

Expert Mechanism on the Rights of Indigenous Peoples

Fourteenth Session, 12-16 July 2021



Tuesday 13 July 2021

Item 3: Draft Study and Advice on the Rights of the Indigenous Child under the United Nations Declaration on the Rights of Indigenous Peoples

Tēnā koutou katoa,

Greetings Madam/Mr Chair, and all participants in this virtual session.

Te Kāhui Tika Tangata, the New Zealand Human Rights Commission fully supports the Expert Mechanism's *Draft Study and Advice on the Rights of the Indigenous Child* and appreciates the opportunity to comment.

As the draft study notes, tamariki Māori (children) in Aotearoa continue to face unacceptable inequities across all measured outcomes, including: healthⁱ, povertyⁱⁱ, housingⁱⁱⁱ, justice and state care. For example, Māori children make up 68% of children in state care and 82% of those in youth justice custody.^{iv}

A series of major reports have recommended fundamental changes to the state care system, and the transfer of resources and decision-making to enable 'by Māori for Māori' approaches that uphold Māori self-determination and tino rangatiratanga.^v

These reports highlight the intergenerational harm being done to Māori children and whānau (families) and how this collides with entrenched disadvantage, colonisation and systemic racism. Moreover, they evidence the urgent need for a transformative approach to addressing these systemic issues.

We endorse the discussion of these factors in the Draft Study,^{vi} and the recognition that Indigenous Peoples' ability to exercise their right to self-determination is essential in order to ensure the safety and wellbeing of their children, particularly in areas such as education and child welfare.^{vii}

We welcome the Draft Study's recommendations, including that States must work with Indigenous Peoples, including children, to establish Indigenous-led child welfare systems.^{viii} We submit that a strong recommendation on the critical importance of the right self-determination, and addressing the ongoing impacts of colonisation would also be helpful to include.

The New Zealand Government has established a Ministerial advisory board to advise on the future direction of the Ministry of Children Oranga Tamariki.^{ix} This is an important first step, but must be part of transformative change that includes aroha (love) and care for our children, authentic partnership, co-governance, and Māori self-determination and tino rangatiratanga.

This quote from Whina Cooper demonstrates that our futures depend on this:

“Take care of our children. Take care of what they hear, take care of what they see, take care of what they feel. For how the children grow, so will be the shape of Aotearoa.”

We warmly welcome the study and believe it will provide valuable guidance and support to our work.

Thank you Madam/Mr Chair. Tēnā rā tātou katoa.

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ⁱ For example, see: Simpson, J., et al (2017). *Te Ohonga Ake The Health Status of Māori Children and Young People in New Zealand Series Two*. New Zealand Child and Youth Epidemiology Service. Accessible at: <http://hdl.handle.net/10523/7390>

ⁱⁱ New Zealand Government, (2021), *Child Poverty Report 20 May 2021*. Accessible at: <https://childyouthwellbeing.govt.nz/sites/default/files/2021-05/Child%20Poverty%20Report%20Budget%202021.pdf>

ⁱⁱⁱ Human Rights Council, (2021), *Report of the Special Rapporteur on the Right to Adequate Housing: Visit to New Zealand*, A/HRC/47/43/Add.1.

^{iv} Oranga Tamariki, *Quarterly Report – March 2021*, accessible at: <https://www.orangatamariki.govt.nz/about-us/reports-and-releases/quarterly-report/care-and-protection-statistics/>; and <https://www.orangatamariki.govt.nz/about-us/reports-and-releases/quarterly-report/youth-justice-statistics/>

^v These include major reports by the Waitangi Tribunal, the Children’s Commissioner and an Independent Māori-led Inquiry.

See: Waitangi Tribunal, (2021) *He Pāharakeke, he Rito Whakakīnga Whāruarua*, Wai 2915 <https://waitangitribunal.govt.nz/news/tribunal-releases-report-on-oranga-tamariki/>; Office of the Children’s Commissioner, (2020), *Te Kuku o te Manawa*, <https://www.occ.org.nz/assets/Uploads/Te-Kuku-O-Te-Manawa-Report-2-OCC.pdf>; Kaiwai, H., et al, (2020), *Ko Te Wā Whakawhiti: A Māori Inquiry into Oranga Tamariki – Report*, <https://whanauora.nz/maori-inquiry/>.

The State agency’s responses to these reports can be found at: <https://www.orangatamariki.govt.nz/about-us/reviews-and-inquiries/>

^{vi} Draft Study at para 50, Advice No. 14 in particular at paras 10-13

^{vii} Draft Study at para 3.

^{viii} Advice No. 14, at para 10

^{ix} <https://orangatamariki.govt.nz/about-us/reports-and-releases/cabinet-papers/oranga-tamariki-ministerial-advisory-board/>