



TE MANA ĀKONGA (INC.) National Māori Tertiary Students' Association
Level 3, 354 Lambton Quay, PO Box 10 191
Wellington.

tumuaki@students.org.nz

Te Mana Ākonga
National Māori Tertiary Students' Association
P O Box 10191
Lambton Quay
Wellington

31 August 2011

The Registrar
Waitangi Tribunal
P O Box 5022
Wellington

Tēnā koe

**Treaty of Waitangi Contemporary Claim / Urgent Hearing on the Education
(Freedom of Association) Amendment Bill**

We, the Te Mana Ākonga Executive and Alumni seek to lodge a contemporary claim on behalf of ourselves, Māori Students' Associations (Rōpū Taurira Māori), and on behalf of, past, present, and future taurira Māori, their whānau, hapū, and iwi:

- Jacqueline Poutu (Tumuaki, Te Mana Ākonga), PO Box 10191, Wellington,
- Victor Manawatu (Tumuaki, Ngai Taurira), PO Box 600, Victoria University of Wellington,
- Kevin Setefano, (President, Weltec Students' Association), P O Box 33346, Petone, Lower Hutt,
- Leland Ruwhiu (Kaiwhakaako, Manawatahi), Te Atawhai, Level 2, Student Centre, Turitea Site, Massey University, Private Bag 11-222 Palmerston North,
- Tiri Porter (Māori Student Officer, Extramural Students Society), Students' Centre Building, Massey University, Private Bag 11-222 Palmerston North,
- Victoria Timoti, (Tumuaki, Ngā Taurira Māori), 34 Princess St, Student Union Building, Auckland University,
- Myles Watene, (President, SAWIT), Wintec City Campus, Gallagher Hub, A Block, Gate 5 Tristram St, Hamilton,
- Monica Lei, (Tumuaki, Te Akatoki), C/- UCSA, 90 Ilam Road, University of Canterbury, Christchurch,
- Karen Andersen (Tumuaki, Te Awhioraki), PO Box 164, Lincoln University,
- Ariana Te Wake (Tumuaki, Te Roopū Māori), 523 Castle St, University of Otago, Dunedin,
- Ivy Harper, (Alumni Te Mana Ākonga and Te Awhioraki), 26 Roblyn Place, Lincoln, Christchurch,

- Chrystal McMoore, (Alumni Te Mana Ākonga and Te Awhioraki) 26 Mandalay Place, Waiuku, Franklin, and
- Dr Helen Potter (Alumni Te Mana Ākonga and Te Waka o Ngā Ākonga Māori).

We are all taura Māori, with whānau, hapū, and iwi affiliations, and we are stakeholders in, and beneficiaries of, the New Zealand tertiary education system.

It is our claim that Te Mana Ākonga, and all taura Māori, have been and continue to be prejudicially affected by policy and practices adopted by the Crown and exercised on its behalf, by successive agencies, and now by the Hon Heather Roy's Bill, with regard to the Crown's failure to acknowledge and address any impacts on Māori in the Regulatory Impact Statement for the Bill 2009, and the Education & Science Select Committee Report 2010.

We claim that taura Māori will be prejudicially affected by the proposed Education (Freedom of Association) Amendment Bill, and in particular the intention to introduce voluntary student membership in the following ways:

1. by diminishing the right of taura Māori to form rōpū;
2. by diminishing the right of those rōpū to exercise Tino Rangatiratanga over Māori student issues, including representation, Whanaungatanga, Manaakitanga, Tuākana/Teina, Kotahitanga, me ōna Tikanga;
3. by diminishing the right of taura and rōpū to form a national representative entity to ensure fair and just tertiary education policies in Aotearoa New Zealand.

We claim that the policy and practice of the Crown stemming from this Bill fails to protect Māori students' rights as stated above, and that this is contrary to Te Tiriti o Waitangi 1840 and Te Wakaputanga o Ngā Rangatira o Niu Tirenī 1835.

We seek the Tribunal's recommendation that:

- (a) the Bill is abolished, and
- (b) that provisions be made to protect taura Māori, their local roopu, and their national representation, Te Mana Ākonga.

We ask for permission to amend this Claim, if necessary.

