (OCC), paddlers on the waka (canoe) alongside mokopuna working to advance and promote their rights. This verse from our OCC waiata (song) describes our vision and values. Through collective effort, we seek to revive, restore to health and safety, and rejuvenate the lives of all mokopuna in Aotearoa.

In October 2021, OCC undertook a series of engagements with mokopuna to gather information for this report. These were informed by the [List of Issues Prior to Reporting](#),² and other relevant domestic issues. In conjunction with the [Children's Rights Alliance Aotearoa](#), OCC developed the 'Children's Rights, Children's Voices Toolkit' which supported community organisations seeking the perspectives of mokopuna.

The information gathered, along with other insights from mokopuna and research conducted by the OCC over the last five years, have informed this report. An abridged report from OCC's 2021 engagements is attached.ⁱⁱⁱ

Mokopuna gave us five key messages:

1. Some of us feel excluded and bullied in our communities, due to racism, or other barriers to participation, including accessibility barriers
2. Our whānau need more support for us to thrive, including housing and medical support
3. We want to be heard by the Government, in ways that are accessible for us, and to see how our views are considered
4. We want more action and education on climate change, including more support for our Pacific^{iv} whānau overseas
5. As mokopuna Māori, we want the ability to practice the cultural traditions of our tūpuna (ancestors) and a sense of whanaungatanga (belonging)

This report looks at each of these priority issues.^v For other issues we encourage the Committee to read this report alongside other submissions.

ⁱⁱ Translated as "We are the paddlers for/with the New Zealand Children's Commissioner to support and protect our young people". This waiata was written for the OCC by our Principal Advisor Māori.

ⁱⁱⁱ Mokopuna Voices Summary (2021).

^{iv} Pacific Island people, indigenous peoples of the Pacific Islands.

^v As well as priority areas as outlined in CRC/C/NZL/CO/5, CRC/C/NZL/QPR/6, and OCC's priorities.

To the Committee, I thank you for the opportunity to raise issues of concern for mokopuna of Aotearoa. I remain cautiously optimistic about the progress being made as our Government works towards implementation of the Children's Convention.

I believe this report will assist the UN in identifying issues to raise with the New Zealand Government in the next stage of this review process.

Te Tiriti o Waitangi and the Children's Convention

In Te Ao Māori (a Māori worldview), the traditional construction of childhood was radically different to western understanding. Mokopuna were considered sacred gifts from the ātua (spiritual beings) and tūpuna (ancestors) and were protected by a unique form of tapu (special rules and restrictions) derived from the mana (spiritual authority) of ātua and tūpuna. In practice, this meant inflicting any harm or violence on mokopuna was the equivalent of committing these same acts on the ātua or tūpuna.³

Thus, pre-European settlement, mokopuna enjoyed special status with guaranteed participation rights and opportunities for self-determination. These rights were, and continue to be, centred in social structures, and are inherently practical in nature. Because mokopuna could access freedoms and knowledge, without fear of punishment,⁴ they were free to develop the skills needed to contribute to the collective wellbeing of their whānau, hapū and iwi.

Colonisation and the adoption of British laws and views of childhood displaced traditional Māori systems, negatively impacting Māori, through the subjugation of tikanga (values) in relation to whānau, whakapapa, and whanaungatanga (kinship).⁵

Te Tiriti o Waitangi (Te Tiriti) is the founding legal document of Aotearoa New Zealand and is crucial for considering mokopuna rights and wellbeing, including collective wellbeing. Signed in 1840, Te Tiriti established a 'new' framework for the co-existence of Māori tino rangatiratanga^{vi} (self-determination) and kāwanatanga^{vii} (governance). It provides the context for establishing the rights of mokopuna Māori, as both tangata whenua (indigenous peoples), and indigenous children, and for an equitable, transparent, and culturally appropriate way to uphold and implement the rights of mokopuna Māori alongside all mokopuna in Aotearoa.

Ongoing systemic inequities and structural racism, which are realities for many mokopuna Māori, is evidence of the continued breaches of Te Tiriti and the failure of the Crown to honour the promises of partnership it gave to Māori.⁶

OCC advocates for the Children's Convention be implemented in context of Te Tiriti, as well as General Comment No. 11 and UNDRIP. Te Tiriti, Te Ao Māori, He Whakaputanga (the Declaration of Independence)⁷ the historical adoption of British laws and views of childhood, and the impact of colonisation underpin the setting in

^{vi} Tino rangatiratanga is interpreted as "absolute authority, including freedom to be distinct peoples, right to territorial authority, and the right to exercise autonomy and self-government." Whaia te Mana Motuhake Report on the Māori Community Development Act Claim, Waitangi Tribunal (2014), page 2.

^{vii} Ibid, page 35-36. Kāwanatanga describes the Crown's right to govern the country which is neither absolute nor exclusive but includes "power to make law for peace and good order" and to "pursue the policy agenda upon which they were elected to office."

which mokopuna rights can be adopted and implemented in Aotearoa law and practices.

Under the OCC strategic framework, Te Rautaki, and recently affirmed in OCC's strategic plan, honouring and embedding Te Tiriti is a core responsibility for OCC. One opportunity for transformation is to advocate for by Māori, for Māori approaches in the public sector.

The inquiry Te Kuku o Te Manawa (2020) highlighted the urgent need to partner with and to delegate and effectively devolve power, resources and functions to iwi and Māori organisations (see page 34). OCC continues to encourage the Government to strengthen efforts to ensure that mokopuna Māori can exercise their rights collectively with their whānau, hapū, and iwi.

In my view, for as long as Te Tiriti continues to be breached and colonial systems and structures remain unchanged, mokopuna Māori will not enjoy their full rights as envisioned under the Children's Convention.^{viii ix}

OCC supports the vision in the He Puapua report (2019)⁸ and the wero (challenge) laid by mokopuna Māori. It sets out a roadmap and Declaration plan⁹ to realise the rights of Māori and, in doing so, make Aotearoa a country where everyone can thrive. 2040 will be the 200th anniversary since the signing of Te Tiriti. Those rangatira who signed Te Tiriti did so with high aspirations for their mokopuna.

The Committee may wish to ask the Government how it intends to realise that vision.

^{viii} OCC recognises that Māori have not felt represented within the Children's Convention or the decision to ratify it in Aotearoa. Discussions around Māori engagement with human rights instruments continue to be defined by the premacy of Te Tiriti and the need to ensure the 'tangata whenua' rights enshrined within Te Tiriti are first realised before meaningful Māori engagement with international rights instruments can occur. See: 2018. King, P., Cormack, D., & Kōpua, M. Oranga Mokopuna. A tāngata whenua rights-based approach to health and wellbeing. MAI Journal: A New Zealand Journal of Indigenous Scholarship, 7(2). (p.188).

^{ix} As well as other rights instruments, such as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the United Nations Convention on the Rights of Persons with Disabilities (the Disability Convention), among others.

General measures of implementation (arts 4, 42, 44(6))



General measures of implementation (arts 4,42,44(6))

Reservations

OCC continue to advocate for the removal of all reservations to the Children's Convention. The Government's manifesto commitment¹⁰ to remove all earlier reservations to the Children's Convention is yet to be realised, despite the Committee's repeated recommendations to remove all reservations since 1997.¹¹

General

Currently, the Children's Convention does not apply to mokopuna with different authority to be in Aotearoa. Removing this reservation would enable all mokopuna to enjoy their full rights as outlined in the Children's Convention, without discrimination, and would provide practical protections particularly for access to health services, education, and social protection services.

Article 32(2)

OCC question whether the existing protections for mokopuna who work are adequate to protect the rights provided for in Article 32(1).^x

Article 37(c)

OCC remain concerned that mokopuna are being placed in secure detention with adults.^{xi}

Tokelau

Tokelau is moving towards self-governance but, for now, remains a territory of Aotearoa. Tokelau is particularly susceptible to climate change and disaster risks, which will disproportionately impact on mokopuna.¹²

^x Refer to page 56 for further information.

^{xi} Refer to page 61 for further information.

Legislation, policy, and strategy

Since 2016, Aotearoa has made progress in advancing mokopuna rights, particularly in policy, strategy, and legislative reforms,¹³ in line with Committee recommendations.¹⁴ Examples include:

- Formulation of the Child Youth and Wellbeing Strategy (CYWS) in 2019, which was informed by the voices of mokopuna;^{xii}
- The Children's Act 2014 was amended in 2018 and requires successive governments to develop a CYWS, establishing the statutory framework for this;
- A range of legislative reforms and amendments to the Oranga Tamariki Act 1989, including obliging any Court or person who exercises powers under the Act to be guided by the Children's Convention and Disability Convention, to recognise Te Tiriti and align social work practice with mātauranga Māori principles,¹⁵ as well as reduce disparities for mokopuna Māori;
- The establishment of VOYCE Whakarongo Mai, in 2017, an independent, non-governmental organisation providing advocacy services and support for care experienced mokopuna;
- Implementation of the Family Court (Supporting Families in Court) Legislation Act 2020 and the Family Court (Supporting Children in Court) Legislation Act 2021 which will be in force by August 2023 and emphasises participation by mokopuna in the resolution of disputes around their care and introduces the idea that family violence should be considered in all decisions about care of mokopuna;
- The development of the Child Poverty Reduction Act 2018, which requires successive governments to measure, monitor and address child poverty;¹⁶ and
- Amendments to the Education and Training Act 2020, which requires the best interests of mokopuna to be taken into account at the individual level.

OCC welcomes these reforms. However, these changes have not yet had a positive material effect on the lives of mokopuna.

^{xii} The OCC collaborated with the Department of the Prime Minister and Cabinet and Oranga Tamariki to seek mokopuna voices for development of the CYWS. See: What Makes a Good Life? (2019).

Oversight of Oranga Tamariki System and Children and Young People's Commission Bill (the Bill)

Background

In 2017, in response to reforms^{xiii} of the Oranga Tamariki system, the Government commissioned a review of independent oversight arrangements for Oranga Tamariki.¹⁷

In 2019, Cabinet agreed to develop legislation aimed to strengthen and resource the oversight system in three areas: system-level advocacy for all mokopuna, complaints oversight and investigations, and independent monitoring of the Oranga Tamariki system.¹⁸ As a result, the Bill was introduced to Parliament in 2021.^{xiv}

The Bill aims to deliver expanded, and more comprehensive, monitoring of Oranga Tamariki that successive Children's Commissioners have not been adequately resourced to deliver, despite multiple Committee recommendations.¹⁹

The Bill also seeks to strengthen advocacy for mokopuna by establishing a Children and Young People's Commission, being a Board made up of between 3-6 Commissioners.

My view is the Bill does not meet these aims and is not in the best interests of mokopuna.^{xv}

Of 403 submissions on the Bill, eight supported it while 311 strongly opposed it. Organisations in opposition included care experienced mokopuna from VOYCE Whakarongo Mai, key advocacy and civil society groups, and three major political parties.

Despite these concerns, in June 2022, the Social Services and Community Committee (SSCC) released its recommendations to progress the Bill largely unaltered.²⁰

Key concerns

Some of the key concerns are outlined below:

- Mokopuna were not consulted, nor their views considered in drafting the Bill,^{xvi} contrary to article 12 of the Children's Convention, General Comment No.12, and the feedback of mokopuna themselves;²¹

^{xiii} These reforms came about because of increasing public pressure and the need for greater accountability in the face of worsening outcomes for mokopuna in the care and protection system.

^{xiv} The Bill was at the Select Committee at the time of writing this report. At this stage, the Select Committee gathers information and prepares a report on the Bill for the House, including recommended changes.

^{xv} Contrary to Article 3 of the Children's Convention and General Comment No.14.

^{xvi} The consultation process for the Bill was carried out during the school holidays, and over the Christmas break in 2021. Mokopuna were also expected to participate in adult-centric processes and timeframes.

- The proposed monitoring agency, the Independent Children's Monitor (the ICM), is not independent of Government,^{xvii} contrary to General Comment No. 2, the Paris Principles, findings of an independent review,²² and expressed Cabinet intent;²³
- Under clause 13(c), the objective of the ICM is to support public trust and confidence in Oranga Tamariki, which is contrary to a monitoring role;
- The Bill removes necessary powers from the Children's Commissioner, as an independent human rights institution for mokopuna, including the power to receive complaints, conduct investigations, and obtain any information necessary to promote and protect the rights of all mokopuna, contrary to General Comment No. 2;
- The proposed complaints mechanism is not mokopuna-friendly, and splits functions between the newly established ICM, the Office of the Ombudsman, the Human Rights Commission (HRC), and the new Children and Young People's Commission. This is in contravention to the Committee's recommendation²⁴ and establishes a complex system for mokopuna and whānau to navigate if they wish to make a complaint;
- Mokopuna Māori and disabled mokopuna^{xviii} have been identified as a specific cohort that will be disproportionately impacted by these changes, and at significantly greater risk of experiencing harm. Despite this, there is no specific mention of UNDRIP or the Disability Convention in the Bill;
- The Bill is being progressed before the Royal Commission of Inquiry into Abuse in State Care and Faith-Based Institutions, has finalised their report in 2023 (see page 29);
- There are no requirements for the Board or Māori Advisory Group to whakapapa Māori, (be of Māori descent);
- The vision the Government articulated for transformation of the care and protection system to deliver by Māori, for Māori solutions, does not extend to the ICM; and

^{xvii} The Bill has inserted clause 12(3) and 16(A), stating the ICM's independence from Oranga Tamariki, and a duty to act independently, but there is no change to the structure of the ICM as a departmental agency, which does not meet international guidelines.

^{xviii} Mokopuna who are, or have been, involved with Oranga Tamariki are 2.6 times more likely to have at least one indicator of disability than those with no previous involvement with Oranga Tamariki. See: <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Research/Data-analytics-and-insights/Children-and-young-people-with-impairments.pdf> (see page 8).

- The Bill does not have strong enough Te Tiriti provisions in Part 2.^{xix} Meeting Treaty obligations relating to partnership requires more than participation – it's about leadership, partnership, and decision-making power.^{xx}

In response to the submissions, the SSCC made the following amendments to the Bill:

- The Board of the proposed Commission will elect a Chair who will be known as the 'Chief Children's Commissioner.' The existing role of Children's Commissioner, a corporation sole, will cease to exist.
- The proposed Commission retains the ability to report directly to the Prime Minister; and
- Requirement for the Government to respond in writing to ICM reports, including specific timeframes and the removal of exemptions.

I invite the Committee to refer to our written submission²⁵ on the Bill, which more comprehensively outlines OCC concerns and recommendations, as well as the submissions of other organisations, who raise similar issues.²⁶

With the Bill currently before Government, parallels with the Committee's observations during the third and fourth periodic cycle have emerged. There is an opportunity for the Government to use the discussion surrounding changing legislation to ensure OCC is well supported to fulfil its mandate in accordance with international guidelines.²⁷

I see the current Bill as a lost opportunity to place the wellbeing of mokopuna at the heart of legislation designed to protect and promote their rights, interests, and wellbeing; and to advance and embed the vision of the CYWS for future generations.

Optional Protocol on a Communications Procedure

Aotearoa is progressing towards ratification of the third Optional Protocol on a Communications Procedure. OCC strongly supports this as a positive step towards ensuring mokopuna views are heard and their rights upheld. Ratification will demonstrate a commitment to progressively implementing the Children's Convention in Aotearoa and respond to recommendations made by the Committee.²⁸

However, given that the complaints and investigative functions of OCC are to be removed under the Bill (see page 13), I have serious concerns as to how domestic complaints mechanisms will be mokopuna-friendly, rights focussed, and accessible.

^{xix} The Oversight of Oranga Tamariki System part of the Bill, which proposes independent monitoring of the system.

^{xx} This applies equally to the way that monitoring is carried out, as it does to the Oranga Tamariki system. For example, the Monitor will need specialist knowledge, or to partner with experts, to assess whether the obligations under s7AA of the Oranga Tamariki Act are being met by the Oranga Tamariki system.

Coordination

The Children's Convention Monitoring Group meet biannually with the Children's Convention Deputy Chief Executives Group (DCE Group). The DCE Group are the coordinating mechanism for implementation of the Children's Convention.²⁹

The DCE Group is led by the Ministry of Social Development (MSD), who are responsible for the cross-agency Children's Convention work programme, which OCC supports.^{30 31} OCC encourage strengthening alignment between the Children's Convention work programme and the CYWS, to facilitate a more co-ordinated and cohesive approach to mokopuna issues in Aotearoa, especially those cutting across different government portfolios and which are of concern to mokopuna.

An established Child Lead in each agency could ensure mokopuna rights are considered and embedded in all policy decisions or responses.

Child Impact Assessment Tool

The Government has made progress towards implementing a Child Impact Assessment Tool (CIA) to support public servants when considering the impact of policy or legislative proposals on mokopuna. Despite Committee recommendations, undertaking a CIA is not mandatory.³² There is no mechanism or evaluation process in place to monitor how many agencies have undertaken a CIA or assessed implementation measures.

While the CIA is an encouraging and positive step, a 2019 questionnaire conducted by MSD found that only 5% of respondents had used it in their work.³³ The questionnaire also showed that knowledge of the Children's Convention, and mokopuna rights in general, was low across central government agencies. 17% of people who responded had not heard of the Children's Convention, while 36% had heard of it but didn't know anything about it.

