



## Our ethical responsibility: Psychologists provide expert evidence on the Oranga Tamariki (Repeal of Section 7AA) Amendment Bill

Carrie Clifford<sup>1</sup>, Tania Cargo<sup>2</sup>, Nadia Summers<sup>3</sup>, Horiana Jones<sup>4</sup>, Rebecca Wirihana<sup>5</sup>, & Waikaremoana Waitoki<sup>6</sup>

<sup>1</sup>Ora Toa - Mauriora, Kaupapa Māori Mental Health and Addiction Service.

<sup>2</sup>School of Psychology, University of Auckland

<sup>3</sup>University of Otago, Christchurch

<sup>4</sup>Rapuhia LTD

<sup>5</sup>Puawai Psychology

<sup>6</sup>Faculty of Māori and Indigenous Studies, University of Waikato

*Correspondence: [carriejclifford@gmail.com](mailto:carriejclifford@gmail.com)*

### Abstract

Following the proposed repeal of Section 7AA of the Oranga Tamariki Act 1989, members of He Paiaka Tōtara (Māori psychologist association) delivered a written and oral submission to the New Zealand Parliament's Social Services and Community Committee. This paper shares the submission, relevant research and practice contexts, and describes the submission process to assist others with future submissions. As highly qualified health professionals with research backgrounds, we believe that political engagement and providing expert evidence on psychology-related matters that impact individual and community well-being is not merely an extension of our work; it is a core professional responsibility, outlined in the New Zealand Psychologists' Code of Ethics. We implore others within our profession to fulfil this moral and ethical duty.

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## Introduction

Oranga Tamariki—Ministry for Children is the government department tasked with ensuring the safety and well-being of children and young people in Aotearoa, New Zealand. The Oranga Tamariki Act 1989 governs child protection activities in Aotearoa New Zealand. In 2024, the coalition government comprising the National, Association of Consumers and Taxpayers (ACT) and New Zealand First political parties introduced a Bill to repeal section 7AA of the Oranga Tamariki Act 1989. The purpose of 7AA is (1) to ensure that policies and practices have the objective of reducing disparities [of Māori with non-Māori] by setting measurable outcomes, (2) ensure that policies, practices and services have regard to mana tamaiti, whakapapa and whanaungatanga (3) seek to develop strategic partnerships with iwi and Māori organisations, including iwi authorities, and (4) report annually and publicly on what the Ministry has done, the impact of those actions and immediate next steps (New Zealand Government, 2023).

Section 7AA of this Act is the practical commitment to Te Tiriti o Waitangi. Te Tiriti o Waitangi is one of the foundational constitutional documents in Aotearoa and details the relationship and responsibilities of both Māori and the Crown. A key provision of Te Tiriti o Waitangi, as outlined in Article Two, is the provision of Māori tino rangatiratanga as reflected in the text of Te Tiriti: “te tino rangatiratanga o ratou whenua o ratou kāinga me o ratou taonga katoa”. This text speaks to the absolute sovereignty of Māori over their lands, homes and villages (kāinga), and all their treasures. The Waitangi Tribunal ruled that rangatiratanga of Māori over kāinga “is a guarantee of the right to continue to organise and live as Māori. Fundamental to that is the right to care for and raise the next generation” (pg, 15). As such, tamariki Māori (Māori children), and childcare protection issues are a key part of kāinga (Wai 2915, 2021 as cited in Fitzmaurice-Brown, 2024). Many Māori also consider tamariki and mokopuna (grandchildren) as a taonga (treasure/gift).

