

18 December 2024

Submission to the Committee Secretariat of the Justice Committee on the ***Principles of the Treaty of Waitangi Bill***.

As a Catholic Justice and Peace Commission we seek to uphold the Catholic Social Teaching (CST) of human dignity, solidarity, subsidiarity, preferential option for the poor, and the common good to build a moral and ethical critique of the Principles of the Treaty of Waitangi Bill. By upholding CST principles and values, we advocate for a living relationship with the Treaty and its principles as developed over the past 50 years. A relationship that addresses past wrongs, upholds the rights of our indigenous people – Māori Tangata Whenua – and promotes a society grounded in justice, peace and the common good.

On this basis, we strongly and unequivocally oppose the Principles of the Treaty of Waitangi Bill, as this Bill risks to alter and distort the true meaning of Te Tiriti o Waitangi by reducing Treaty mana into a series of legal principles that undermine, misinterpret, misrepresent and disrespect the true nature, spirit, intent and relationship, by which and with whom, Te Tiriti o Waitangi was first established.

This Bill specifically presents the Crown's governance as the sovereign holding ultimate power that is unchallengeable while downplaying, reducing, and restricting the role and rights of Māori as Treaty partners in the governance of Aotearoa, New Zealand.

On Dignity

Catholic Social Teaching places great emphasis on the inherent dignity of every person and the importance of respecting the rights of communities, especially marginalised groups. CST accentuates the preferential option for the poor and marginalised, which, in the context of Aotearoa, New Zealand includes Māori as its indigenous people.

The Church's support for ***tino rangatiratanga*** aligns with the principle of human dignity, as it affirms the need for Māori to exercise self-determination and governance over their lands and affairs. This Bill narrows the interpretation of Māori rights to those defined only within Treaty settlements, thereby undermining the inherent dignity of Māori by treating their sovereignty and independence as negotiable, rather than an inalienable right.

A key point of contention in this Bill is its treatment of Māori sovereignty. The Bill presents the Crown's governance and the rule of law as being above Māori sovereignty, if not total absolutism, whereas the Treaty was designed and signed with the understanding that

Māori would retain *tino rangatiratanga*. We reaffirm that the Treaty was not an agreement to relinquish Māori sovereignty, but rather a means by which to establish a co-operative relationship based on respect and mutual benefit.

On Unity

This Bill fails to adequately honour the spirit of Kōtahitanga (unity) as outlined in Te Tiriti. It further seeks to redefine the relationship between the Crown and Māori in terms of legal principles and rights. We understand the Bill's approach and interpretation of these principles as more focused on achieving equality through legal frameworks rather than fostering the collaborative, partnership-based relationship that was the intent of this bipartisan Treaty.

Moreover, this Bill presents a static view of the Treaty relationship, which does not evolve in response to current Māori aspirations or the dynamic needs of Kōtahitanga. The Bill's failure to prioritise the living relationship between Māori and the Crown, particularly through an active commitment in healing historical injustices, further undermines the Treaty's capacity to address contemporary inequities.

In Solidarity

It is an act of utmost solidarity, which calls for people to stand together and support one another, particularly the most vulnerable in our society. Solidarity is essential in the context of the Treaty, where the Māori Tangata Whenua, as the first inhabitants of Aotearoa, must be supported in their efforts to retain their culture, language, and governance structures. This Bill, by offering a limited legalistic interpretation, risks entrenching divisions between Māori and the Crown, by failing to promote the type of unity that the Treaty of Waitangi envisioned. We call for a vision of Kōtahitanga that promotes mutual respect, justice, and reconciliation.

We further fear, that this Bill will condense the Treaty to a legal instrument rather than honouring its moral and ethical significance. We understand the Treaty to not only be a political agreement, but a sacred covenant built on mutual respect and obligation. We further argue that the Bill overlooks the moral basis of the Treaty, which calls for justice and redress for past wrongs.

We believe Māori, as the marginalised and dispossessed people of Aotearoa, must be prioritised in the pursuit of justice, particularly in addressing the historical injustices they have faced and continue to face. The Treaty Principles Bill, by focusing on legal definitions and limiting the scope of Māori rights to past settlements, fails to fully address the historical injustices Māori have suffered. In doing so, it neglects the principle of redress, a key component of the Treaty's promise, which is crucial to the ongoing reconciliation process.

On Subsidiarity

Our understanding of CST provides us with a unique framework to interpret the relationship between the Crown and Māori that underscores the need for justice, solidarity and the common good. This understanding also advocates for subsidiarity, meaning that decision-making should occur at the most local level. A level that especially respects the autonomy of a country's indigenous peoples. This Bill's statutory approach to Treaty principles fails miserably to live up to these ideals. Where instead of fostering the common good through mutual respect and action, it risks reinforcing structures of inequality that benefit the state at the expense of Māori self-determination.

Conclusion:

It was most disheartening to hear the recurrent phrase 'we will not support this Bill coming into law, but we will uphold the coalition agreement to see this Bill reach select committee' at this Bill's first reading. Misplaced loyalty to achieve political gain is detestable. The fact that this Bill was not only used as leverage in forming a coalition government but could reach select committee on a whim, ventures beyond absurdity into the dangerous.

It was also clear at first reading that this Bill will not gain majority support coming into law, this reasoning by logic if not ethic or fact, should have determined that the ***Principles of the Treaty of Waitangi Bill*** should never have been introduced to the House in the first instance, and we, he tangata – the people – would not need to argue where common sense should have prevailed.

This Bill is a retrograde in terms of honouring the Treaty's true spirit. We call for a deeper, more meaningful commitment to the Treaty's original intent, one that respects Māori sovereignty, ensures active protection, and upholds the moral and historical significance of the Treaty as a living document.

Let us build a nation that empowers Māori and cultural preservation rather than further alienating our indigenous peoples. Let us strive for a more just and unified society, that envisions Kōtahitanga and tino rangatiratanga at the heart of any future engagement with Te Tiriti.

Let us embrace not destroy our history, that we can move forward together as one.