OCC has supported MSD to implement the Child Rights Training Hub, alongside the CIA tool. However, OCC are concerned at how long it has taken to finalise this Hub.

Data collection

The availability and quality of data on mokopuna, especially disaggregated data, is a long-standing issue in Aotearoa. While there have been some improvements,³⁴ there is still no comprehensive mechanism to gather accessible, high-quality, disaggregated data.³⁵

There is limited progress in achieving the Sustainable Development Goals, including establishing a child rights-based approach regarding data collection.³⁶

The CYWS has 36 indicators for measuring and reporting its progress on outcomes identifying measures concerning mokopuna wellbeing.³⁷ However, the Government

has acknowledged the lack of timely and relevant information in some crucial areas, including data on mokopuna development in the early years; data grounded in Te Ao Māori; data on younger mokopuna; and data that enables Aotearoa to be included in international comparisons.³⁸

Reporting statistics about mokopuna is inconsistent across Government and data collection methodology is also inconsistent, making it difficult to report on populations under age 18.

A coordinated and sustained approach to collecting data about mokopuna is urgently required, requiring greater disaggregation, monitoring, and evaluation of indicators that can inform policy, legislation, and the design of services.

Existing approaches need to ensure mokopuna can share their own views, rather than having a parent or caregiver answer by proxy,³⁹ and put more emphasis on post-implementation and follow-up measures.

While the data environment rapidly changes, it is critical to ensure that collecting, storing, and sharing information about mokopuna is consistent with their privacy and information rights, views, and best interests.

Decisions on data collection and use must also be undertaken in partnership with iwi and Māori in ways that respects Māori data sovereignty, and honours mātauranga Māori and Te Tiriti.⁴⁰

Disability data

There are significant gaps in data on disabled mokopuna in Aotearoa. The last nationwide disability survey was undertaken in 2013, with minimal information on mokopuna.⁴¹ Disability data is also lacking in Oranga Tamariki (see page 29), education, and housing.

Differing definitions of disability across government means that data collection is inconsistent and direct comparisons between agencies or across time periods may not be feasible.⁴²

Oranga Tamariki has highlighted robust data gathering and insights as key priorities in the Future Direction Action Plan.⁴³ However, there are no specific indicators in the plan relating to disability.

The Independent Monitoring Mechanism (IMM)^{xxi} made multiple recommendations to the Government on disability, including to create a consistent cross-agency data set and work with disabled people and representative organisations to ensure that Census completion is barrier-free.⁴⁴ OCC supports these recommendations, including addressing the specific needs for disabled mokopuna. Failure to keep accurate and

^{xxi} The IMM is a group of agencies, set up to monitor and report on the Government's performance and implementation of the Disability Convention.

up-to-date data on disabled mokopuna is contrary to General Comment No.9, and Article 31(2) of the Disability Convention.

Collating accurate information on disabled mokopuna and on people raising disabled mokopuna and mokopuna living in households with disabled people is key to providing meaningful support and resources which are evidence-based and not arbitrarily set.⁴⁵

Independent monitoring

The Committee's observation regarding OCC's inadequate resourcing, as the independent monitor of the Children's Convention by departments of State and other instruments of the Crown, remains a concern.⁴⁶ This review coincides with proposed changes to the legislation (see page 13) to bring new relevance to previous recommendations by the Committee.⁴⁷

The Children's Commissioner has the statutory mandate^{xxii} to monitor care and protection, and youth justice residences established under section 364 of the Oranga Tamariki Act 1989, community-based remand care homes; and health and disability places of detention established specifically for the care of mokopuna, including youth forensic units and child and adolescent mental health units.

Historically, OCC has been chronically underfunded to carry out its OPCAT mandate.⁴⁸ ^{xxiii} Despite OCC's increased monitoring mandate under the Optional Protocol to the Convention Against Torture,⁴⁹ minimal funding has been allocated in the 2022 Budget.⁵⁰

^{xxii} The OCC is a designated National Preventive Mechanism under section 26 of the Crimes of Torture Act 1989.

^{xxiii} Despite recommendations from both the Committee (CRC/C/NZL/CO/5, para 11(a)) and Subcommittee on the Prevention of Torture (CAT/OP/NZL/1, para 14).

Overarching recommendation to the Government:

- 1.1. Ensure Te Tiriti and partnership with Māori is the foundation of all legislation, processes, and policies, with specific focus on all agencies currently undergoing legislative reforms.

OCC recommends the Government:

- 1.2. Remove all reservations to the Children's Convention.
- 1.3. Enhance measures to support Tokelau community resilience against the impacts of climate change.
- 1.4. Pause progression of the Oversight of Oranga Tamariki System and Children and Young People's Commission Bill (the Bill) to respond to public submissions and to align with the findings and recommendations of the Royal Commission of Inquiry into Abuse in State Care and Faith-Based Institutions (RCOI).
- 1.5. Provide a formal response to major concerns of whānau, hapu, iwi and Māori organisations who submitted on the Bill as well as civil society organisations that have not been addressed in the final report.
- 1.6. Ensure a formal engagement process occurs with mokopuna affected by the Oversight Bill before it is further progressed, including specific groups such as mokopuna Māori, Pacific, and disabled mokopuna.
- 1.7. Develop a robust mokopuna-friendly complaints mechanism independent of Government, in consultation with mokopuna, following ratification of the Optional Protocol to a Communications Procedure.
- 1.8. Make the CIA mandatory, in accordance with international guidelines, including a mechanism to monitor and evaluate the use, effectiveness, and implementation of the CIA and track how many mokopuna are consulted.
- 1.9. Develop a comprehensive mechanism for disaggregated data collection and an information system on all areas of the Children's Convention that covers both qualitative and quantitative indicators and disaggregated by age, gender identity, disability, geographical location, ethnic identity, nationality, and socioeconomic background.
- 1.10. Ensure data collection is consistent with Te Tiriti, the Children's Convention, the Disability Convention, and the Sustainable Development Goals.
- 1.11. Implement the recommendations of the IMM's Third report (2020),⁵¹ with a special focus on up-to-date and disaggregated data on disabled mokopuna, or mokopuna living in households with disability.
- 1.12. Ensure OCC has sufficient resourcing to effectively carry out its mandates.

General Principles (arts 2,3,6,12)



General principles (arts 2,3,6,12)

Non-discrimination

Inequitable outcomes

Despite the Committee's repeated recommendations,⁵² mokopuna Māori, Pacific and disabled mokopuna continue to experience disproportionately worse outcomes than other groups in Aotearoa, particularly regarding access to education (see page 59), healthcare (see page 42), care and protection system (see page 32), and minimum standard of living (see page 51).

OCC acknowledge the work underway to address these inequities.⁵³ However, progress remains slow, and, in some cases, inequities have become markedly worse.⁵⁴

These inequities reflect a system that has not properly delegated authority to Māori as agreed under Article 2 of Te Tiriti, nor lived up to the promise of equity and protection under Article 3. Government decisions continue to drive inequity and disparity for Māori. The recommendations from Puao-te-Ata-tu, a 1988 report, remain relevant over 30 years later. Māori must have the opportunity to exercise tino rangatiratanga as guaranteed under Te Tiriti.

The COVID-19 elimination strategy⁵⁵ in Aotearoa has been considered one of the world's most successful responses, demonstrating what would be achieved by working collectively to protect each other. Māori-led COVID-19 responses were swift and powerful, mobilising communities through strong leadership, exercising tino rangatiratanga and tikanga.⁵⁶ There are many lessons to be learnt from whānau, hapū, and iwi as they continue to mobilise in response to COVID-19.⁵⁷

COVID-19 exposed and further widened the deep and persistent inequities faced by specific groups such as mokopuna Māori, Pacific, and disabled mokopuna, across all aspects of life. These issues are explored in the OCC Life in Lockdown report (2020), COVID-19 supplementary report (2020) and combined CMG report Getting it Right: Children's Rights in the COVID-19 Response (2021).

The slow pace of change remains a challenge to addressing inequities; ensuring mokopuna are visible; and to contribute to and provide feedback on policy developments and decision-making.

Racism and discrimination

"Treat everyone as equals and don't jump to conclusions because of race."^{xxiv}

^{xxiv} Secondary school Māori/Pacific/European student, in Education matters to me: Experiences of tamariki and rangatahi Māori (2018).

Freedom from discrimination and racism is a fundamental right, protected and reinforced in Aotearoa under Te Tiriti, the Human Rights Act 1993, Bill of Rights Act 1990, among other instruments.^{xxv}

Yet despite these protections, mokopuna regularly share with us their experiences of racism and other forms of discrimination including feeling disrespected, having their culture ignored and having people be racist towards them. Mokopuna have told OCC that these experiences directly contribute to them feeling unable to succeed in their education and activities and feeling unsafe outside their homes. For some, these experiences have negatively impacted their mental wellbeing.

In a 2019 report, Aotearoa recorded one of the worst school bullying rates in the Organisation for Economic Co-operation and Development (OECD),⁵⁸ with 35% of secondary principals reporting regular acts of intimidation or bullying, more than double the OECD average of 14%.⁵⁹

Compared to non-gender-diverse mokopuna, bullying affects three times more mokopuna with diverse sexual orientation and four and a half times more mokopuna with a diverse gender identity.⁶⁰ The Human Rights Act 1993 does not provide explicit legal protection from discrimination with regards to gender identity, gender expression, or sex characteristics.

Disabled mokopuna experience ongoing discrimination and other rights breaches, including in the classroom and their community.⁶¹

"A lot of people come up, and their first question is why are you in a wheelchair? And they haven't asked who I am or what my name is. It's just that's what they see"^{xxvi}

Mokopuna with intersecting identities experience multiple forms of discrimination.⁶²

Mokopuna Māori continue to experience racism and discrimination, in all settings.^{xxvii} Care experienced mokopuna have also shared experiences of stigma in What Makes a Good Life? Follow-up report: Views of children and young people in care on wellbeing (2019).

^{xxv} As well as international instruments, including the Children's Convention, Disability Convention, UNDRIP, Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and International Convention on the Elimination of All Forms of Racial Discrimination (CERD)

^{xxvi} Mokopuna Voices Summary (2021).

^{xxvii} As described in What Makes a Good Life for Tamariki and Rangatahi Māori (2021) and Mokopuna Voices Summary (2021).

“Something I always have to deal with at school is the stigma. When people find out you’re a foster kid and they’re like, ‘oh you’re an orphan’, or ‘whose house did you burn down?’^{xxxviii}

These experiences, among many others, have been shared with OCC and reported on across multiple reports.^{xxix}

OCC supports the various initiatives underway to address these issues, including the National Action Plan Against Racism, Social Cohesion Framework, Bullying Prevention and Response Work Programme 2019-2022⁶³, and guiding principles of the CYWS.⁶⁴

However, the widespread accounts of racism and discrimination shared by mokopuna demonstrates these initiatives are insufficient. An interwoven approach across government agencies which gives effect to Te Tiriti along with international instruments,^{xxx} and built on the experiences of affected mokopuna, would help ensure equal realisation of the rights of all mokopuna.

Respecting mokopuna views

“I am a library, quiet but filled with knowledge - it’s dumb [that I’m not asked].”^{xxxi}

Our combined CMG report, Getting It Right: Are We Listening? (2019) reported on how well the Government is implementing the Children’s Convention regarding mokopuna participation rights. This is a useful benchmark to refer to in future assessments of government action.

There has been an encouraging, albeit ad hoc, approach to embedding mokopuna participation rights into consultative practice and legislation, with the first legislative obligation to consult with mokopuna introduced in the Children’s Act 2014.

What Makes a Good Life? (2019)^{xxxii} asked more than 6,000 mokopuna across Aotearoa what wellbeing meant to them and what they needed to have a good life, which then informed the CYWS.

^{xxxviii} Mokopuna from Ōtepoti (Dunedin) in What Makes a Good Life? Follow-up report: Views of children and young people in care on wellbeing (2019).

^{xxix} Including What Makes a Good Life? (2019); What Makes a Good Life for Tamariki and Rangatahi Māori (2021); What Makes a Good Life for Disabled Children and Young People? (2021); Getting It Right: Children’s Rights in the COVID-19 Response (2020); our Education Matters to Me report series (2018); the Mokopuna Voices Summary (2021), among others.

^{xxx} Particularly the UNDRIP, the Disability Convention, CEDAW and CERD.

^{xxxi} Student in alternative education unit in Education matters to me: Key Insights (2018).

^{xxxii} Completed in collaboration with OCC, Department of Prime Minister and Cabinet, and Oranga Tamariki.

The CYWS introduced actions and indicators to increase representation of mokopuna views, including Youth Action Plan development and the Youth Voice Project.⁶⁵ There has since been an upswing in interest from agencies in considering mokopuna views.

While several pieces of legislation include provisions for mokopuna to express their views on matters that affect them and for adults to consider those views in decision making^{xxxiii} there is still a need to facilitate and support mokopuna to be properly consulted when policies and laws are developed.

Articles 2 and 3 of Te Tiriti and the obligations of the Children's Convention, General Comment 11, and UNDRIP, mean mokopuna Māori must be consulted on matters affecting them.

Over the last five years, mokopuna have led calls for policy change, including through both student-led and out-of-school activism, on a wide range of issues including the school curriculum (teaching accurate accounts of New Zealand history and colonisation); the Make It 16 campaign to lower the voting age,^{xxxiv} student-led school strikes for climate (see page 48), Black Lives Matter, the Protect Ihūmatao campaign,^{xxxv} and anti-rape protests.⁶⁶

^{xxxiii} This includes the Oranga Tamariki Act 1989; Children's Act 2014; Family Violence Act 2018; Education and Training Act 2020; and Care of Children Act 2004.

^{xxxiv} Established by mokopuna in 2019, the Make It 16 campaign and has made legal cases in the High Court and Court of Appeal, which OCC was an expert witness to. The group has now been granted leave to appeal their case in the Supreme Court. The team is asking for a declaration of inconsistency between the Electoral Act 1993 and the Local Electoral Act 2001, with the right to be free from age discrimination as part of the New Zealand Bill of Rights Act 1990.

^{xxxv} Kaiti School students campaigned to have the traditional Māori name, Turanganui a Kiwa, of their region restored.

OCC recommends the Government:

- 2.1 Ensure Te Tiriti informs efforts to address inequitable outcomes for mokopuna Māori and whānau, hapū and iwi, particularly across education, health, protection services, and standard of living.
- 2.2 Address inequitable outcomes for minority groups, including Pacific and disabled mokopuna, in particular across education, health, protection services, and standard of living.
- 2.3 Evaluate existing initiatives aimed at combating racism and discrimination, alongside mokopuna, to assess their impact and revise measures accordingly.
- 2.4 Amend the Human Rights Act 1993 to provide legal protection from discrimination with regards to gender identity, gender expression, or sex characteristics.
- 2.5 In line with Te Tiriti and the Children's Convention, embed legal obligations and practical expectations in policy development and government consultation processes to engage with mokopuna meaningfully and ethically, so they can be heard throughout Government decision making.
- 2.6 Lower the voting age to 16.

Violence against mokopuna (arts. 19, 24 (3), 28 (2), 34, 37(A), 39)



Violence against mokopuna (arts. 19,24 (3),28 (2),34,37(a), 39)

Freedom of mokopuna from all forms of violence

Restraint at school

In Aotearoa, a teacher or authorised staff member is permitted to use physical restraint against school students to prevent imminent harm to a student or another person.

Between July 2017 and March 2021 mokopuna between the ages 4 and 18 were restrained 7,662 times.⁶⁷ The Committee may wish to ask what measures the Government is taking to eliminate the use of physical restraint at schools.

The Education and Training Act 2020 outlines that seclusion^{xxxvi} is prohibited in all schools and early learning services, and guidance has been developed to support teachers to use positive behaviour management practices to manage challenging student behaviour.

Before this change, some mokopuna (particularly disabled mokopuna) were being locked in rooms for extended periods.^{xxxvii xxxviii}

Restraint and seclusion in secure detention

“...the restraints are, like sometimes they like actually try to hurt you”^{xxxix}

OCC monitoring reports consistently highlight concerns regarding the ongoing use of force (restraint) and secure care (seclusion) in detention.⁶⁸ Restraint is often used excessively, inappropriately, and has resulted in harm and injury to mokopuna, including for those who witness it.⁶⁹

Between January 2015 and March 2021, mokopuna were restrained 3,572 times in Youth Justice residences operated by Oranga Tamariki and placed in seclusion 6,518 times.⁷⁰ Mokopuna in care and protection residences were restrained 1,844 times and placed in seclusion 2,151 times over the same period.

^{xxxvi} Seclusion means placing a child or student in a room involuntarily, alone and from which they cannot freely exit, or believe they cannot freely exit. See: No seclusion in schools and ECEs – Education in New Zealand

^{xxxvii} 2016. Stuff NZ. Government to outlaw school seclusion rooms | Stuff.co.nz

^{xxxviii} This issue was brought to light, in part, due to a complaint lodged with the Office of the Ombudsman relating to an intellectually disabled mokopuna being locked in a dark room for lengthy periods of time. See: 2017. Office of the Ombudsman. Investigation into Ruru School seclusion complaint | Ombudsman New Zealand

^{xxxix} Mokopuna during Monitoring Visit to Te Au Rere a te Tonga Youth Justice Residence (2020). Refer to OPCAT Youth Justice Residences | Office of the Children's Commissioner (childrenandyoungpeople.org.nz)

The seclusion of mokopuna, in all settings, runs contrary to international human rights law which completely prohibits its use with mokopuna under 18 years of age⁷¹ and is contrary to Article 37(a) of the Children's Convention.