Section 7AA is not the only reference to Te Tiriti o Waitangi in the Oranga Tamariki Act 1989. Yet critically, this repeal sought to eliminate the key piece of legislation which details the practical commitment to the principles of Te Tiriti o Waitangi. Section 7AA makes child protection services responsible for enacting Te Tiriti o Waitangi and requires Oranga Tamariki to demonstrate how they are reducing disparities for tamariki Māori

(Fitzmaurice-Brown, 2024). Importantly, section 7AA explicitly requires the Chief Executive of Oranga Tamariki to report on outcomes for tamariki Māori in State Care and to partner with hapū and iwi to deliver services and improve outcomes for tamariki Māori. Only seven years since the introduction of 7AA in 2017, this legislation has positively contributed to creating strategic partnerships between the Crown (Oranga Tamariki) and numerous iwi (extended kinship group), including Ngā Puhi, Waikato Tainui, Kāi Tahu and Ngāi Tūhoe. Partnering to co-deliver services allowed iwi to have greater involvement with the care of their tamariki Māori (see Fitzmaurice, 2022 and McBreen, 2024, for a more comprehensive history and analysis of Oranga Tamariki and Iwi partnership). Yet, the coalition Government stated the intended purpose in repealing section 7AA is to “enable Oranga Tamariki—Ministry for Children to renew its focus on the safety and well-being of children in care arrangements”. The framing of this intention created a perceived conflict between Māori culture and the safety of children, outraging many Māori, and us as psychologists.

This repeal took place in an important national, international, historical and human rights context. Both nationally and internationally, there is a history of settler-colonial governments intervening and removing Indigenous children from their whānau (family/extended family), wider tribal groupings and culture, and placing them in non-Indigenous families or institutions (Fitzmaurice, 2023; Gray & Cote, 2019; Smith, 2021). Researchers highlight the numerous and diverse impacts of such disconnection, including language and identity loss, disposition from whenua, breakdown of family systems, loss of critical attachment relationships, and decreased physical and mental health outcomes (Ahuriri-Driscoll, Blake, Potter, McBreen, & Mikaere, 2022; Blake, Ahuriri-Driscoll, McBreen, & Mikaere, 2023; Gray & Cote, 2019; Gall, Anderson, Howard, Diaz, King, et al., 2021; Smith, 1999).

Research on trauma-informed care has made significant advances locally and internationally over the past decade, largely due to research initiatives such as the He Kokonga Whare Research Program with Te Atawhai o te Ao, an independent Māori Institute for Environment and Health (Pihama et al., 2014). Advancements in understanding the impact of trauma on general and chronic health conditions extend into the growth and development of Indigenous approaches to trauma-informed care (Pihama & Smith, 2023; Rides at the Door, 2023). These advancements are also reflected in the



evidence-based research of Oranga Tamariki detailing the benefits of a Kaupapa Māori approach to trauma-informed care (SHORE & Whariki, 2020). The continued growth of efficacious research and practice interventions demonstrates the benefits of integrating Indigenous approaches to healing from trauma. This research and practice-based evidence strongly negates the removal of Section 7AA of the Oranga Tamariki Act (Lee et al., 2021; McLachlan et al., 2024; Pihama et al., 2020).

Section 7AA is also in line with International human rights documents that support children maintaining cultural connections. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), details a range of rights and freedoms of Indigenous peoples, including the right to culture and identity, alongside the right to self-determination, education, economic development, religious customs, health, and language (United Nations, 2007). Furthermore, the United Nations Convention on the Rights of the Child (UNCRC) upholds the protection of Indigenous and minority children, and children temporarily or permanently deprived of their family, ensuring continued access to their culture, religion and language. Specifically, Article 20<sup>1</sup> mentions “desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background”, while Article 30<sup>2</sup> affirms children “shall not be denied the right...to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language”. In keeping with international conventions, any governments and state care systems must uphold the human rights of Indigenous children, and specifically in Aotearoa, ensure Tamariki Māori have access to their culture, identity and language.

