

10 October 2024

Submission to the Committee Secretariat of the Justice Committee on the ***Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Bill***.

The Justice and Peace Commission of the Catholic Diocese of Auckland raises awareness by advocating and promoting Catholic Social Teaching (CST) on social justice issues on behalf of the Catholic Bishop, Catholic Diocese of Auckland.

The Commission strongly opposes the ***Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Bill***. We find it unreasonable that the Government should continue to pursue Amendments to the Marine and Coastal Area (Takutai Moana) Act 2011 when both the Act and proposed Amendment Bill is in discord and creates further divergence with the Māori, Tangata Whenua of Aotearoa, New Zealand.

The Commission agrees, supports and endorses the Waitangi Tribunal's '***Takutai Moana Act 2011, Urgent Inquiry, Stage 1 Report***' released 13 September 2024,¹ in which the Tribunal's scrutiny of the Act and proposed Bill found a blatant disregard, and several breaches, to the principles of Te Tiriti o Waitangi – The Treaty of Waitangi, the moral and ethical constitutional fabric upon which this country was first founded.

Highlighted within the Tribunal's report on the Act and proposed Bill is the lack of transparency, the lack of evidence-based decision-making processes, and a degree of contempt for official advice to adequately consult with Māori throughout the policy development phase, thereby breaching the Treaty principles of partnership and good government.

This Bill is yet another example of rushed policy procedure that has become the signature pattern and preferred method of introducing legislation, modification or amendment by this Government. What becomes apparent with these hasty procedures is the lack of consideration and adequate consultation with those who are directly affected by these proposed changes, in this Bill's case, Māori Tangata Whenua. Through the Tribunal's findings we come to understand that consultation with Māori was limited to meet Government deadlines and only offered after decisions were made. A process that is not

¹Waitangi Tribunal Report 2024. (2024, September 12). *TAKUTAI MOANA ACT 2011 URGENT INQUIRY STAGE 1 REPORT – Prepublication Version*. Waitangi Tribunal, Wellington, New Zealand.
https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_219206368/Takutai%20Moana%20Urgency%20W.pdf

only counterproductive, but can only reach a conclusion that is imbalanced, uninformed and prejudicial.

The lack of consideration throughout the consultation process also bears moral and spiritual injuries, which align with the Catholic Social Teaching (CST) on the dignity of the Human Person - Te Mana o te Tangata, Subsidiary - Mana Whakahaere, the common good, solidarity with Māori autonomy and self-determination, and the preferential option for the poor.² The continual disregard and lack of consultation with Māori suggests indifference and ignorance of the dignity and voice of our indigenous peoples. Respecting the dignity of every person, especially Māori who are recognised as vulnerable within our society, requires meaningful engagement, dialogue and consideration. This can only be achieved through just and equitable dialogue and negotiation.

Perhaps the most concerning aspect of this Bill is the breach to the Treaty principles of tino rangatiratanga and partnership which also encompass breaches to solidarity and active protection. The Tribunal found that the Act and Amendments do not sufficiently support Māori in their kaitiakitanga (guardianship) duties nor adequately recognise rangatiratanga (chieftainship) rights. Moreover, the changes proposed in this Bill will convolute and restrict efforts to apply and receive customary rights titles (CMT) thereby protracting an application process that has been described as complex, lengthy and costly.³

From our unique CST perspective, these breaches to Te Tiriti principles also impinge on what we understand as the preferential option for the poor and marginalised by not adequately supporting Māori in their customary rights and guardianship roles. The Act and Bill amendments continue to neglect the needs of Māori who are not only recognised as historically disadvantaged as indigenous peoples, but one of the more vulnerable collectives in our society. As a consideration to the principle of equity, Māori should not have to continually struggle and fight to have tino rangatiratanga and kaitiakitanga formally recognised and observed in legislation.

Conclusion:

The Commission forms its submission conclusion based on the findings and recommendations proposed in the Waitangi Tribunal's '**Takutai Moana Act 2011, Urgent Inquiry, Stage 1 Report**' and urges the Government to read, respond and action the stipulated recommendations as specified in the report. Furthermore, we call for the

²Caritas Aotearoa New Zealand. (2024). *Catholic Social Teaching*. <https://www.caritas.org.nz/catholic-social-teaching-education>

³ Paewai, Pokere. (2023, October 6). *Takutai Moana Act breaches Treaty principles - Waitangi Tribunal*. RNZ. <https://www.rnz.co.nz/news/national/499580/takutai-moana-act-breaches-treaty-principles-waitangi-tribunal>

Government to seek a more balanced, just and equitable approach to marine and coastal areas management in Aotearoa, New Zealand by:

- Engaging in genuine, transparent, and inclusive consultation with Māori hapū and iwi.
- Adopting a bipartisan approach that includes shared decision-making and co-management agreements that recognise Māori as equal partners in the stewardship of marine and coastal areas of Aotearoa, New Zealand.
- Revising the Marine and Coastal Area (Takutai Moana) Act and Bill to better reflect the customary rights and guardianship roles of Māori.
- Establishing robust monitoring and accountability mechanisms to ensure that revised policies are implemented effectively and that any breaches to Te Tiriti are promptly and adequately addressed.
- Providing adequate funding and resources to support Māori in their application and management of customary marine titles.
- Implementing programmes to educate government officials and the wider public about the importance of Māori customary rights and the principles of the Treaty of Waitangi.

We make this submission through our efforts to uphold the common good: advocate for Māori rights and mana moana, and champion the poor and marginalised in our pursuit of a more just and peaceful future. As projected in Pope Francis' sentiments, we insist on the urgent need for "joint actions" and dialogue to reconvert "the consolidated power structures that govern Western societies" to "transform the historical relations marked by colonialism, exclusion and discrimination."⁴

We urge the Government to take this opportunity to strengthen bipartisan relations with Māori, not further exacerbate this fragile connection.

⁴Zengarini, Lisa. (2023, February 10) Pope: *We must listen to Indigenous Peoples to address climate crisis*. Vatican News. <https://www.vaticannews.va/en/pope/news/2023-02/popei-indigenous-peoples-can-help-address-climate-crisis.html>