Restraint chairs

Restraint chairs are still being used by the New Zealand Police for mokopuna as young as 13, despite being considered 'inherently degrading' and following recommendations made to the New Zealand Police that they be abolished and replaced with less restrictive methods.⁷²

In 2020, restraint chairs were used three times on mokopuna with one incident involving a 13-year-old. Between 2015 and 2020, New Zealand Police strapped 38 mokopuna into restraint chairs, some more than once.⁷³ Recent data on the use of restraint chairs, and other restrictive practices, was not made available by the New Zealand Police.

The use of restraint chairs is symptomatic of wider problems within the youth mental health system and lack of mental health crisis support for mokopuna (see page 47).⁷⁴

Spit hoods

Between 2016 and 2020, the New Zealand Police used spit hoods on 117 mokopuna, using the hoods 129 times in total, with seven mokopuna placed in them more than once. Almost 70 uses were on mokopuna Māori, including one aged just nine years old in 2018.⁷⁵ This is unacceptable and degrading practice.

Strip searches

Between July 2020 and January 2021, Oranga Tamariki conducted 41 strip searches of mokopuna in Youth Justice residences.^{x1} The practice of strip searching mokopuna is inherently degrading and all powers to do so should cease immediately, replaced with alternative and less invasive options that respect privacy, including bodily and psychological autonomy, and personal dignity.

Pepper spray of mokopuna

Between 2017 and 2021, more than 480 mokopuna, 17 years old and under, were pepper sprayed by the New Zealand Police.⁷⁶ In my view, the use of pepper spray on mokopuna is unacceptable, poses serious health risks to mokopuna and is in contravention to Article 37(a) of the Children's Convention.

^{x1} 2021. Newshub. [Oranga Tamariki strip-searching children in Youth Justice | Newshub](#)

Abuse of mokopuna in state care

“Before I was in here, I wasn’t violent. From coming in here, I became more violent ... since I’ve been in here, I’ve gotten worse and worse”^{xli}

Mokopuna in the Oranga Tamariki care and protection (C&P) system continue to experience harm, particularly mokopuna Māori and Pacific mokopuna. There is no data currently collected on abuse of disabled mokopuna, so we do not know the gravity and extent of harm to disabled mokopuna in C&P, although historical reports suggest it is high.⁷⁷

As of 30 June 2021, there were 5,239 mokopuna in C&P custody.⁷⁸ Between July 2020 and June 2021, 486 mokopuna in C&P custody, representing 8% of all mokopuna in C&P, reported that they experienced an incident of harm.^{xlii} There was also an increase in the number of mokopuna experiencing harm since the last reporting period.⁷⁹

The proportion of mokopuna Māori and Māori-Pacific mokopuna in C&P with findings of harm in this period (76%) increased by 6% from 2019/20.⁸⁰

Reports of abuse in C&P residences have repeatedly gained media attention⁸¹ as have the high rates of self-harm in care.⁸² OCC statutory monitoring of C&P residences has consistently highlighted concerns for mokopuna safety, including from staff, other mokopuna, and themselves.^{83 84}

The Royal Commission of Inquiry into Abuse in State Care and Faith-Based Institutions (RCOI) commenced in 2018 and will present its final report and recommendations to the Government in 2023. The RCOI will focus primarily on the abuse of mokopuna in these institutions between 1950-1999, while also hearing survivor experiences before and after these dates, specifically focussing on the experiences of Māori, Pacific, and disabled people due to issues of disproportionate representation.

The RCOI presents a unique opportunity for the Government to hear the voices of survivors and there is an impetus to honour a vision for the future that will protect all mokopuna from harm.

In June 2022 the SSCC released their final report on the Bill (see page 13).⁸⁵ The Bill has been recommended despite opposition from care experienced mokopuna, advocacy groups, community organisations, and three political parties, and in advance of the recommendations or final report from the RCOI.

^{xli} Mokopuna in A Hard Place To Be Happy - Insights (2019).

^{xlii} However, we expect this number to be much higher as anecdotal reports indicate many cases go unreported.

It is clear the C&P system is failing mokopuna (see page 32) and radical change is needed to address the ongoing harm caused to mokopuna by this system. This is unlikely to be delivered by the Bill in its current state.

Family violence

Family violence remains a significant problem in Aotearoa, requiring comprehensive strategies and investment to effectively address it.⁸⁶

In Aotearoa, mokopuna are present in about half of family violence callouts by New Zealand Police, and in around 70% of those households with violence, mokopuna are direct victims of violence. Furthermore, almost two thirds of notifications to Oranga Tamariki are reported to have some family violence component.⁸⁷ Disabled mokopuna are four times more likely than non-disabled mokopuna to be the victims of family and sexual violence.⁸⁸

Economic and social disadvantage, poverty, racism, mental health and addiction issues, housing insecurity, the impacts of colonisation, as well as lack of culturally appropriate community supports are all significant contributing factors.

In 2021, the Government released Te Aorerekura, its first National Strategy for eliminating family and sexual violence, which will see 10 agencies working together. OCC supports this as an important step to healing, restoration, and redress, with a focus on strengths-based and whole-of-whānau and community approaches.

Te Aorerekura will also be bolstered by \$114.5m in the 2022 Budget, with \$37.6m for six primary prevention initiatives for different groups, including youth.⁸⁹ OCC supports this increased funding and expect to see the devolution of resources to local communities, whānau, hapū, and iwi.

OCC recommends the Government:

- 3.1 Eliminate the use of all types of seclusion and restraint of mokopuna, in all settings, including the immediate removal of spit hoods, pepper spray, and restraint chairs on mokopuna.
- 3.2 Remove the powers to conduct strip searches of mokopuna in all settings.
- 3.3 Implement all RCOI recommendations when finalised, alongside recommendations from OCC's statutory monitoring visits to care and protection residences.
- 3.4 Ensure mokopuna and their whānau are active partners in the design and delivery of Te Aorerekura.

**Family
environment
and alternative
care (arts. 5,
9–11, 18 (1)
And (2), 20, 21,
25 and 27 (4))**



Family environment and alternative care (arts. 5, 9–11, 18 (1) and (2), 20, 21, 25 and 27 (4))

Mokopuna in alternative care

“... hard place to be happy in”^{xliii}

Since the Committee’s last concluding observations,⁹⁰ there have been some reforms to the C&P system, including changes to legislation, resourcing, process, policy, and practice as outlined in our 2020 report to the Committee.⁹¹ Notably, the age of mokopuna in C&P was raised to 21 (with transition from care support and advice available up to 25).

While OCC recognises these developments, the ongoing reports of abuse and harm of mokopuna in C&P,⁹² poor treatment and conditions in C&P residences, overrepresentation of mokopuna Māori, Pacific, and disabled mokopuna, and forced removals^{xliiv} of pēpi Māori (Māori babies), tell us that we are far from achieving positive outcomes for our mokopuna in the C&P system.

OCC has repeatedly highlighted serious concerns regarding the C&P system to the Committee⁹³ and encourages the Committee to read the State of Care report series.⁹⁴

OCC statutory monitoring has found variation in social work practice, inadequate support, training and supervision of social workers and care staff, restrictive practices and concerning staff behaviour, high use of seclusion and restraint, extended length of stay, age-mixing, poor transition planning, a flawed and biased grievance (complaints) system, as well as lack of vision for the future.⁹⁵

Current C&P policy and legislation also remains dominated by the ‘child rescue’ model, with too little resourcing dedicated to supporting and strengthening whānau to remain together.

The Waitangi Tribunal^{xliv} urged the Government to adopt the principles of partnership, active protection, and equity, as outlined in Te Tiriti, by addressing the underlying factors that negatively impact whānau, such as poverty, poor housing, poor mental health, substance abuse, family violence, or lack of support for mokopuna with high needs.⁹⁶

^{xliii} Mokopuna Māori within a C&P residence in [A Hard Place To Be Happy - Insights](#) (2019).

^{xliiv} When custody of a mokopuna is granted to Oranga Tamariki, the mokopuna is taken from the care of their whānau and is placed with approved caregivers. On occasion, they can be in the custody of Oranga Tamariki, but remain in the care of their parent(s) under supervision. This can be called an uplift and is sometimes used interchangeably with removal.

^{xlv} Established by the [Treaty of Waitangi Act 1975](#), the Waitangi Tribunal is a permanent commission of inquiry that makes recommendations on claims brought by Māori relating to legislation, policies, actions or omissions of the Crown that are alleged to breach the promises made in the Te Tiriti.

The C&P system requires radical transformation and system change,⁹⁷ and the adoption of by Māori, for Māori approaches, enabled by the transfer of power and resources from government to whānau, hapū, iwi and Māori organisations, consistent with Te Tiriti. Māori must be recognised as best placed to care for their own mokopuna and be resourced by government to do so.

Mokopuna views of the C&P system

“People don’t listen, sometimes social workers, they say they’ll do something, and it never happens.”^{xlvi}

In 2019, mokopuna in C&P custody told OCC that for a good life they needed:⁹⁸

1. I want support for my family and whānau
2. Oranga Tamariki has the potential to make things better but sometimes makes things worse
3. I want to feel loved and respected
4. I want the basics

Through our survey results, we also found that, across 14 out of 17 wellbeing indicators, mokopuna in non-whānau care fared significantly worse than their peers. Mokopuna shared experiences of discrimination and stigma due to their care status, and about the challenges of living in a secure residence, asking not to be locked up or taken long distances from their whānau, not to be excluded from information and decisions about their lives,^{xlvii} and about the importance of living in places like normal homes where mokopuna can do things for themselves.

Considering the proposed changes with the Bill (see page 16) OCC is concerned the voices of mokopuna in C&P and their best interests are not being considered. OCC is further concerned that accessibility to independent complaints mechanisms for mokopuna in C&P custody will become more fragmented and difficult to navigate, reducing visibility and accountability,^{xlviii} and is contrary to the Committee’s recommendations.⁹⁹

Replacing C&P residences with community-based homes

“Just to be outta here. I wish these places never existed”^{xlix}

^{xlvi} Mokopuna in What Makes a Good Life? Follow-up report: Views of children and young people in care on wellbeing (2019).

^{xlvii} In our 2019 State of Care report, A Hard Place to Be Happy (2019).

^{xlviii} The ICM and the Office of the Ombudsman, who will be responsible for oversight of the Oranga Tamariki system, will be exempt from releasing information under the Official Information Act 1982.

^{xlix} Mokopuna in A Hard Place To Be Happy (2019).

Since 2017, OCC has advocated for the Government to phase out large institutional C&P residences.¹⁰⁰ We have heard from mokopuna that secure residences are hard places to be happy in – the physical conditions are often poor and there is a lack of freedom and support to be independent.

In 2015 the Expert Panel Report¹⁰¹ stated “evidence and experience show that the propensity of large-scale institutions to cause harm to vulnerable children generally outweighs the security and safety benefits.”

The OCC 2018 State of Care report, Maiea te Tūruapō: Fulfilling the Vision, advocated for the phased closure of residences and their replacement with well-supervised, small community-based group homes. Homes such as these are a far better response to supporting mokopuna who are temporarily unable to live with immediate whānau.

Oranga Tamariki has committed to replacing residences with smaller community-based options, but I am concerned this is not happening quickly enough.

Overrepresentation of mokopuna Māori in C&P custody

Mokopuna Māori make up 27% of all mokopuna in Aotearoa. Yet as of 31 December 2021, 56% of all mokopuna in C&P custody are Māori and 11% identified as Māori-Pacific.¹⁰²

OCC has previously raised with the Committee our serious concerns at these persistent inequities, which reflect ongoing systemic and structural racism, and demonstrates how the system has been unable to respond to the needs of whānau and mokopuna Māori. The ongoing disproportionate representation of mokopuna Māori in the C&P system is our enduring shame as a nation, and the continuing legacy of colonisation, in clear breach of the Government’s obligations under Te Tiriti, the Children’s Convention, General Comment No.11, UNDRIP, and CERD, and the Committee’s recommendations.¹⁰³

Reckoning with colonisation and acknowledging the constitutional implications,¹⁰⁴ as well as the racist and patriarchal foundations of the C&P system, will help develop better policies to care for mokopuna.

Forced removals of pēpi Māori (Māori babies)

“I felt completely helpless. Helpless... We’re just dealing with years of trauma that’s just grown on top of trauma and you give up, you start to get weak around that – the whole thing is trauma”¹

In 2020, OCC undertook a two-part inquiry into the forced removals of pēpi Maori. Other bodies conducted similar independent reviews, following the widely publicised

¹ Mother in our Te Kuku o Te Manawa Report (2020).

removal of a pēpi Māori in Hastings in 2019.¹⁰⁵ The four related reviews include the Whānau Ora Māori Inquiry, Oranga Tamariki Practice Review, Ombudsman's Systemic Improvement Investigation and the Waitangi Tribunal Inquiry.

Following these independent reviews, the Māori Ministerial Advisory Board released Te Kahu Aroha (2021) with recommendations.

Our inquiry, Te Kuku o Te Manawa, published across two reports, revealed distressing experiences of state intervention in the lives of mothers and whānau.

Persistent and intergenerational inequities remain in the practice of forcibly removing pēpi Māori from their whānau into state care. In 2019, pēpi Māori under three months old were five times more likely to be removed compared to non-Māori. Pēpi Māori were also twice as likely to be subject to 'urgent removals' – where a decision to take a baby into state care is made by social workers and the Family Court, often without family and whānau involvement.¹⁰⁶

Our inquiry identified six areas for change:

1. The system needs to recognise the role of mothers as te whare tangata^{li} and treat them and their pēpi with humanity;
2. Unprofessional statutory social work practice is harming mothers, whānau and pēpi;
3. Whānau need the right support from the right people;
4. Pēpi Māori and their whānau are experiencing racism and discrimination;
5. The organisational culture of the statutory C&P system needs to support parents and whānau to nurture and care for their pēpi; and
6. The system needs to work in partnership with whānau, hapū and iwi so they can exercise tino rangatiratanga.

Mokopuna do best when they are cared for and nurtured by their whānau. For pēpi Māori, their connections to whakapapa and the importance of whanaungatanga affirm the importance of them remaining in the care of their whānau.

Adoption

The Adoption Act 1955 has not been reformed in 66 years and is inconsistent with the Children's Convention. OCC supports the reform process currently underway. Our submission¹⁰⁷ to the Ministry of Justice highlighted the need for new legislation to align with Te Tiriti, mātauranga Māori, tikanga and Te Reo Māori, as well as the Children's Convention, UNDRIP, and the Disability Convention.

^{li} The house of humanity, the womb, uterus.

Further, data and information gaps related to adoptions must be addressed, ensuring data is disaggregated by age, ethnicity, and disability and robust systems are put in place to respond to traumatic events that may occur for mokopuna and whānau.

OCC recommends the Government:

- 4.1 Reform the care and protection system, by devolving power and resources to Māori, in line with their rights as tangata whenua, to care successfully for their own mokopuna.
- 4.2 Urgently implement the recommendations from the OCC 'State of Care' report series (2016-2020) as well as the monitoring reports^{lii} of the care and protection system.
- 4.3 Prioritise the phased closure of all secure care and protection residences, keeping mokopuna with whānau where possible and replacing large residences with smaller community-based options, to be used when necessary.
- 4.4 Urgently address the inequities experienced by mokopuna Māori in the care and protection system by resourcing by Māori, for Māori approaches to protecting the wellbeing of mokopuna before they enter the care and protection system, and during.
- 4.5 Urgently implement the recommendations from the Te Kuku O Te Manawa Inquiry (2020), as well as other inquiries, to keep pēpi Māori in the care of their whānau.
- 4.6 Ensure adoption reform guarantees targeted consultation with those who have knowledge, and lived experience, of adoption, including mokopuna, Māori, Pacific, refugee and migrant communities and disabled people.

^{lii} Including OCC's reports under s13 of the Children's Commissioner Act 2003, OPCAT monitoring reports, and Te Kuku O Te Manawa Inquiry.

Disabled mokopuna (art 23)



Disabled mokopuna (art 23)

Key insights from engagements with disabled mokopuna^{liii} include:

1. Acceptance: Discrimination is widely experienced by disabled mokopuna
2. Accessibility: A lack of accessibility gets in the way of a good life
3. Safety: Unique for all of us
4. Education: To work better for us, be flexible and supportive
5. Employment: Job opportunities and being supported is important to us
6. Whānau: We want support from, and for, friends, families, whānau and communities

Disabled mokopuna in Aotearoa continue to experience discrimination, prejudice, and disproportionately worse outcomes across a range of areas compared to non-disabled mokopuna. Mokopuna Māori and Pacific mokopuna make up 40% of mokopuna aged 5 to 6 with high and very high support needs.¹⁰⁸ Support for disabled mokopuna needs to be culturally responsive to the diverse ethnicity of disabled mokopuna and recognise their intersecting identities.