### **Abuse in Care Whanaketia report**

The repeal of section 7AA took place shortly after the Whanaketia, Abuse in State Care report was released. The proposed repeal in legislation serves

only to contribute to the long history of oppressive legislation in Aotearoa, which is shown to have caused ongoing, and disproportionate harm to Māori in state care systems (such as Oranga Tamariki (previously Child Youth and Family), and government-run institutions (Smith, 2021). The impacts of which were recently highlighted in the Royal Commission of Inquiry Abuse in Care Whanaketia Report (2024), exacerbating children and young people's experiences of physical, sexual, psychological and racist violence, abuse and torture while in State care. The proposed repeal of section 7AA is a continuation of institutional violence, which will remove tamariki from their whānau, hapū and iwi and perpetuate the harm children and young people continue to experience in state care today. Put bluntly, the removal of section 7AA reflects an abhorrent abdication of state responsibility to ensure Oranga Tamariki are held accountable for the protection and well-being of tamariki and wilful disregard of the findings of the Abuse in Care Inquiry. We recognise the mana of the mōrehu (survivors) who told their stories and who have tirelessly advocated for justice and redress for their experiences of abuse in state care. The repeal directly undermines the recommendations made by the Royal Commission Inquiry. Our mokopuna deserve better.

Given the historical context, international human rights legislation, research findings and linked best practice recommendations, as well as our professional experiences as psychologists, a group of Māori psychologists drafted the following written submission opposing the repeal of Section 7AA. We share this submission in the hope of making the information and evidence used in this submission available to the broader profession. In providing an example of a submission, we also hope to increase others' knowledge and confidence in writing their submissions, either now or in the future. As part of publishing this submission, a key aim of this paper is to encourage other psychologists, researchers and health professionals to use their power and positions

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<sup>1</sup>Article 20 of the United Nations Convention on the Rights of the Child (UNCRC) reads:

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.
2. States Parties shall in accordance with their national laws ensure alternative care for such a child.
3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the

desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

<sup>2</sup>Article 30 of the United Nations Convention on the Rights of the Child (UNCRC) states:

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.



to advocate for those who do not have a voice. Despite concerns about conflicts of interest often in relation to work roles, as psychologists and individual citizens, active participation in democracy is our right. We also draw on our decades of experience working within state care systems and have seen the impact of institutional racism (see the Pūao-te-Atatū report - Māori Perspective Advisory Committee, 1988, and Boulton, Levy, & Cvitanovic, 2020), in addition to the benefits of section 7AA when used appropriately.

### Written Submission

The written submission that has been submitted to the Justice Selection Committee (<https://shorturl.at/ycywj>) is attached as Appendix 1. The authors prepared a draft submission, which was discussed within the team and refined over multiple conversations. We also sought feedback from the wider network of Māori psychologists via social media group He Paiaka Totara (Private Facebook/Meta 1<sup>st</sup> July, 2024).

### Oral Submission - Dr Tania Cargo and Dr Carrie Clifford

Following the written submission process, oral submissions were invited. Oral submissions are tightly time-controlled; in this instance, 10 minutes are allocated per organisation and five minutes for individuals. Yet, oral submissions are delivered directly to the Committee, which is composed of members of parliament (MPs) representing each political party, providing a crucial opportunity for submitters to expand on their written submissions and reiterate key points. They also provided an opportunity for MPs to ask any questions *if* time remained; therefore, Tania and Carrie presented for five minutes, thus allowing time for three questions. Their oral submission is below:

*Tēnā koutou katoa, my name is Dr Tania Cargo, a clinical psychologist who has worked with whānau who have survived state care during my almost 30-year career. I'm an infant Mental health specialist, an academic, a family court report writer, and an expert witness for the Abuse in Care inquiry.*

*Today, along with my colleague Dr Clifford, we represent more than 130 Māori Psychologists from the National Māori Psychologists Network. As psychologists, we are required to use empirical evidence to guide our decision-making.*

*Distinguished panel members, we take our submission as read, and we recommend that you retain and improve the*

*implementation of Section 7AA*

*As psychologists, we absolutely endorse the Paramountcy Principle of ensuring the safety, protection, and best interests of tamariki. Section 7AA is about giving practical effects to support equity devolution of control and culturally safe staff. It is misleading and dishonest to claim that 7AA is about decision-making on its own.*

*There is very strong evidence that cultural connection, belonging, and strong cultural identity buffer against a range of psychological and other health problems. Culture and well-being are inherently linked, and experience and evidence support the idea of "culture as cure." 7AA acknowledges this and supports an evidence-based framework.*