In July 2022 the Government announced a new Ministry for Disabled People which aims to bring together fragmented supports and systems, which have historically been difficult to navigate. While we are cautiously optimistic, to date, there has been little to no consultation with disabled mokopuna. The Disability Action Plan 2019-2023 is a positive step; however, more focus is needed to be responsive to the unique needs of disabled mokopuna.

Access to community, activities, and leisure

"If you were a young disabled person in a wheelchair and there wasn't a ramp at the front of a building, [you would have to] go around the back entrance just to get in. As much as you have the accessibility it's almost dehumanising to be forced to go through that back entrance."^{liv}

Disabled mokopuna have shared difficult experiences due to inaccessible physical environments in their community.¹⁰⁹

The Government has not developed or agreed upon comprehensive definitions of universal design and accessibility nor used existing definitions consistently.¹¹⁰

Mokopuna have told us about the types of modifications that would help them to access their community, such as voiceover announcements installed in trains and buses.¹¹¹ The IMM recommended accessibility and universal design be implemented

^{liii} What Makes a Good Life for Disabled Children and Young People? (2019).

^{liv} Disabled mokopuna from Auckland in What Makes a Good Life for Disabled Children and Young People? (2021).

in all new housing developments, public spaces, transportation and ticketing systems, shared-use spaces and technologies and communications.¹¹²

Some disabled mokopuna are excluded from extra-curricular activities in their communities. The 2013 Disability Survey found disabled mokopuna were less likely than non-disabled mokopuna to have had music, art, or other similar lessons; played a team sport; done other physical activity such as swimming or gymnastics; visited friends; or been away on holiday in the past 12 months.¹¹³

“I don’t go for tramps or walks in nature because they’re quite inaccessible at times. That’s a huge barrier. We used to go camping but having to call up and ask about accessibility was a big thing. There are some spaces I’d love to go but I can’t because of accessibility.”^{lv}

Disabled mokopuna shared that walkways and nature trails maintained by the Department of Conservation are not accessible to them, such as pathways that were too narrow for adaptive bicycles and information about places such as campsites was not readily accessible.

Bodily Autonomy

OCC is concerned that the Safeguarding Bodily Integrity Rights work programme,¹¹⁴ which protects the bodily integrity of disabled mokopuna and adults against non-therapeutic medical procedures has stalled.

The 2014-2018 Disability Action Plan developed this programme with an initial focus on seeking options to protect against non-therapeutic sterilisation without the fully informed consent of the individual. This work was led by the Ministry of Health with support from the Ministry of Justice but has not been completed.¹¹⁵

There is currently no requirement under the Contraception, Sterilisation, and Abortion Act 1977 and associated regulations to report on whether those receiving sterilisation are disabled, which means that data relating to the scale and implications for disabled mokopuna is limited.

Fetal Alcohol Spectrum Disorder (FASD)

In Aotearoa, an estimated 1,800 mokopuna are born with FASD each year (3%).

OCC, in conjunction with the Disability Rights Commissioner at the HRC, have raised concerns at the lack of appropriate progress on providing greater support for those with FASD and their whānau and on implementing the cross-agency FASD Action Plan.¹¹⁶

^{lv} Mokopuna Voices Summary (2021).

This lack of support includes resources for the medical profession, service providers, educators, and the Judiciary, meaning those with FASD and their whānau are isolated and unsupported. Most significantly, FASD has been shown to increase death by suicide.¹¹⁷

Evidence shows that Māori experience disproportionate levels of alcohol related harm. However, there is minimal research which looks at the experiences of whānau Māori who require support and care for alcohol related health problems, including FASD.

OCC recommends the Government:

- 5.1 Ensure disabled mokopuna are involved in the Ministry of Disabled People on an ongoing basis and are a focus in the Ministry's policies and disability work programme.
- 5.2 Remove barriers for disabled mokopuna by co-designing accessible systems with disabled mokopuna to upgrade existing public infrastructure to meet international best practice accessible design standards.
- 5.3 Develop legislation prohibiting the use of sterilisation or any other non-therapeutic medical procedure on disabled mokopuna without their prior, fully informed, and free consent, and improve data collection and reporting on these procedures.¹¹⁸
- 5.4 Implement the recommendations of the OCC and HRC combined report Fetal Alcohol Spectrum Disorder: A Call to Action (2020).

Basic health and welfare (arts 6, 18 (3), 24, 26, 27 (1) – (3) and 33)



Basic health and welfare (arts 6, 18 (3), 24, 26, 27 (1) – (3) and 33)

Health services

One of the CYWS's areas is for mokopuna to be 'happy and healthy' which includes improving maternity, early years, school-based and mental health services and supports. There are several positive initiatives underway, including a review of the Well Child Tamariki Ora programme, the Maternity Action Plan, and Healthy Active Learning programme, among others.¹¹⁹

The 2022 Budget allocated significant resources to the health sector, including \$11.1b overall, and \$299m for Māori health services.¹²⁰ Te Mana Hauora Māori (Māori Health Authority) will develop priorities for the health system's broader expenditure to ensure it prioritises Māori health.

In 2021, the Government announced measures to ban the sale of cigarettes to future generations of mokopuna,¹²¹ as part of the Auahi Kore Aotearoa Mahere Rautaki 2025 (Smokefree 2025 Plan).¹²² The Smoke-free Environments (Prohibiting Smoking in Motor Vehicles Carrying Children) Amendment Act came into force on 28 November 2021, prohibiting smoking and vaping in motor vehicles carrying mokopuna under 18 years of age. OCC supports these reforms, which were strongly advocated for by mokopuna themselves.

Access to health services

"A good life also means living mentally and physically healthy, or if not, having access to medical help (that you can afford)"^{lvi}

Mokopuna have shared with OCC the importance of good health to live a good life, as well as the barriers that get in the way, such as costly appointments or long wait times. Disabled mokopuna described additional barriers to accessing health care, including specialist services.

"I'd love to see the government change is the ages in which you're in the kid services vs the adult service. Some departments have different ages, one is 15 and one is 18. I think 15 is too young to be in adults services. People can get lost in the system. I'm scared that when I turn 15 or 18 I wont be able to access it well any more."^{lvii}

^{lvi} 15-year-old Samoan mokopuna in What Makes a Good Life? (2019).

^{lvii} Mokopuna Voices Summary (2021).

Barriers to accessing health care include poverty, long wait lists, restrictive eligibility criteria, high costs, and a lack of culturally appropriate services and supports. For mokopuna Māori additional barriers include intergenerational systemic racism and inequality.^{lviii} Age restrictions and waiting lists mean some mokopuna 'age-out' of services, such as speech therapy, before they start school. This can result in ongoing impairments and negatively impact on the rights of mokopuna to learn. We heard from disabled mokopuna that eligibility and supports are different depending on their age and where they live, making it difficult to access the specialist care they need.

Reducing cost barriers has proven to be effective. A 'Zero Fees' health initiative was extended beyond mokopuna aged 0–5 to include those under-14 in December 2018. Removing the cost barrier for GP visits has noticeably increased the number of mokopuna visiting their GP.¹²³ However, there remain other barriers such as cost of transport, prescriptions and other therapies and treatments.

Rainbow mokopuna continue to experience barriers to support services, and experience poorer health and social outcomes, including disproportionate rates of suicide, homelessness, and poor mental health.¹²⁴

Preventable illnesses

Every year thousands of mokopuna across Aotearoa are admitted to hospital with avoidable illnesses and injuries.¹²⁵ Exposure to tobacco smoke, poor housing conditions, inadequate or poor nutrition and oral hygiene, and failure to vaccinate are just some of the drivers of potentially avoidable hospitalisations for mokopuna.

Poverty is a key barrier to mokopuna accessing primary health care. This can include the cost and time of travelling to a health centre, or parents' ability to take time away from work to attend appointments with their mokopuna. In 2020/21, the rate of potentially avoidable hospitalisations was 49 per 1,000 mokopuna (ages 0- 15).¹²⁶

Mokopuna Māori and Pacific mokopuna continue to experience higher rates of potentially avoidable hospitalisations. In 2020/21, potentially avoidable hospitalisations for Pacific mokopuna aged 0-15 were 72 per 1,000; compared with 56 per 1,000 mokopuna Māori; and 42 per 1,000 Pākehā mokopuna (New Zealand European) and other ethnic backgrounds. Other studies also show the rates for all illnesses, particularly respiratory illnesses, are highest among mokopuna Māori and

^{lviii} A 2021 review of hospital services found that Māori experienced hostility, racism, poor communication, practical barriers to accessing care, and roadblocks to community-based care, including feeling culturally unsafe. The review also found that negative experiences for whānau members influenced whether wider whānau members sought care. This was reflected in the vaccine roll-out and vaccine hesitancy among Māori. See: 2021. Espiner E, Paine SJ, Weston M, Curtis E. Barriers and facilitators for Māori in accessing hospital services in Aotearoa New Zealand. *N Z Med J.* 2021 Nov 26;134(1546):47-58. PMID: 34855733.

Pacific mokopuna.¹²⁷ Mokopuna Māori are more than twice as likely to become ill with rheumatic fever,¹²⁸ a disease that remains entrenched in Aotearoa.¹²⁹

As of 16 May 2022, seven mokopuna have died with COVID-19.¹³⁰

Table 1: COVID-19 cases (as of 16 May 2022)

Age group	Active (confirmed and probable)	Recovered	Deceased ^{lix}	Total cases	Percentage of all cases
0 to 9	4,903	121,088	3	125,994	12%
10 to 19	7,875	175,864	4	183,743	17.5%

Equitable health care

The public health system has been found to be fragmented, inequitable and inconsistent. For some population groups, in particular Māori, Pacific peoples, and disabled people, it results in poorer health compared to others in Aotearoa.

The 2017 report, *Te Ohonga Ake*,¹³¹ found that while there have been some improvements in health outcomes among mokopuna Māori, disparities remain across many indicators.

Recent reports found pēpi Māori made up 66% of sudden unexpected deaths in infancy (SUDIs) despite only comprising 29% of births, and 20% were Pacific (who make up 15% of births). Pēpi Māori are 8.5 times more likely to die of SUDI than non-Māori and non-Pacific pēpi.¹³² Poverty and poor housing were significant factors for many. The reports recommend a complete refresh of the National SUDI Prevention Programme¹³³ that embeds Te Tiriti, and kaupapa Māori and Pacific-based principles in design.

The 2019 report, *He Puapua*, stated “the health system in Aotearoa does not reflect the Māori model of well-being, and Māori continue to have the poorest health of any group in Aotearoa. Māori have little autonomy and rangatiratanga in relation to the health sector.”¹³⁴

In 2021, a new statutory entity, the Māori Health Authority was established to enhance tino rangatiratanga for Māori over hauora Māori (Māori health) and ensure greater influence throughout the entire health system.¹³⁵ This is central to Te Tiriti, ensuring equity of access to good health outcomes, including strengthening mana

^{lix} Those who died with a positive COVID-19 test result, not necessarily due to COVID-19 infection.

motuhake for whānau – supporting Māori to take control of their own health and wellbeing.

Increased funding for Whānau Ora in the 2022 Budget and the current review of Tamariki Ora demonstrates support for improving health and social outcomes for mokopuna Māori.¹³⁶ Current and future government reforms in health provide an opportunity to invest in and embed culturally appropriate and responsive practices across systems, so long as they are adequately resourced. Reforms must recognise the right of Māori to exercise their own autonomy in improving their own outcomes, as defined by Māori, and support this to happen. The Pae Ora (Healthy Futures) Bill was introduced to provide a new legal framework for the health system, including the Māori Health Authority, aimed at reducing health disparities.

While OCC supports these and other health reforms, mokopuna still remain largely invisible in the process.

Mental wellbeing

Global statistics about youth mental health and suicide over the last decade are alarming, showing a marked increase in psychological distress among mokopuna, reflecting the rapidly increasing magnitude of challenges they face.¹³⁷ COVID-19 has also significantly worsened mental health outcomes for mokopuna internationally.¹³⁸

In Aotearoa, the emotional and mental wellbeing of mokopuna is consistent with international trends, with persistently inequitable and worsening outcomes, including growing mental health inequities for Māori, Pacific, and other ethnic groups, as well as gender minority groups.

The national youth (15-19 years) suicide rates are among the highest in the OECD¹³⁹ and findings from the Youth19 survey of 7,721 school students aged 13-19 years, paint an especially bleak picture of youth mental wellbeing (see Table 2).

Table 2: Mental wellbeing comparisons between 2012 and 2019¹⁴⁰

	Māori ^{ix}	Pacific	Asian	Pākehā (NZ European)
Good emotional wellbeing	67% (decrease from 75%) ¹⁴¹	73% (decrease from 79%)	68% (decrease from 76%)	70% (decrease from 76%)
Significant depressive symptoms	28% (increase from 14%)	25% (increase from 14%)	25% (increase from 13%)	20% (increase from 13%)
Attempted suicide	13% (increase from 6%)	12% (increase from 7%)	4% (increase from 3%)	3% (increase from 2%)
Percentage of total suicide rates between 2015-2018 ¹⁴²	48%	10%	5%	37%

Among rainbow mokopuna surveyed by Youth19, a staggering 57% reported experiencing symptoms of depression.¹⁴³ Risks are even higher for mokopuna with intersecting identities.

The number of self-harm hospitalisations for mokopuna (aged 10 to 24) rose from 4,274 in September 2016 to 5,652 in September 2021 – an increase of almost a third.¹⁴⁴

Urgent attention is needed to improve the mental wellbeing of mokopuna. The Youth19 survey¹⁴⁵ identifies socioeconomic deprivation as a key driver for worse mental wellbeing, with symptoms of depression and rates of suicide attempts generally higher among those living in lower income communities and experiencing poverty, inequity, poor housing, intergenerational disadvantage, lack of perinatal care, and poor parenting education and support.

Mokopuna Māori

Mokopuna Māori continue to experience worse mental health outcomes, including higher suicide rates.¹⁴⁶ For mokopuna Māori, the ongoing impacts of discrimination

^{ix} This decline in mental health is consistent with other Māori mental health data and suicide trends, including reviews from [Ngā Pou Arawhenua](#), [Child and Youth Mortality Review Committee](#), and [Suicide Mortality Review Committee](#).

and colonisation, and personal, community and intergenerational trauma are key contributors.¹⁴⁷

“Home is where the heart is some may say so in saying that a child’s home determines a child’s wellbeing. Suicide and neglect is huge within our Pacific Island and Māori community and creating more safer and positive households will prevent these issues. A child needs to be brought up feeling loved and wanted. This increases their chances in growing up to being healthy physically and mentally. A strong tree grows in good soil. With the right foundation we all could have brighter days.”^{lxi}

Despite recent progress in Māori mental health, there are still no specific policies, services, and resources for mokopuna Māori. Immediate action is needed to address this and ensure equity for mokopuna Māori. This includes embedding health systems that support mana motuhake (self-determination), genuine partnership, equitable resourcing of Māori communities and health and mental health services, improved culturally safe systems and services, free primary health care and counselling, and addressing institutional racism.

Access to child-appropriate mental health services

Access to quality and timely youth mental health services and support is problematic for mokopuna in Aotearoa.¹⁴⁸ In 2020/21, only 65% of mokopuna aged 19 and under were seen within three weeks of their referral, and 87% within eight weeks. Despite Government prioritisation of mokopuna these wait times have become worse for mokopuna since 2017/18.¹⁴⁹

Other barriers for mokopuna needing mental health support include the cost of primary care for over 14s (generally required for referral to specialist services), and they are often not as involved as they would like to be in decisions about their care.

Over 2020/21, mokopuna increased their access of primary mental health services^{lxii} and have been dispensed substantially more psychiatric medications.^{lxiii} Studies indicate these increases result from increased stress from COVID-19 and a lack of non-medical alternatives. There are only five acute inpatient mental health support options for mokopuna (see page 73 on age-mixing).

OCC statutory monitoring of secure acute inpatient mental health services has found a system that is stretched and under resourced with high admission thresholds.¹⁵⁰

^{lxi} 18-year-old mokopuna from Ōtāhuhu (Christchurch) in *What Makes a Good Life?* (2019).

^{lxii} Between 2019/20 and 2020/21, mokopuna aged under 20 have shown an increase from 15% of the total population accessing primary mental health services to 18%. New Zealand Mental Health and Wellbeing Commission (2022). *Te Huringa: Change and Transformation. Mental Health Service and Addiction Service Monitoring Report 2022*. Wellington: New Zealand.

^{lxiii} From 2019/20 to 2020/21, there was a 21% increase for initial dispensing of antidepressants for young people (usually a 7-9% increase each year) compared to an 8% increase for the total population. Ibid.

There are not enough child clinical psychologists and psychiatrists, adequate advocacy services, or culturally appropriate treatment options.

The current Mental Health (Compulsory Assessment and Treatment) Act 1992 (Mental Health Act) has no specific focus on the needs of mokopuna. OCC supports the reform process currently underway and expect changes to be consistent with the Children's Convention and include consultation with mokopuna.

The He Ara Oranga: Report of the Government Inquiry into Mental Health and Addiction (2018) found there was an urgent need for better access to, and more choice in, services. The Government committed to investing \$516.4 million towards four new national services, including youth services, delivered in spaces that are acceptable and accessible to mokopuna.¹⁵¹

Released in 2021, Kia Manawanui outlines the long-term pathway for transforming the approach to mental wellbeing in Aotearoa. The 2022 Budget allocated additional resourcing to programmes such as Mana Ake and Piki Ora, although these have not been rolled out nationwide. There is a lack of funding allocated for mokopuna aged between 12-18 years or for support for mokopuna and whānau in lower socioeconomic communities.

Dedicated funding has been allocated over four years to increase community youth forensic staff across all regions¹⁵² and the rollout of Whakamana Tangata. OCC statutory monitoring has shown that access to forensic mental health services is currently inadequate for mokopuna (see page 70).¹⁵³

Climate change

"Climate change is a national and global issue and I think the government has not [done] enough to resolve this issue as well as it being an important issue to youth and rangatahi considering it is one of our biggest and something that will affect us in the future."^{lxiv}

Climate change is one of the most serious threats to the rights of mokopuna today,¹⁵⁴ including rights to health, life, food, water and sanitation, education, housing, culture, and development among many others.¹⁵⁵ There are additional adverse impacts for girls, disabled mokopuna, migrants and refugees, and indigenous mokopuna.¹⁵⁶

UNICEF's Innocenti Report Card 17, which explores the environment and wellbeing of mokopuna, ranked Aotearoa 15th out of 39 countries, doing well on generating renewable energy and environmental protection, but below average on road safety and lead poisoning.¹⁵⁷

^{lxiv} Mokopuna Voices Summary (2021).

Climate change and environmental justice are priority issues for mokopuna across Aotearoa. In 2019, around 170,000 mokopuna took part in protests as part of Schools Strike for Climate¹⁵⁸ and multiple mokopuna-led organisations have found platforms both in Aotearoa and globally, including 4 Tha Kulture,¹⁵⁹ 350 Pacific Climate Warriors, and Te Ara Whatu. The majority of mokopuna we surveyed for this report said they wanted urgent action, as well as more information and education on climate change.

“It should be the government’s top priority, and it isn’t at the moment.”^{lxv}

In December 2020, the Government declared a climate emergency¹⁶⁰ and has developed a framework towards lowering greenhouse gas emissions and improving climate resilience in Aotearoa.¹⁶¹ In 2022, the Government released its Emissions Reduction Plan¹⁶² with \$2.9 billion allocated from an Emergency Response Fund. The 2022 Budget allocated \$31 million for a Māori climate action platform.

The Ministry for the Environment engaged with mokopuna in the development of the Emissions Reduction Plan¹⁶³ and the long-term insights briefing.¹⁶⁴ However, there has only been a focus on hearing from those aged 14-26.

Aside from these two projects, it is unclear to what extent mokopuna have been engaged in the development of policy relating to climate change. Currently, there are no specific climate change policies or programmes specifically aimed at addressing the special vulnerabilities, needs, and views of mokopuna.¹⁶⁵

It is the feeling of myself and many of my peers that the government of Aotearoa NZ and other worldwide governments are simply committing token gestures, and not doing anything that will effect real change to halt climate change. We feel that we will be left to pick up what pieces we can of a broken planet. I have even heard adults say things like, “It’s okay, the kids will fix it all.”^{lxvi}

Mokopuna have clear ideas on how to prevent climate change and mitigate its effects. They must be actively involved in identifying solutions and policy and legislative changes to address the climate emergency.

Climate change and mokopuna Māori

“Without the whenua we are not tangata whenua, so we have got to look after it. Everything in this (constitutional) mahi should start with that”^{lxvii}

^{lxv} Ibid.

^{lxvi} Mokopuna Voices Summary (2021).

^{lxvii} Mokopuna Māori in the Matike Mai Aotearoa Report (2016), page 95.

Both globally and in Aotearoa, solutions to addressing climate change must be rooted in indigenous knowledge, enacting the knowledge, culture, rights, and sovereignty of Indigenous peoples.¹⁶⁶

For Māori, intergenerational connections to the whenua (land) are intrinsically linked to iwi/hapū identity, belonging and wellbeing, nourishing a sense of continuity in the form of whakapapa.¹⁶⁷ These links are crucial to the cultural, spiritual, and psychological wellbeing of Māori and transmission of mātauranga Māori.¹⁶⁸

As climate change worsens in Aotearoa, the adverse impacts are expected to be borne disproportionately by mokopuna Māori and other groups already suffering inequities.¹⁶⁹ Coastal Māori communities are especially vulnerable to sea-level rises, high tides, widespread coastal inundation, and erosion.¹⁷⁰ For example, floods in Gisborne in 2022 Māori communities lost urupā (burial sites) and suffered significant damage to marae.¹⁷¹

Loss of cultural sites jeopardises the rights of mokopuna Māori to language and customary practice, as landscapes have waiata (songs), pūrakau (narratives), whakataukī (Māori proverbs), and karakia (prayers) associated with them that inform about human-environment history, belonging to place, and historical impacts of severe events.¹⁷²

Over half of all mokopuna Māori surveyed for this report said climate change was an important issue. OCC urges the Government to develop solutions that acknowledge the rights of mokopuna Māori to rangatiratanga and mana motuhake, according to kawa (Māori methodology or protocol) and tikanga, He Whakaputanga, Te Tiriti, the Children's Convention and UNDRIP.

Climate change and Pacific mokopuna

Pacific mokopuna will be affected by worsening impacts of climate change. Most Pacific mokopuna in Aotearoa have connections with Samoa, Tonga, the Cook Islands, Niue, Tokelau and Fiji, countries that are already being severely impacted by climate change.

Pacific mokopuna maintain strong historical, familial, cultural, language and economic connections with those living in the Pacific Islands. These connections will be increasingly threatened by climate change. Pacific mokopuna shared with OCC their concerns for their whānau in the Pacific and losing places their families are from if sea levels rise.

"Climate change is pretty important for me because of the places that might be gone"^{lxviii}

^{lxviii} Pacific mokopuna, Mokopuna Voices Summary (2021).

Pacific mokopuna already experience marginalisation and inequities in Aotearoa, for example, they are more likely to be living in crowded homes in deprived areas. Their housing conditions may be made worse as climate change aggravates poor housing conditions, the supply and affordability of housing and food, and increase overcrowding as displaced Pacific people come to stay with their extended family.¹⁷³

Pacific mokopuna-led groups and movements have been playing a critical role in demanding accountability and action from leaders on climate change, both domestically and internationally.

Standard of living

Material hardship

There have been some fundamental shifts in legislation and policy development to lift mokopuna standard of living, including the [Child Poverty Reduction Act 2018](#) and CYWS. However, these initiatives have not yet drastically improved mokopuna lived realities.

There has been little movement in the Child Wellbeing Indicators since 2016 and the rates at which mokopuna in Aotearoa experience poverty, material deprivation, violence, abuse, and neglect remains high. These factors disproportionately affect mokopuna Māori, Pacific, and disabled mokopuna.

In the year ended June 2021, 18.1% mokopuna Māori and 17.2% Pacific mokopuna were living in households with equivalised disposable income before housing costs below 50% of the contemporary median. This compares with 13.6% of all mokopuna. The Government failed to achieve its 2020/21 target of 10.5%. Rates of mokopuna living in households experiencing material hardship were nearly twice for mokopuna Māori (20.2%) and Pacific mokopuna (24%) than the rate for all mokopuna (11%).¹⁷⁴

In 2019/20, for the first time, official child poverty data was disaggregated by disability status. Data showed that disabled mokopuna experienced over double the rate of severe material hardship compared to non-disabled mokopuna (8.6% and 4.1% respectively).¹⁷⁵ 2020/21 data showed little change. Parents of disabled mokopuna frequently reported relying on supplementary forms of assistance to make ends meet.¹⁷⁶ This financial pressure is even more severe in single-parent households, where disabled mokopuna are more likely to live than non-disabled mokopuna.¹⁷⁷

Benefits

The number of mokopuna living in benefit-receiving households has risen by over 15% in the last two years to 208,000 mokopuna (roughly one in every five).¹⁷⁸ The Government has changed the annual adjustment of main benefits to index increases to the average wage, rather than the Consumer Price Index (CPI).¹⁷⁹ In 2018, the

Government established the Welfare Expert Advisory Group (WEAG) to advise on the future of the social security system. A 2019 report¹⁸⁰ provided 42 recommendations to restore dignity to the system, of which only 22 have been partially implemented.¹⁸¹ There are also several open Waitangi Tribunal Kaupapa inquiries relating to standards of living for Māori.¹⁸²

Whānau income

“enough for the basics, plus a little bit more”^{lxix}

The Government has increased the Working for Families Tax Credit by \$5, on top of inflation increases. However, this is below the WEAG’s recommended rate increase.¹⁸³ The 2021 Budget¹⁸⁴ delivered the largest increase to benefits in several decades, with benefits in line with WEAG recommendations. However, the recommendation was for this to be a minimum, immediate first step which should be complemented by other measures.¹⁸⁵ The changes increased main benefits by between \$20 and \$42 per adult and increased the minimum wage to \$21.2 per hour.¹⁸⁶

While the 2022 Budget delivered some positive changes for whānau it did not provide any circuit breakers or substantial shifts in the drivers of child poverty.

Changes introduced included a one-off \$350 cost of living payment over three monthly instalments in 2022 to help ease the increasing cost pressures low and middle-income families and whānau are facing. Modelling suggests almost 500,000 households with mokopuna will receive this payment. However, this benefit doesn’t go to those who get the Winter Energy Payment or other beneficiaries.

The 2022 Budget reformed the way child support payments are made. It is estimated that 41,550 sole-parent families will be better off, with a median gain of \$24 per week.¹⁸⁷

Overall, the 2022 Budget did not deliver sufficient supports to lift whānau out of intergenerational poverty.

Mokopuna in households with a disabled member had over three times the rate of severe material hardship compared to those in non-disabled households. Nearly 30% of all mokopuna live in a household with at least one disabled person, and over half of all mokopuna who live in material hardship live in a household with at least one disabled person.¹⁸⁸

While the 2022 Budget provided additional funding for disability supports, there was no increase to the disability allowance or the child disability allowance, no changes to relationship rules for beneficiaries and no other increases to core benefits.¹⁸⁹

^{lxix} Mokopuna in [What Makes a Good Life?](#) (2019).

During the COVID-19 pandemic, short term welfare policy responses showed what our welfare system could look like: a responsive high trust safety net that maintains the financial wellbeing of whānau at a liveable rate.

The COVID-19 payments raised issues of direct and indirect discrimination in terms of differential levels of financial support to parents depending on when and why jobs were lost rather than the needs of whānau with mokopuna. The impacts of COVID-19 underscore the importance of the welfare overhaul work programme including the need to speed up implementation of the remaining WEAG recommendations.¹⁹⁰

Food security

“Sometimes you can’t afford what you need. Can’t afford experiences – camps and school trips, education, food – like if you have bad health because you can only afford the bad stuff, you’re never gonna get healthy”^{lxx}

Accessing consistent sources of healthy food continues to be an issue for mokopuna in Aotearoa. In 2019/20, one in five mokopuna were living in households where food ran out sometimes (15.6%) or often (4.3%) due to lack of money.¹⁹¹ In 2019, the Government introduced free school lunches targeted to the 25% most disadvantaged mokopuna, which aims to help food insecurity for households.¹⁹²

However, current levels of Government assistance remain insufficient to support whānau to have continuous access to nutritious food. In 2020, the Child Poverty Monitor reported 56% of mokopuna living in families receiving financial assistance did not always have enough healthy food. Māori (30%) and Pacific whānau (45%) were most likely to run out of food, compared with Pākehā families (16%).

Adequate housing

The UN Special Rapporteur on the Right to Housing (the Rapporteur), on their visit to Aotearoa, branded the housing crisis a human rights crisis requiring urgent attention.¹⁹³ The Government has made efforts to address the housing issues, including establishing the Ministry of Housing and Urban Development (MHUD) in 2018. This was followed by an ambitious work programme, including:

- Healthy Homes Standards (2019), with minimum standards for heating, insulation, ventilation, moisture, and draught stopping;¹⁹⁴
- altering the eligibility for social housing, resulting in more whānau being eligible for housing supports;
- Māori and Iwi Housing Innovation Framework for Action, which seeks to advance Māori housing outcomes, in partnership with whānau, hapū and iwi;¹⁹⁵

^{lxx} Mokopuna from Whāngarei in [What Makes a Good Life?](#) (2019).

- Residential Tenancies Amendment Act 2020, which included reform aimed at increasing security of tenure for people in rental accommodation;
- Homelessness Action Plan: Phase One 2020–2023, aimed at ensuring homelessness is prevented, rare, brief and non-recurring;
- New rules allowing rent increases only once per year;
- Public Housing Plan for 2018–2022, which has committed to building or buying 6,400 additional publicly-owned social housing units between 2018 and 2022.

Significant increases in house prices and rents have impacted on these efforts. Financial regulation of mortgages, residential rental tax rules, and tax incentives for newly built homes have been introduced to dampen further housing cost increases.

Access for Māori

Mokopuna Māori rights to adequate housing must meet Te Tiriti obligations and respond to the legacy of colonisation, land dispossession, forced assimilation, and racism. Whenua dispossession has given rise to, and perpetuates, ongoing homelessness that is linked to connection to the land being disrupted by colonisation and colonial governance.

There is an active Waitangi Tribunal Kaupapa Inquiry into housing, which covers the Crown's Policies relating to Māori homelessness.¹⁹⁶ In 2021, the Rapporteur called for the Government to support, facilitate, and provide financial resourcing to iwi, rūnanga (assembly), and Māori housing providers and increase indigenous peoples self-determination of housing.²⁰⁰

The Rapporteur highlighted that tight rental markets allow discrimination to flourish. Homeownership rates for Maori in 2018 were 47%, as compared to 64% for the general population.¹⁹⁷

High housing costs

"Nine people in my home and my nan had her own room. I feel bad because my brother is sleeping in the lounge."^{lxxi}

The increasingly high cost of housing leaves many whānau unable to afford other necessities. In 2018, 29% of households struggled to afford their power bills, spent a larger part of their income on power, or often felt cold.¹⁹⁸ Mokopuna told us high rents meant their whānau were living in smaller homes to save housing costs.^{lxxii} They also told us that they want housing with room for their whole whānau, which is

^{lxxi} Pacific young mum from Tāmaki Makaurau (Auckland) in What Makes a Good Life? (2019).

^{lxxii} Mokopuna Voices Summary (2021).

particularly important for Māori and Pacific mokopuna who want to live intergenerationally or with members of their wider whānau.

Table 3: Households with mokopuna that spent more than 30% income on housing in 2019/20¹⁹⁹

Overall	36.3%
Māori	31.8%
Pacific	33.6%
Disabled mokopuna	35.2%
Households with mokopuna (including at least one disabled person)	32.9%

Property owners can still increase rent every 12 months, with no statutory limitation for increases. The only recourse is through the Tenancy Tribunal, which places the burden on tenants to prove their rent increase put them higher than other similar homes. Many property owners also avoid renting out their homes to people with disabilities for fear of potential modifications or other reasons.²⁰⁰

Quality of housing

“Cold and mouldy, too poor for heating”^{lxxiii}

The quality of housing stock remains a concern. The Healthy Homes Standards will not be compulsory in all rental properties until 2024, and there is a lack of active enforcement which requires tenants to raise issues.²⁰¹ The Rapporteur highlighted concerns at the limited capacity for public inspections to ensure the standards are adhered to.²⁰² Growing competition for rental properties also means that whānau are less likely to raise issues.

In the 2018 Census, one in 20 (5% or 45,400) mokopuna lived in homes that were always damp and 7% (66,800) lived in homes that had mould larger than an A4 size paper.²⁰³ Almost twice the percentage (9.1%) of mokopuna Māori lived in homes that were always damp and 12% of mokopuna Māori lived in homes that always had mould larger than A4 size paper. Pacific mokopuna experienced the greatest barriers to healthy homes with 12% living in homes that were always damp and 16% living in homes with persistent mould.

^{lxxiii} Ibid.

Public housing access

The number of households on the public housing waitlist has grown from 3,352 in 2015 to 18,520 by 2020. Of these, 16,651 households are assessed as 'Priority A' – or 'at risk', with a severe and persistent housing need requiring immediate assistance.

While the Government has committed to an ambitious public housing build programme, this waitlist means whānau continue to live in precarious housing, such as motels or transitional housing for extended periods.

On 31 December 2020, 4,137 mokopuna were living in motels (emergency accommodation).²⁰⁴ This figure is alarming. Placing whānau and mokopuna in motels through emergency housing grants causes stress and uncertainty. The rooms are not large enough for whānau, do not provide a space to play, have inadequate cooking facilities, and can sometimes be unsafe.²⁰⁵ The Salvation Army predicted that future demand for public housing will require at least an additional 2,000 units per year over the next decade.²⁰⁶

The 2022 Budget announced \$355 million dollars for supporting a programme to reset and redesign the emergency housing system. OCC urges the Government to do so from a child rights perspective.²⁰⁷

Homelessness

The 2018 census on homelessness provides a staggering picture; nearly half of those living in situations of homelessness were under 25.