*Let it be documented that removing tamariki from whānau is the harshest and most traumatic intervention that the state can do in order to protect a child. We, as psychologists, acknowledge that there will be times when this is absolutely required, and it is traumatic, and it changes the brain. When a young child loses their attachment figure, someone important to them, it may make them feel very sad and very anxious. They are reliant on that person to help them understand, cope and manage those feelings. Their loss can affect brain development, making it much harder for them to learn and to control their emotions. They may become clingy, withdrawn, violent, and aggressive because they feel less secure and less certain about their life and who they are. Without the right support, these changes can impact significantly on their future mental health and relationships.*

*International attachment researchers have pulled their study data and acknowledged the powerful benefits of having networks of attachment relationships in a culture where extended family living is practised. There are hundreds of studies within the last decade involving more than 700,000 children, demonstrating that children in "kinship" whānau care do better psychologically than children in non-kinship or non-whānau care. They have less placement disruption and report feeling more connected to their family.*

*7AA provides a transparent mechanism for holding the state accountable for improving equity, addressing international and institutional racism, and redressing the negative impact of colonisation.*

*Now, I am handing it over to my teina for a younger and a more recent perspective. - Dr Tania Cargo*

*Today, I speak as a younger psychologist, looking at the future of my profession. When I think of the repeal of 7AA*



*and the harm this will inevitably cause, I thought of my future clients. In a mental health crisis, why are we proposing to cause more harm?*

*As psychologists, we are already all working with whānau, who talk about the shame they feel that they can't speak te reo, or feel disconnected from their whānau, that they don't fit or belong. They are an outsider, on their own whenua. They consciously or unconsciously share the distrust and unease they have in state systems.*

*My concern is that this repeal will perpetuate these feelings and the same type of harm to a whole new generation of people. In 5, 10, or 30 years, I want to be able to sit with them and their children and know we did everything we could to ensure that they would be connected to their whānau, hapu, iwi, and culture to promote their well-being and reduce harm in the way 7AA intended.*  
- Dr Carrie Clifford

The oral submission from Dr Cargo and Dr Clifford on behalf of He Paiaka Tōtara (Māori psychologists' network), including questions from MPs and responses, can be found here on the New Zealand Parliament Website: <https://vimeo.com/showcase/10758270/video/994926966>. The oral submission for He Paiaka Tōtara starts at 1hr34m on the video dated 8/07

### Key Lessons and Resources

As this was our first time drafting and presenting a written and oral submission, we have reflected upon and share the following lessons and helpful resources.

- Focus on your specific area of expertise and how it relates to proposed law changes, including expected and unexpected outcomes.
- Consider providing empirical evidence, as well as sharing stories from your mahi, personal and professional insights or whānau voices. Adding personalised stories and insights may be particularly beneficial for oral submissions, where part of the goal is to capture the attention of the select committee, and help weave together empirical evidence and practical realities.
- Research examples of others submitting on the same kaupapa to get ideas about how to frame your submission, including specific wording and possible legal options for endorsement. In our case, Dr Luke Fitzmaurice-Brown (Lecturer in Law at

Victoria University of Wellington; Instagram: [@drlukefitzmauricebrown](https://www.instagram.com/drlukefitzmauricebrown)) provided online guidance for submissions and commentary on the proposed law changes.

- Submission templates, formatting guidance, and information on the process can be found at the NZ Parliamentary Website: <https://www.parliament.nz/media/2019/makingasubmission2012-2.pdf>
- For oral submissions, try to listen and be present for other oral submissions, as it helps to be able to provide support for other submissions and pick up on key themes being presented to the committee.
- Ensure you have practised and timed your oral submission precisely, so you leave time for questions from the panel.
- Working as a team allows for multiple points of view on the submission. Integrating experiences from across the motu (country) and collating expertise and evidence as a group strengthens submissions and provides practical and personal support for the submitters.
- Group submissions usually receive 10 minutes for oral presentations, while individual submissions get 5 minutes. This group time allocation allows for more opportunities for in-depth and nuanced discussions and addressing questions from the committee. Submitters can submit more than once. Individuals are allowed to submit their ideas and views both individually, as an individual submission, as well as part of various group submissions.