A 2018 study in Auckland City found over 45% of the homeless population were under 18. Approximately 43% of those surveyed were Māori, despite Māori representing only 11% of the city's total population. Similarly, single parents, particularly single mothers, Pacific, rainbow, and disabled peoples were all disproportionately represented among the homeless.²⁰⁸

In 2020, the MHUD introduced the Aotearoa Homelessness Action Plan. A review of the plan found that current homelessness responses were not always suitable for mokopuna who required tailored services.²⁰⁹ The 2022 Budget allocated an additional \$75 million which will contribute to the expansion of youth-focused transitional housing places and the delivery of new supported accommodation for mokopuna with higher and more complex needs.

Homelessness affects Māori and ethnic minorities more frequently, which is likely to reflect larger issues of housing unaffordability and ethnic discrimination in renting practices.²¹⁰ Rainbow mokopuna are also at higher risk of homelessness, as they may have more difficult relationships with their families and be alienated from their family homes. This is a well-recognised risk internationally. Disabled mokopuna are

significantly more likely to experience homelessness (36%) compared with those without a disability (27%).

These figures are sobering, and evidence that intersectional responses, tailored to the specific and unique needs of mokopuna, are urgently needed.

OCC recommends the Government:

- 6.1 Ensure the availability of appropriate, timely, and accessible primary health care to all mokopuna.
- 6.2 Provide sufficient resources for Māori to establish an independent health authority to eliminate disparities, especially for mokopuna Māori.
- 6.3 Ensure the healthcare system reforms eliminate disparities for Pacific mokopuna and disabled mokopuna.
- 6.4 Urgently address the underlying causes of suicide and poor mental health among mokopuna and ensure their perspectives are included in the development of response services.
- 6.5 Ensure all mokopuna can access age and culturally appropriate mental health and counselling services for free, and in a timely manner.
- 6.6 Strengthen mental health services and programmes for mokopuna by allocating sufficient resources for early intervention support, developing therapeutic community-based mental health services, and increasing the number of qualified professionals to meet mokopuna mental health needs.
- 6.7 Ensure that reforms to the Mental Health Act involve and consider the needs of mokopuna.
- 6.8 In line with Te Tiriti, ensure all measures to address climate change involve genuine partnership with mokopuna Māori, as tangata whenua.
- 6.9 Establish systems and structures to address climate change, which centralises the voices of mokopuna and takes into account their needs and views, in accordance with the principles of the Children's Convention.
- 6.10 Promote awareness of climate change and actively collaborate with youth-led climate organisations to increase climate awareness across wider society.
- 6.11 Urgently, and fully, implement the recommendations of Whakamana Tangata, the Welfare Expert Advisory Group report (2019).
- 6.12 Set ambitious future targets for the Child Poverty Reduction Act 2018, in order to achieve the Sustainable Development Goals relating to child poverty.
- 6.13 Ensure all whānau have continuous access to access nutritious food, including by regulating food prices in the supermarket industry.
- 6.14 Strengthen measures to provide whānau in need with long-term social housing and other support measures, with a view to eliminating homelessness and guaranteeing mokopuna access to adequate housing.

Education, leisure, and cultural activities (arts 28–31)



Education, leisure, and cultural activities (arts 28–31)

Education

In the 2020 report to the Committee,²¹¹ OCC acknowledged the significant work programme underway in the education sector, including extensive school governance changes through the Tomorrow's Schools Review.²¹² OCC is encouraged by these reforms, and consider them a positive step towards ensuring all mokopuna receive an inclusive, quality education. However, there are still systemic issues that need to be addressed to ensure all mokopuna have equitable access to education.

While most school students (816,000) in Aotearoa fare well, the education system is still failing to deliver equitable outcomes for some groups of students, particularly Māori, Pacific, and disabled students. According to UNICEF's Innocenti Report Card 15, Aotearoa has one of the most inequitable education systems in the world.²¹³

School achievement inequities

Māori and Pacific students are less likely to leave school with a qualification of any kind, and more likely to leave school with a lower qualification than students of Asian or European ethnicity.²¹⁴ Schools suspend or exclude Māori and Pacific students at higher rates. This persistent inequality is, in large part, driven by poverty, which disproportionately affects Māori and Pacific whānau, coupled with systemic racism, both of which are part of ongoing colonisation.

Racism in the education system

In 2018, students shared with OCC their experiences of education^{lxxiv} which included bullying, racism, and discrimination (see page 21). One of the key things they told OCC was that some teachers were racist towards Māori students and expected them to fail. Students also said racial stereotyping and low expectations meant they were more likely to feel unmotivated at school. Some students identified this as a significant contributing factor to their eventual exclusion from school.

Ākonga Māori (Māori students)

There is an enduring legacy of colonisation within the education system. To ensure the best possible outcomes for Māori and their whānau, colonisation in all its forms needs to be recognised. This includes, but is not limited to, systemic, structural, epistemological, and interpersonal racism.

^{lxxiv} In OCC's 2018 report series, [Education Matters to Me](#).

Within kura kaupapa, ākonga Māori are able to exercise their right to learn, grow and develop as Māori. This right is not necessarily supported within mainstream education.

A Waitangi Tribunal Kaupapa Inquiry was proposed to look at education services and outcomes, including the public education system, kaupapa Māori education (education based on Māori language and culture), pre-primary, primary, secondary and tertiary education, curricula, and finance.²¹⁵

The Māori Affairs Committee is undertaking an inquiry into learning supports for Māori across primary, secondary, alternative, and Māori medium education. The inquiry seeks to understand Māori learning support needs, whether these are being met, and to identify how they can be met more effectively.²¹⁶

There is stigmatisation of Māori who move from Kura Kaupapa Māori to mainstream. Māori who have Te Reo Māori as their first language, are exposed to greater risk of being incorrectly identified as being illiterate because of difficulties reading and writing English. In addition, Māori who are taught within mainstream education may consider transitioning to Kura Kaupapa Māori an unattainable goal.

In 2020, Te Hurihanganui was established within the Ministry of Education (MoE) and aims to strengthen Māori transformational approaches and build a critical consciousness to support a structural shift within the education system, which OCC supports.²¹⁷

Te Reo Māori in school

MoE issued a Statement of National Education and Learning Priorities²¹⁸ which stipulated that schools, early learning centres, and tertiary institutions should meaningfully include Te Reo Māori and tikanga in their everyday life. However, there are not enough teachers fluent in Te Reo Māori to enable this, and the Government does not fund Te Reo Māori for all teachers.²¹⁹ More concerted effort is needed to revitalise Te Reo Māori through education, as an official language of Aotearoa.^{lxv}

Bullying

For the OCC Our Kind of School report (2019), mokopuna across five schools and kura shared their views on what makes positive, inclusive, safe school environments where bullying is prevented and responded to, with six key insights:

1. Knowing, and meeting the needs of, each student.
2. Strong and respectful school/kura leadership, which lays the foundation for a positive school/kura culture.

^{lxv} And to support Te Tiriti, Article 30 of the Children's Convention, General Comment No.11, the principles of UNDRIP, and Te Ture mō Te Reo Māori 2016 (The Māori Language Act 2016) and accompanying revitalisation strategies (see page 54).

3. Commitment to tikanga and Te Reo Māori in the classroom, culture, and community of the school/kura.
4. Connecting with and including whānau and wider community in school/kura life.
5. Valuing and celebrating staff and student diversity.
6. Quick and effective responses to bullying incidents.

Any anti-bullying initiatives should consider the findings of this report and further engage with mokopuna themselves to seek solutions.

Student Voice

One of the key places mokopuna have told OCC that they want to be heard is at school. Currently, there is no requirement for primary schools to create a mechanism for mokopuna to be heard or provide feedback, but high schools are required to have a student on the school board. Mokopuna have told us that this approach often tokenises students. OCC encourages schools to develop a mechanism, co-designed with students and specific to individual schools and communities, to hear from and respond to students at the board level, particularly in primary schools and intermediate schools.

Rights education

There is no formal measure to determine whether mokopuna are aware of their rights under the Children's Convention, and no requirement to provide rights education. The New Zealand Curriculum includes some human rights learning in Social Studies and Health and Physical Education subject areas, but there is no reference to the Children's Convention itself.

In 2018, OCC developed a Rights: Now! resource for schools, which provides an introduction for teachers and mokopuna to develop an understanding and practical application of mokopuna rights and the Children's Convention. This resource has a specific focus on mokopuna rights to have their say, participate and be heard on issues that affect them, whether it be in their school, community or the whole country.

Associated schooling costs

In 2019, the Government removed school donations for decile 1-7²²⁰ state and state-integrated schools that opted into alternative funding.²²¹ It also removed fees for the National Certificate of Educational Achievement and Scholarship examinations.²²² However, for many whānau there are still significant costs associated with schooling including stationary, transport, and uniforms, and many schools still ask for 'donations' to be paid. There are additional costs associated with extracurricular activities such as camps, sports, and music lessons.

Digital exclusion

Digital exclusion, such as cost of devices and connections, is a barrier for some mokopuna in Aotearoa. For mokopuna in rural areas there are connectivity issues.²²³ The COVID-19 pandemic and subsequent lockdowns revealed the scale of digital exclusion, in terms of number of households and students without devices, connections, or both.²²⁴ In 2020, approximately 60,000 and 80,000 unconnected households had school-age mokopuna.

Māori, Pacific, and other ethnic groups of students reported less access to virtual learning than Pākehā and other European students.²²⁵ There were disparities by school decile, whereby 94% students in decile 1–3 schools had access to a device in their spare time, compared to 98% in decile 4–7 schools and 99% for those in decile 8–10 (least deprived) schools.

Board exclusions from schools

School boards can exclude a student for various reasons stipulated in the Education and Training Act 2020. Following lobbying from the Children's Commissioner and others, this new act now has a provision which allows for an independent dispute resolution mechanism to be established, to help resolve disputes between students and schools, including decisions relating to a student's exclusion or expulsion. However, this provision is yet to be implemented.

Access for disabled mokopuna

" Can you please come to my school and help me? I want to go to school and just be like everyone else. This is making me feel depressed and angry. Sometimes it makes me feel like I shouldn't exist."^{lxvii}

The Education and Training Act 2020 explicitly covers the right of all enrolled mokopuna to attend school during school hours and clarified that disabled mokopuna have the same rights to attend on this basis.²²⁶ However, schools sometimes make informal requests for students to voluntarily take time away from school.²²⁷ A 2019 survey²²⁸ found that almost a third of disabled mokopuna were being unlawfully denied enrolment at their local school.²²⁹ When they can enrol, there is often not enough in-classroom support for these mokopuna, so they are not able to attend school full-time.

^{lxvii} 2021. Radio New Zealand. Boy with autism asks Children's Commissioner: 'Can you please come to my school and help me?' | RNZ News

“We’re at the back of the school obviously, I wish the mainstream included us more than they do now. We should be in front of the school, but they probably will, still won’t act like, include us more than they do now.”^{lxxvii}

More focus is required to ensure disabled mokopuna can access a full, quality, and inclusive education. Learning supports need to be provided for all mokopuna who need it, whether due to neurodiversity or disability, and this needs to be provided in the context of whānau and hāpori (community) supports.

In 2021/22, the MoE allocated \$41,758,800 towards supporting enrolment of students with special needs. Further, all new schools must meet accessibility requirements as defined by the building code.

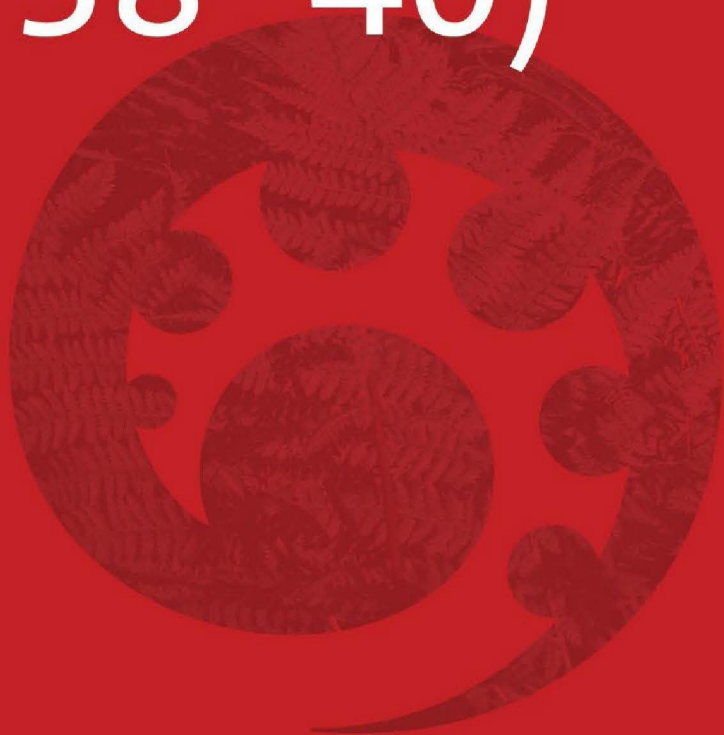
OCC recommends the Government:

- 7.1 Effectively resource kura kaupapa Māori, kohanga reo and Māori medium education, and address racism and inequities to support education outcomes for ākonga Māori and whānau.
- 7.2 Develop measures to eliminate inequities within education for Pacific and disabled mokopuna.
- 7.3 Reduce the rates at which students are excluded from school, with a particular focus on Māori, Pacific, and disabled students.
- 7.4 Make efforts towards enhancing the presence of all official languages in education settings.
- 7.5 Ensure mokopuna can actively participate in decisions that affect them at school, including school governance, and their views are taken into account at all levels of education.
- 7.6 Implement the recommendations of OCC’s Our Kind of School Report (2021).
- 7.7 Implement the dispute resolution panels for students to appeal board decisions.
- 7.8 Address barriers to education, including accessibility, digital exclusion, and schooling costs, to ensure all mokopuna have equitable access to education.
- 7.9 Ensure accessible and equitable access to education for disabled students or those with learning support needs.

^{lxxvii} Disabled young person from Wellington, in What Makes a Good Life for Disabled Children and Young People? (2021).

Special protection measures

(arts 22, 30, 32,
33, 35, 36,
37 (b)–(d) and
38–40)



Special protection measures (arts 22, 30, 32, 33, 35, 36, 37 (b)–(d) and 38–40)

Asylum seeking, refugee and migrant mokopuna

Immigration settings currently discriminate against disabled mokopuna seeking residency in Aotearoa. In some reported cases, whānau members have been accepted for permanent residency, while others were denied, causing whānau to either choose or divide.²³⁰ In some cases, parents have been approved but their disabled mokopuna denied visas.

Immigration New Zealand operational guidelines requires that those applying for New Zealand visas “have an acceptable standard of health.” While this doesn’t preclude those with disabilities, advocates argue the list of conditions is tantamount to a blanket ban against disabled persons.²³¹ These include specifically preventing mokopuna from receiving permanent residency if they are likely to qualify for special education services funded by the Ongoing Resourcing Scheme (ORS).

The IMM recommended a review of relevant legislation and policy to ensure disabled people don’t experience additional barriers above others when applying for entry into Aotearoa.²³²

Mokopuna belonging to minority or indigenous groups

The Government is yet to develop a comprehensive, cross-sectorial strategy for the full enjoyment of the rights of mokopuna Māori and Pacific mokopuna, in close cooperation with them and their communities, as recommended by the Committee.²³³ The CYWS highlights specific actions to increase a sense of belonging and cultural connection, specifically for mokopuna Māori and Pacific mokopuna.²³⁴

Mokopuna Māori

“...in all honesty it would be really good to have more Te Reo Māori in schools starting from preschool all the way up to University”^{lxxviii}

Internationally, there has been a growing movement for mokopuna to be educated in, and have access to, their indigenous languages. Under Te Tiriti, Te Reo Māori is considered a taonga (treasure), and therefore, the Crown has a duty to protect it.²³⁵

The Government has a duty to protect mokopuna rights to culture, identity, freedom of expression and respect for their cultural identity,^{lxxix} which protects every aspect of

^{lxxviii} Mokopuna Māori, Mokopuna Voices Summary (2021).

^{lxxix} Under articles 4, 8, 13, 29, 30 of the Children’s Convention and UNDRIP.

mokopuna indigeneity – including unrestricted access to their language, culture and identity.

Although Te Reo Māori is an official language there is significant underfunding and a lack of support from the Government in fulfilling this obligation.²³⁶

There has been a strong revitalisation of Te Reo Māori in Aotearoa, despite these significant barriers, and the impact of intergenerational trauma for being physically punished for speaking the language.^{lxxx}

“... because of a generational loss we feel disconnected. We try to connect where we live but it’s hard”^{lxxxii}

Most mokopuna Māori reported to OCC that both their school and community provided them with a wide range of opportunities to engage with Te Ao Māori. This included kapa haka, kēmu Māori (Māori games) and the rūmaki Māori (Te Reo Māori immersion) classes.

Te Ture mō Te Reo Māori 2016 (The Māori Language Act 2016) created a partnership for the revitalisation of Te Reo Māori between the Crown and iwi and Māori. The legislation acknowledges that iwi and Māori are the kaitiaki (guardians) of Te Reo Māori, while recognising the Crown’s role in advancing revitalisation by promoting strategic objectives across wider society. The two parties are required to work in active partnership to promote the knowledge and use of Te Reo Māori.

Te Maihi Māori^{lxxxii} (Māori language strategy) is implemented by Te Mātāwai, a representative body of iwi and Māori, who focus on nurturing Te Reo Māori as a first language for mokopuna. The 2022 Budget allocates \$47m to language revitalisation, as well as \$105m to kura kaupapa and \$40m to Māori media.

OCC supports this work, including the work of other partner agencies²³⁷ and community groups. However, there remain challenges in strengthening Kaupapa Māori and akonga Māori within a western education system (see page 59).

Pacific mokopuna

“Language and communication makes connections”^{lxxxiii}

^{lxxx} The Native Schools Act 1867 required instruction in English where practicable, and while there was no official policy banning mokopuna from speaking Māori, many, were physically punished.

^{lxxxii} Mokopuna Māori, Mokopuna Voices Summary (2021).

^{lxxxiii} The Maihi Karauna complements the Maihi Māori, the revitalisation strategy of iwi and Māori, setting out three goals by 2040, including 85% of New Zealanders (or more) will value te reo Māori as a key part of national identity; 1 million New Zealanders (or more) will have the ability and confidence to talk about basic things in te reo Māori; and 150,000 Māori aged 15 and over will use te reo Māori as much as English.

^{lxxxiii} Pacific Mokopuna from Tāmaki Makaurau (Auckland) in What Makes a Good Life? (2019).

Pacific languages are inseparable from Pacific cultures and identities – Pacific cultures thrive if Pacific languages thrive.²³⁸

Pacific mokopuna have told OCC they want their culture to be acknowledged and they want help to learn more about it.^{lxxxiv} They talked about the importance of culture and cultural activities to bring people together and told OCC that knowing where they came from was important to them. OCC heard that culture is important in the context of family and wider community, and in the context of religion. Not being able to speak their language is a challenge for some Pacific mokopuna.

In 2018, the Government released its Action Plan for Pacific Aotearoa Lalanga Fou. The Government is also progressing the Pacific Languages Strategy, which is in consultation stage. OCC recommended the Strategy include a specific focus on engaging with Pacific mokopuna, both in the review and evaluation stages.

Pacific communities are already developing innovative solutions to language revitalisation, including the development of language learning apps,^{lxxxv} community gardens, ethnic-specific cooperative groups, and leadership programmes.

There is an opportunity in the development of this Strategy to enable and resource communities to create their own solutions for hearing from Pacific mokopuna. By only reaching mokopuna at school or through community groups, some Pacific mokopuna may be excluded, including those who may not be in education but are working and supporting themselves and their whānau.

Changes to school history curriculum in Aotearoa will also include historical accounts of the Dawn Raids.^{lxxxvi} In the Government's official Dawn Raids apology, a commitment was made to provide \$2.1 million in education scholarships and fellowships to Pacific communities in Aotearoa as well as \$1 million in Manaaki New Zealand Short Term Training Scholarships for young leaders from Samoa, Tonga, Tuvalu, and Fiji.²³⁹

Mokopuna in employment

The Government is yet to remove its reservation to Article 32(2) (see page 11).

^{lxxxiv} OCC's What Makes a Good Life? Report (2019).

^{lxxxv} O Luga o le Motu Samoan Language App. The App was produced by Tino e Tasi, a bilingual Samoan early childhood education provider with preschools in Christchurch and Dunedin.

^{lxxxvi} The dawn raids were a series of raids carried out at random by the New Zealand police during the mid-1970s against Pacific immigrants. For more information see: Topic Explorer - The Dawn Raids | Services to Schools (natlib.govt.nz)

There is a lack of up-to-date data on mokopuna in employment, which makes it difficult to report accurately on whether their rights are adequately protected, including to be safe and not have their education compromised.²⁴⁰

Mokopuna in Aotearoa tend to work in family-run businesses, the primary sector (agriculture and horticulture), retail, hospitality, and in the informal labour market. These sectors have been particularly impacted by COVID-19²⁴¹ and rising inflation rates.²⁴²

During COVID-19, mokopuna were more likely to experience decreases in income or their hourly rate compared to those aged 25-34, higher casualisation, loss of employment²⁴³ as well as higher rates of mokopuna leaving school to work and support whānau.²⁴⁴

A lack of awareness surrounding employment rights, low union membership and lack of experience means that mokopuna are particularly vulnerable to low pay, less job security, health and safety risks and economic exploitation in the workplace.²⁴⁵

Furthermore, relevant legislation, such as the Health and Safety at Work Act 2015 is not in alignment with the Children's Convention, contrary to the Committee's recommendations.²⁴⁶

A recent employment court judgment,²⁴⁷ found that mokopuna were employed from the age of 6 and under terrible conditions and is evidence of the need for protections for mokopuna in employment.

Administration of youth justice

17-year-olds are now included in the Youth Justice System

Amendments to the Oranga Tamariki Act 1989 in 2019 mean 17-year-olds who commit minor offences are now included in the Oranga Tamariki Youth Justice (YJ) system rather than the adult system.²⁴⁸ OCC has advocated strongly for this change, including in the 2016 report to the Committee.²⁴⁹ However, mokopuna who commit serious offences are dealt with in the adult District^{lxxxvii} or High Court.²⁵⁰

The Youth Court should deal with all offending by under 18-year-olds,^{lxxxviii} and be responsible for all sentencing, promoting a consistent and youth-specific approach that prioritises alternatives to charging in court and emphasises rehabilitation for mokopuna under 18.²⁵¹

^{lxxxvii} Some youth traffic offences are dealt with in the adult District Court.

^{lxxxviii} There would need to be consideration as to whether the most serious offences of manslaughter and murder remain in the Youth Court.

Supporting mokopuna in Family Court

Significant family justice reform has been undertaken over the last five years. The Government commissioned an independent panel who published the report Te Korowai Ture ā-Whānau (2019) with 69 recommendations. The Government has started implementing those recommendations, including two pieces of legislative reform – the Family Court (Supporting Families in Court) Legislation Act 2020 and the Family Court (Supporting Children in Court) Legislation Act 2021 which passed in August 2021 and will be in force by August 2023.

More work needs to be done in this space, including better and more inclusive models of practice and procedure in the Family Court. The delay in hearing cases is a significant barrier and issue which impacts on justice outcomes for mokopuna.

Community-based Youth Justice models

Oranga Tamariki has committed²⁵² to moving away from institutional 'prison-like' residences towards smaller, community based YJ and remand homes, operated by Oranga Tamariki with community partners, including iwi and NGOs.²⁵³ OCC supports this approach, but it is yet to be realised.

OCC has repeatedly advocated for the least restrictive option in the YJ system and for keeping mokopuna in their communities with their whānau.²⁵⁴ ^{lxxxix} Segregating mokopuna from the mainstream community and aggregating them together in large numbers, in prison-like environments, counters rehabilitation and is inconsistent with the Committee's recommendations to limit the use of detention as a last resort.²⁵⁵

Mahuru, a remand initiative from Ngā Puhi Iwi Social Services was one of the first community-based models developed. It provides one-on-one care, using existing family homes and trained youth mentors, and is showing promising results.²⁵⁶ Iwi and community organisations need sufficient resourcing to develop tailored models, consistent and in accordance with tikanga of iwi with the full support and confidence of the Judiciary and New Zealand Police.

Decline in offending rates

Recent statistics show a gradual decline in offending rates and Youth Court appearance rates.²⁵⁷ The number of mokopuna Māori aged 14 to 17 who appeared in the Youth Court reduced by 51% from 2016/17 to 2020/21 - from 1,383 to 673. In comparison, the number for non-Māori fell by 45% over the same period - from 432 to 238. While this statistic is encouraging, mokopuna Māori are still overrepresented in the YJ system.

^{lxxxix} This is also a requirement under s208 of the Oranga Tamariki Act 1989.

During level three and four lockdowns in 2020²⁵⁸, there was a concerted effort by the New Zealand Police, the judiciary, Oranga Tamariki and youth advocates to limit the number of mokopuna entering secure residences.

Overrepresentation of specific groups in the YJ system

The ongoing disproportionate representation of mokopuna Māori in the YJ system is one of our enduring shames as a nation, and the continuing legacy of colonisation and modern-day systemic bias and structural racism.

Despite some positive reductions in disparities between Māori and non-Māori, offending rates for mokopuna Māori aged 10-13 and 14-17 were 6.3 and 4 times higher than non-Māori respectively.²⁵⁹ The Youth Court appearance rate for mokopuna Māori was 8.5 times higher than that for non-Māori and percentages for mokopuna Māori remanded in custody was 1.9 times higher than that for non-Māori.

Pacific mokopuna, as well as disabled mokopuna, are also disproportionately overrepresented within the YJ system.²⁶⁰

Mental health needs in the YJ system

While Oranga Tamariki do not collect data on the prevalence of mokopuna with FASD in the YJ system, estimates put this number at around 50%.²⁶¹ ²⁶² OCC statutory monitoring of YJ residences has found high numbers of mokopuna with neurodiversity, mental health and addictions, and other high and complex needs.²⁶³

These mokopuna are more likely to be restrained, secluded, have difficulty transitioning back into the community, have higher reoffending rates, and do not receive the necessary specialist support. Staff in these residences have repeatedly raised concerns at the lack of training or resources to support these mokopuna.

Justice reforms

Repeated calls have been made for the Government to adopt solutions to the criminal justice system that are by Māori, for Māori and include the devolution of resources to iwi and Māori services.²⁶⁴ All legislation and policy changes must reflect Te Ao Māori, Tikanga Māori and Te Tiriti.

The introduction of section 7AA²⁶⁵ and 208(2)(c) to the Oranga Tamariki Act 1989 is a step in the right direction towards partnership with Māori, but there is still a long way to go. The Chief Executive of Oranga Tamariki is obliged to recognise and provide a practical commitment to Te Tiriti by developing strategic partnerships with iwi and Māori organisations to improve outcomes for mokopuna Māori who come to the attention of Oranga Tamariki.

I consider that s7AA is underutilised and much more can be done to ensure a partnership with iwi. Strategic partnerships should lead to a by Māori for Māori approach and that is not presently evident.

Addressing factors that lead to mokopuna offending

Mokopuna between the ages of 10 and 13 who offend are at increased risk of long-term offending and a range of other adverse outcomes compared to those who offend as adolescents.²⁶⁶ These concerns aren't new.^{267 268 269}

Research shows these mokopuna have often endured physical, sexual, or emotional abuse, constant transience, or intergenerational disconnection from their whānau, whenua, and culture. Both mokopuna Māori and Pacific mokopuna are overrepresented in this group.^{270 276} Research indicates serious child and youth offending is typically associated with prior child welfare involvement.²⁷¹

In Aotearoa, there is a separate specialised system designed to respond to young mokopuna who offend, which adopts a welfare approach. However, significant improvements and changes are needed for this system to be effective in providing a positive and constructive alternative to the criminal justice process.

The OCC State of Care: Children with Offending Behaviour (2020) report outlined several key issues within the systemic approach to child offending, including: the system is complex and poorly understood; a lack of consistent and effective collaboration between agencies; initial early intervention is lacking; mokopuna are frequently disengaged from education and there are significant difficulties in reengaging them; culturally focussed responses are poor. Strategic leadership is needed.

The use of Police cells to hold mokopuna on remand

Under s238(1)(e) of the Oranga Tamariki Act 1989, adult Police cells are one of five hierarchical options available to the Youth Court when deciding where to remand mokopuna pending their court hearing. Despite advocating²⁷² for this option to be removed and repealed, it remains an option.

In 2018, almost 200 mokopuna were held in Police cells for periods of more than 24 hours: in some cases, up to seven days.^{xc} There were almost twice as many mokopuna in Police cells for more than 24 hours than there were in 2014; and is estimated that 70-80% of those held in cells were mokopuna Māori.²⁷³

Police cells are not an appropriate custodial environment for mokopuna. Being held in a Police cell for extended periods can quickly lead to physical, mental, and emotional harm, especially for a young person, and a real risk of self-harm. However,

^{xc} More recent data was not made available by the New Zealand Police.

there is no limit on the amount of time mokopuna can be held in Police custody under section 238(1)(e). In practice this is reviewed every 24 hours, but mokopuna can, and have been, held in Police cells for several days at a time.

Remand in Police cells is a breach of mokopuna rights under Article 37(a) of the Children's Convention. The option of remanding mokopuna in police cells should be abolished. This would particularly benefit mokopuna Māori, given 70% of mokopuna held in Police cells are Māori.²⁷⁴

Police pursuits of mokopuna

Between 2011 and 2017, the number of Police pursuits increased by 63%, from 2,328 to 3,796. Between 2014 and 2017, 22 deaths resulted from Police pursuits, five of which were of mokopuna.^{275 276}

In 2017, of the 2,091 police pursuits where an offender was identified, 18% were under the age of 17. Of the fatal pursuits investigated during this period, the 12 fatalities recorded included a 15-year-old and an 18-year-old.²⁷⁷

Positive changes have been implemented to address this, such as Police training modules on police pursuits, and a preference for Police to prioritise a follow-up investigation, in lieu of pursuing a fleeing car.

Raising the age of criminal responsibility

The minimum age of criminal responsibility (MACR) remains low in Aotearoa, despite the Committee's repeated recommendations and General Comment No. 24.²⁷⁸

In Aotearoa, for serious crimes such as murder and manslaughter, mokopuna as young as 10 can face a High Court jury trial and an adult sentence.²⁷⁹ Twelve- and 13-year-olds can be charged with offences, such as robbery while in possession of a weapon, that carry a maximum 14-year prison sentence.²⁸⁰ Twelve-year-olds can be charged if they have a previous serious offence and the current offence carries a maximum 10-year prison sentence, such as burglary.

The Government agreed to consider whether the current MACR should be increased to align with international standards.^{xc} Disappointingly, there has been no progress made on this. We have advocated for the MACR^{281 282} to be raised to at least 14, and more recently to 16.²⁸³

Life sentences of mokopuna

In Aotearoa, mokopuna can still be sentenced to life imprisonment.²⁸⁴ The minimum period of imprisonment is 10 years,²⁸⁵ and mokopuna must be more than 17 where certain aggravating criteria are met.²⁸⁶

^{xc} Following New Zealand's third Universal Periodic Review in January 2019.

The relatively low numbers of mokopuna who have their cases adjudicated in an adult court due to serious offending have led to its perception as a low-priority issue.²⁸⁷ However, these few cases demonstrate the inappropriateness of mokopuna being subjected to procedures, such as the determination of fitness of mokopuna to stand trial, which are governed by the same legislation as adults.²⁸⁸

According to the Special Rapporteur on Torture, “life imprisonment and lengthy sentences, such as consecutive sentencing, are grossly disproportionate and therefore cruel, inhuman or degrading when imposed on a child.”²⁸⁹

In my view, the application of punitive life sentences, of any minimum duration, on any mokopuna, is manifestly unjust. Nothing less than a total departure from retribution as the traditional objectives of criminal justice, and a public commitment to centring rehabilitation and restorative justice objectives will substantially alter this position.²⁹⁰

Age-mixing in secure detention

The Government is yet to remove its reservation to Article 37(c).^{xcii} While efforts are made to ensure mokopuna are separated from adults, age-mixing is not always possible due to limitations of existing facilities or because it is necessary to avoid isolation.²⁹¹

Mental health inpatient facilities

Between 1 May 2015 and 1 April 2021,²⁹² on average (per year) 228 mokopuna were admitted into an adult acute mental health inpatient service, adult forensic mental health service, or adult forensic intellectual disability service either voluntarily or under the Mental Health Act.

Mokopuna may be admitted to adult inpatient units if: they are from a regional area and need to be placed in a local adult unit so they can be close to whānau (all district health boards except one have an inpatient unit); they are from a regional area and only a brief admission is required, negating the benefit of transfer to an adolescent unit; they need to be treated in a unit more clinically and developmentally appropriate; they need to be assessed and treated in an adult unit while they are being transferred to a child and youth unit; the child and youth units are full; or they have needs or present a risk that cannot be accommodated in a child and youth unit.

OCC acknowledges these barriers, and the Ministry of Health Guidelines to consider the best interests of mokopuna when considering age-mixing, as well as regular monitoring and reporting. However, operational and geographical constraints are

^{xcii} As noted on page 9.

insufficient reason for mokopuna to be placed with adults, without access to specialised care and treatment.

Prisons

Between 1 April 2015 and 30 April 2019,²⁹³ on average (per quarter) 42 mokopuna (38 males and 4 females) were held in adult prisons. The highest number of males and females in adult prisons during this period was 50 and 7 respectively.²⁹⁴

Following changes to the Oranga Tamariki Act 1989 (see page 65), these numbers reduced to an average of 8 mokopuna and no mokopuna between 1 May 2019 and 1 May 2021. We are pleased to see this reduction, as no mokopuna should ever be placed in adult prisons.