### Discussion

Psychologists are required to use culturally informed, empirical research to guide their decision-making. This includes considering the short and long-term consequences of interventions on health and well-being. We collectively view participation in political decision-making as a vital part of our role as psychologists and a key responsibility outlined in the New Zealand Psychologists' Code of Ethics, particularly in Principle 4: Social Justice and Responsibility to Society.

To our knowledge, this submission, on behalf of He Paiaka Tōtara, appears to be the only submission from a psychologist's professional body on the proposed repeal of section 7AA. We encourage more



psychologists to learn about and actively participate in the submission process to ensure our expertise can be utilised in the development of institutions and socially just legislation. Our Code of Ethics explicitly requires us to speak out when the policies, practices or regulations of the social structures within which we work seriously ignore or oppose our ethical principles. This includes proposed legislation that conflicts with evidence-based practice and the interests of our clients, and those which are anticipated to have detrimental impacts on collective and individual well-being, such as the repeal of 7AA. Supporting the well-being of clients also requires advocating for systems and institutions that facilitate recovery and flourishing rather than undermine it. We are reminded that the primary aim of psychology—to understand and enhance the well-being of individuals, whānau and communities—is inherently connected to the effectiveness of our legislation and social institutions.

This proposed legislative change will have profound implications for the well-being of whānau and tamariki Māori, as well as the work of psychologists. While we advocate against repealing section 7AA, we also recognise that the current legislation does not meet the aspirations many Māori have for protecting Tamariki Māori in state care. Further, it does not adequately embody tino rangatiratanga for Māori hapū and communities over their kainga and tamariki a key provision outlined in Article Two of Te Tiriti o Waitangi (see Fitzmaurice-Brown (2024) for an in-depth discussion on 7AA and the limits of achieving rangatiratanga).

Given that all practising psychologists have an ethical responsibility to uphold and promote the welfare of society, and academics are tasked with playing the role of the “critic and conscience of society”, we strongly encourage our colleagues to participate in our political processes to promote social justice and community well-being. Providing submissions around policy relevant to our profession is an opportunity for our Pākehā and Tangata Tiriti peers to actively counter institutional racism and colonial violence, advocate for the enactment of collective responsibilities under the Te Tiriti o Waitangi and apply their voices and expertise to advance the hauora of the whānau and tamariki Māori.

Yet, reflecting on this process, a change in the perceived value of submissions and the psychology profession's approach to encourage and strengthen expert evidence-sharing is required. Currently, academia and professional practice largely fail to

provide the time nor recognise submissions as a professional output despite the professional expertise, research skills, and time it demands. Changes to the psychology profession are required to provide the time, opportunity, and professional reinforcement for highly qualified psychologists and researchers to share their expertise and support individuals, professional bodies, and groups' participation in local and government decision-making, thereby positively influencing legislation and advancing social and health outcomes.

Sharing expert knowledge not only informs the decision on that particular bill, it can also contribute to the broader parliamentary and legislative process by providing information to Members of Parliament present as well as members of the public watching in person and online. Our sincere hope is that representatives and community leaders may then take this knowledge and apply it in other spaces and at other decision-making opportunities. As such, psychological evidence and expertise through parliamentary submissions positively contribute to building the knowledge base of our representatives and *can* facilitate psychologically informed decision-making in future legislation. Critically, this process also provides a means to share and amplify the voices, experiences and aspirations of our whaiora (clients), past, present and future: *Mō tātou, ā, mō kā uri ā muri ake nei – For Us and Our Children After Us – Ngai Tahu, whakatauki.*

Since this paper was prepared, we have facilitated submissions on two further bills: the Treaty Principles Bill (2025) and the Regulatory Standards Bill (2025). Both of these bills provoked urgent hearings to the Treaty of Waitangi Tribunal, where submissions focused on significant breaches.

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