Females who offend are unable to be housed in separate units if required to stay in adult prisons, whereas males have specialised youth units in adult prisons.²⁹⁵ Placing females in adult prisons, without separation or adequate specialised facilities is in contravention of CEDAW, the Bangkok Rules,²⁹⁶ General Comment No.24, and the Havana Rules.²⁹⁷

In 2021, proposals were made to close the specialised youth units for COVID-19 isolation purposes, placing mokopuna with adults, which OCC opposed.²⁹⁸

OCC recommends the Government:

- 8.1 Update Immigration policies to remove barriers relating to disabled mokopuna and whānau.
- 8.2 Uphold Te Tiriti and support Māori efforts towards cultural reclamation, including Te Reo Māori.
- 8.3 Support language and cultural initiatives for minority groups, including Pacific communities.
- 8.4 Strengthen protections against child exploitation in the workplace.
- 4.7 Implement the recommendations of the Te Korowai Ture ā-Whānau (2019) 2019 and develop inclusive models of practice and procedure in the Family Court.
- 4.8 Prioritise the closure of all YJ residences and replace with smaller community-based options, devolving power and resources to iwi and community organisations, to develop tailored models.
- 8.5 Urgently address the overrepresentation of mokopuna Māori, as well as Pacific mokopuna and disabled mokopuna, particularly those with FASD and neurodiversity, in the Youth Justice system.
- 8.6 In line with s7AA obligations, develop strategic partnerships with iwi and Māori organisations to improve outcomes for mokopuna Māori who come to the attention of Oranga Tamariki.
- 8.7 Develop a strategy to approach and understand child offending behaviour in an Aotearoa context.
- 8.8 Review the use of pretrial detention on mokopuna who are arrested and deprived of their liberty, remove the option to use police cells to hold young people on remand after first Youth Court appearance, and repeal s 238(1)(e) of the Oranga Tamariki Act 1989.
- 8.9 Implement a “no pursuit” policy of under-18 drivers.
- 8.10 Raise the minimum age of criminal responsibility to at least 16.
- 8.11 Prohibit the use of life sentences on mokopuna accused of serious offences.

Conclusion

I remain available to assist the Committee with any requests for further information arising from this report and look forward to engaging with the Committee throughout this reporting cycle.

Annexes



Annex 1. Glossary

The explanations below are provided to support readers of this report, they are not intended to be interpreted as definitions.

Ātua	Spiritual beings
Ākonga Māori	Māori students
Hapū	to be pregnant, conceived in the womb, the kinship clan, clan, sub-tribe
Hauora Māori	Māori Health
Iwi	strength, bone and the extended kinship group, the tribe
Kaupapa	Matter for discussion
Karakia	Prayer, recite ritual chant
Kaitiaki	Guardian, also references the guardianship role of iwi Māori and cultural guardians
Kōhanga reo	Māori medium early childhood education services
Kōrero	Discussion, conversation, or statement
Kura Kaupapa	Māori medium schools
Kura reorua	Bilingual and Māori language immersion classes
Kawa	Māori methodology or protocols
Kāwanatanga	Government, rule, authority, governorship
Marae	The open area in front of the whareniui, traditional meeting places of Māori
Mana motuhake	separate identity, autonomy, self-government, self-determination, independence, sovereignty, authority - mana through self-determination and control over one's own destiny

Mātauranga Māori	traditional Māori knowledge, Māori epistemology
Mihi	Acknowledgment
Pacific	Pacific Island people, indigenous peoples of the Pacific Islands
Pēpi	A Māori baby or infant
Pūrākau	Narratives
Rangatira	high ranking, chiefly, noble, esteemed
Rainbow	Rainbow or rainbow communities is an umbrella term describing people of diverse sexualities, genders, and variations of sex characteristics. The term includes MVPFAFF+ (mahu, vakasalewa, palopa, fa'afafine, akavai'ne, fakaleiti (leiti), fakafifine, and more) and takatāpui. The former encompasses the diverse gender and sexuality expressions and roles across Pacific cultures. The latter is a traditional Māori word that traditionally means "intimate friend of the same sex". It has since been embraced to encompass all tangata Māori who identify with diverse genders, sexualities or variations of sex characteristics. Takatāpui denotes a spiritual and cultural connection to the past. Both terms are best understood within their cultural contexts and may mean something different to each person ^{xciii}
Rūnanga	Assembly or council
Tapu	Behavioural control and sacred/profane divide
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

^{xciii} As defined by the Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions.

Te whare tangata	The house of humanity, the womb, uterus.
Tikanga (or tikanga Māori)	Māori methodology or rules, the first law of Aotearoa
Tino rangatiratanga	self-determination, sovereignty, autonomy, self-government, domination, rule, control, power
Tūpuna	Ancestors
Tūrangawaewae	Family connections
Waka	Ocean-going canoe used by Pacific peoples including Māori to navigate te Moana nui a Kiwa (the Pacific Ocean)
Wānanga	seminar, conference, forum, educational seminar
Wero	challenge
Whānau	means both to birth, and the extended family unit (in an inter-generational sense), that a pēpi is born into and through which their whakapapa, family lines, connects them with their ancestors
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
Whakapapa	The family lines of whānau that connect to ancestors and the natural world
Whakataukī	Māori proverbs
Whenua	homeland
Ūrupa	Burial site

Annex 2. List of all recommendations

Section	Recommendation
General measures of implementation	<p>1.1 Ensure Te Tiriti and partnership with Māori is the foundation of all legislation, processes, and policies, with specific focus on all agencies currently undergoing legislative reforms.</p> <p>1.2 Remove all reservations to the Children’s Convention.</p> <p>1.3 Enhance measures to support Tokelau community resilience against the impacts of climate change.</p> <p>1.4 Pause progression of the Oversight of Oranga Tamariki System and Children and Young People’s Commission Bill (the Bill) to respond to public submissions and to align with the findings and recommendations of the Royal Commission of Inquiry into Abuse in State Care and Faith-Based Institutions (RCOI).</p> <p>1.5 Provide a formal response to major concerns of whānau, hapu, iwi and Māori organisations who submitted on the Bill as well as civil society organisations that have not been addressed in the final report.</p> <p>1.6 Ensure a formal engagement process occurs with mokopuna affected by the Oversight Bill before it is further progressed, including specific groups such as mokopuna Māori, Pacific, and disabled mokopuna.</p> <p>1.7 Develop a robust mokopuna-friendly complaints mechanism independent of Government, in consultation with mokopuna, following ratification of the Optional Protocol to a Communications Procedure.</p> <p>1.8 Make the CIA mandatory, in accordance with international guidelines, including a mechanism to monitor and evaluate the use, effectiveness, and implementation of the CIA and track how many mokopuna are consulted.</p> <p>1.9 Develop a comprehensive mechanism for disaggregated data collection and an information system on all areas of the Children’s Convention that covers both qualitative and quantitative indicators and disaggregated by age, gender identity, disability, geographical location, ethnic identity, nationality, and socioeconomic background.</p> <p>1.10 Ensure data collection is consistent with Te Tiriti, the Children’s Convention, the Disability Convention, and the Sustainable Development Goals.</p> <p>1.11 Implement the recommendations of the IMM’s Third report (2020),²⁹⁹ with a special focus on up-to-date and disaggregated data on disabled mokopuna, or mokopuna living in households with disability.</p> <p>1.12 Ensure OCC has sufficient resourcing to effectively carry out its mandates.</p>

Section	Recommendation
General principles	<p>2.1 Ensure Te Tiriti informs efforts to address inequitable outcomes for mokopuna Māori and whānau, hapū and iwi, particularly across education, health, protection services, and standard of living.</p> <p>2.2 Address inequitable outcomes for minority groups, including Pacific and disabled mokopuna, in particular across education, health, protection services, and standard of living.</p> <p>2.3 Evaluate existing initiatives aimed at combating racism and discrimination, alongside mokopuna, to assess their impact and revise measures accordingly.</p> <p>2.4 Amend the Human Rights Act 1993 to provide legal protection from discrimination with regards to gender identity, gender expression, or sex characteristics.</p> <p>2.5 In line with Te Tiriti and the Children’s Convention, embed legal obligations and practical expectations in policy development and government consultation processes to engage with mokopuna meaningfully and ethically, so they can be heard throughout Government decision making.</p> <p>2.6 Lower the voting age to 16.</p>
Violence against mokopuna	<p>3.1 Eliminate the use of all types of seclusion and restraint of mokopuna, in all settings, including the immediate removal of spit hoods, pepper spray, and restraint chairs on mokopuna.</p> <p>3.2 Remove the powers to conduct strip searches of mokopuna in all settings.</p> <p>3.3 Implement all RCOI recommendations when finalised, alongside recommendations from OCC’s statutory monitoring visits to care and protection residences.</p> <p>3.4 Ensure mokopuna and their whānau are active partners in the design and delivery of Te Aorerekura.</p>

Section	Recommendation
Family environment and alternative care	<p>4.1 Reform the care and protection system, by devolving power and resources to Māori, in line with their rights as tangata whenua, to care successfully for their own mokopuna.</p> <p>4.2 Urgently implement the recommendations from the OCC 'State of Care' report series (2016-2020) as well as the monitoring reports^{xciv} of the care and protection system.</p> <p>4.3 Prioritise the phased closure of all secure care and protection residences, keeping mokopuna with whānau where possible and replacing large residences with smaller community-based options, to be used when necessary.</p> <p>4.4 Urgently address the inequities experienced by mokopuna Māori in the care and protection system by resourcing by Māori, for Māori approaches to protecting the wellbeing of mokopuna before they enter the care and protection system, and during.</p> <p>4.5 Urgently implement the recommendations from the Te Kuku O Te Manawa Inquiry (2020), as well as other inquiries, to keep pēpi Māori in the care of their whānau.</p> <p>4.6 Ensure adoption reform guarantees targeted consultation with those who have knowledge, and lived experience, of adoption, including mokopuna, Māori, Pacific, refugee and migrant communities and disabled people.</p>
Disabled mokopuna	<p>5.1 Ensure disabled mokopuna are involved in the Ministry of Disabled People on an ongoing basis and are a focus in the Ministry's policies and disability work programme.</p> <p>5.2 Remove barriers for disabled mokopuna by co-designing accessible systems with disabled mokopuna to upgrade existing public infrastructure to meet international best practice accessible design standards.</p> <p>5.3 Develop legislation prohibiting the use of sterilisation or any other non-therapeutic medical procedure on disabled mokopuna without their prior, fully informed, and free consent, and improve data collection and reporting on these procedures.</p> <p>5.4 Implement the recommendations of the OCC and HRC combined report Fetal Alcohol Spectrum Disorder: A Call to Action (2020).</p>

^{xciv} Including our reports under s13 of the [Children's Commissioner Act 2003](#), OPCAT monitoring reports, and [Te Kuku O Te Manawa Inquiry](#).

Section	Recommendation
Basic health and welfare	<p>6.1 Ensure the availability of appropriate, timely, and accessible primary health care to all mokopuna.</p> <p>6.2 Provide sufficient resources for Māori to establish an independent health authority to eliminate disparities, especially for mokopuna Māori.</p> <p>6.3 Ensure the healthcare system reforms eliminate disparities for Pacific mokopuna and disabled mokopuna.</p> <p>6.4 Urgently address the underlying causes of suicide and poor mental health among mokopuna and ensure their perspectives are included in the development of response services.</p> <p>6.5 Ensure all mokopuna can access age and culturally appropriate mental health and counselling services for free, and in a timely manner.</p> <p>6.6 Strengthen mental health services and programmes for mokopuna by allocating sufficient resources for early intervention support, developing therapeutic community-based mental health services, and increasing the number of qualified professionals to meet mokopuna mental health needs.</p> <p>6.7 Ensure that reforms to the Mental Health Act involve and consider the needs of mokopuna.</p> <p>6.8 In line with Te Tiriti, ensure all measures to address climate change involve genuine partnership with mokopuna Māori, as tangata whenua.</p> <p>6.9 Establish systems and structures to address climate change, which centralises the voices of mokopuna and takes into account their needs and views, in accordance with the principles of the Children’s Convention.</p> <p>6.10 Promote awareness of climate change and actively collaborate with youth-led climate organisations to increase climate awareness across wider society.</p> <p>6.11 Urgently, and fully, implement the recommendations of Whakamana Tangata, the Welfare Expert Advisory Group report (2019).</p> <p>6.12 Set ambitious future targets for the Child Poverty Reduction Act 2018, in order to achieve the Sustainable Development Goals relating to child poverty.</p> <p>6.13 Ensure all whānau have continuous access to access nutritious food, including by regulating food prices in the supermarket industry.</p> <p>6.14 Strengthen measures to provide whānau in need with long-term social housing and other support measures, with a view to eliminating homelessness and guaranteeing mokopuna access to adequate housing.</p>

Section	Recommendation
Education, leisure, and cultural activities	<p>7.1 Effectively resource kura kaupapa Māori, kohanga reo and Māori medium education, and address racism and inequities to support education outcomes for ākonga Māori and whānau.</p> <p>7.2 Develop measures to eliminate inequities within education for Pacific and disabled mokopuna.</p> <p>7.3 Reduce the rates at which students are excluded from school, with a particular focus on Māori, Pacific, and disabled students.</p> <p>7.4 Make efforts towards enhancing the presence of all official languages in education settings.</p> <p>7.5 Ensure mokopuna can actively participate in decisions that affect them at school, including school governance, and their views are taken into account at all levels of education.</p> <p>7.6 Implement the recommendations of OCC’s Our Kind of School Report (2021).</p> <p>7.7 Implement the dispute resolution panels for students to appeal board decisions.</p> <p>7.8 Address barriers to education, including accessibility, digital exclusion, and schooling costs, to ensure all mokopuna have equitable access to education.</p> <p>7.9 Ensure accessible and equitable access to education for disabled students or those with learning support needs.</p>

Section	Recommendation
Special protection measures	<p>8.1 Update Immigration policies to remove barriers relating to disabled mokopuna and whānau.</p> <p>8.2 Uphold Te Tiriti and support Māori efforts towards cultural reclamation, including Te Reo Māori.</p> <p>8.3 Support language and cultural initiatives for minority groups, including Pacific communities.</p> <p>8.4 Strengthen protections against child exploitation in the workplace.</p> <p>8.5 Implement the recommendations of the Te Korowai Ture ā-Whānau (2019) 2019 and develop inclusive models of practice and procedure in the Family Court.</p> <p>8.6 Prioritise the closure of all YJ residences and replace with smaller community-based options, devolving power and resources to iwi and community organisations, to develop tailored models.</p> <p>8.7 Urgently address the overrepresentation of mokopuna Māori, as well as Pacific mokopuna and disabled mokopuna, particularly those with FASD and neurodiversity, in the Youth Justice system.</p> <p>8.8 In line with s7AA obligations, develop strategic partnerships with iwi and Māori organisations to improve outcomes for mokopuna Māori who come to the attention of Oranga Tamariki.</p> <p>8.9 Develop a strategy to approach and understand child offending behaviour in an Aotearoa context.</p> <p>8.10 Review the use of pretrial detention on mokopuna who are arrested and deprived of their liberty, remove the option to use police cells to hold young people on remand after first Youth Court appearance, and repeal s 238(1)(e) of the Oranga Tamariki Act 1989.</p> <p>8.11 Implement a “no pursuit” policy of under-18 drivers.</p> <p>8.12 Raise the minimum age of criminal responsibility to at least 16.</p> <p>8.13 Prohibit the use of life sentences on mokopuna accused of serious offences.</p>

Endnotes



Endnotes

- ¹ Section 12(1), Children’s Commissioner Act 2003
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- ² CRC/C/NZL/QPR/6
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- ⁵ 2020. Fitzmaurice, L. Whānau, tikanga and tino rangatiratanga what is at stake in the debate over the ministry for children? MAI Journal, 9(2), 166–172.
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- ⁸ 2019. He Puapua: Report of the Working Group on a Plan to Realise the UN Declaration on the Rights of Indigenous Peoples in Aotearoa/New Zealand. [He-Puapua-for-OIA-release.pdf \(iwichairs.maori.nz\)](http://iwichairs.maori.nz)
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- ¹⁰ 2020. Labour Government Manifesto. Page 14. [Labour Manifesto 2020.pdf - Google Drive](#)
- ¹¹ CRC/C/15/Add.71, para.8, CRC/C/15/Add.216, para. 6; CRC/C/NZL/CO/3-4, para. 9; CRC/C/NZL/CO/5, para. 5.
- ¹² 2017. United Nations Children’s Fund, Situation Analysis of Children in Tokelau, UNICEF, Suva. Page 32. [Situation-Analysis-of-Children-Tokelau.pdf \(unicef.org\)](http://unicef.org)
- ¹³ 2021. New Zealand Government Report to the Committee on the Rights of the Child. Page 1, para 6. [United Nations Convention on the Rights of the Child - Sixth Periodic Report by the Government of New Zealand 2021 \(msd.govt.nz\)](http://msd.govt.nz)
- ¹⁴ Refer CRC/C/NZL/CO/5, para 6, 7(a), CRC/C/NZL/C/3-4, para 11, 15.
- ¹⁵ Under section 7AA of the [Oranga Tamariki Act 1989](http://www.legislation.govt.nz/act/public/1989/0001/latest/001).
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