We wish that the Claim be heard at Kuratini Marae, Massey University of Wellington, and we further request that the following persons and organisations should be notified of this Claim including:

- Te Mana Ākonga, National Māori Tertiary Students' Association (TMA)
- Auckland University Māori Students' Association, Ngā Taura Māori (NTM)
- Students' Association at Waikato Institute of Technology (SAWIT)
- Massey University Extramural Students' Society (EXMSS)
- Massey University Māori Students' Association, (Manawatahi)
- Weltec Students' Association (WSA)
- Victoria University Māori Students' Association, Ngai Taura (NT)
- University of Canterbury Māori Students' Association (Te Akatoki)
- Lincoln University Māori Students' Association (Te Awhioraki)
- Otago University Māori Students' Association, Te Roopū Māori (TRM)

- New Zealand Union of Students' Associations (NZUSA)
- Minister of Māori Affairs
- Minister of Tertiary Education
- Minister of Education
- Vice-Chancellors and Chief Executives of institutions with Rōpū Taurira Māori

We further advise the Tribunal that all documents should be sent to the following address of service for this Claim:

Tumuaki
 Te Mana Ākonga
 PO Box 10191
 Wellington
 04 498-2506

Urgent Hearing

1. This is an application for an urgent hearing by the Waitangi Tribunal.
2. We wish to appear in front of the Waitangi Tribunal
3. If an urgent hearing is denied us, then we would like formal reasons to be given as was outlined in the recent *Haronga* decision. (HARONGA v WAITANGI TRIBUNAL AND ORS SC 54/2010 [19 May 2011]).
4. Our basis for an urgent hearing is that if the Education (Freedom of Association) Amendment Bill concludes its Committee Stage on 7 September 2011 it will impact negatively on taurira Māori as outlined below and therefore, whānau, hapū, and iwi development and advancement.
5. The proposed implementation date for the Bill is January 1st 2012.
6. Other reasons for the Claim include:
 - a) Breaches of the Principles of the Treaty of Waitangi;
 - b) The Crown's failure to consult with taurira Māori is a breach of the Crown's duty to act reasonably and in good faith as directed under the Treaty of Waitangi;
 - c) Prejudicial effects against taurira Māori in the tertiary sector and the impact on the overall framework provided by students' associations which assist in strengthening the support of taurira Māori;
 - d) The Crown's failure to acknowledge and address any impacts on taurira Māori in the Regulatory Impact Statement for the Bill 2009, and the Education & Science Select Committee Report 2010;
 - e) The Crown's inaction to include and or provide research and analysis into the impact of the Bill on taurira Māori, their whānau, hapū, and iwi development and advancement;

- f) The Crown's inaction to recognise taurira Māori as a Treaty Partner to the Crown and therefore make provision to protect the Treaty relationship;
- g) Active protection of taurira Māori interests through formal recognition of taurira Māori representation and autonomy under Section 181 (b) and (c) of the Education Act 1989, including representation on university, polytechnic and institutes of technology councils.

Support Structures and Functions Rōpū Taurira Māori

7. We are grounded by Te Tiriti o Waitangi 1840 and Te Wakaputanga o Ngā Rangatira o Niu Tirenī 1835, which set the benchmark for effective Treaty partnerships with local and national partner (mainstream) student associations.
8. We provide educational support, cultural and pastoral care for taurira Māori based on tikanga Māori, and their needs are considered first and foremost.
9. We are an organisation 100% owned and operated by taurira Māori, for taurira Māori, with taurira Māori.
10. Rōpū provide significant value in improving recruitment, enrolment, retention, and completion outcomes for Māori tertiary students through the practice of Whanaungatanga, Manaakitanga, Tuākana/Teina, Kotahitanga, Tino Rangatiratanga, Te Reo Rangatira me ōna Tikanga.
11. Māori Student Representation is imperative to lowering barriers to access and equity for taurira Māori in education, through local, regional and national representation on campus, in the community, and in Parliament.
12. We ensure we have a voice on legislation and policy that affect taurira Māori and our autonomy is key to our livelihood, our political representation, our rangatiratanga and mana motuhake.
13. We support Whānau, Hapū and Iwi development and advancement. We do this by actively advocating our students return home and contribute as under- graduates and post-graduates (ahikā). We recognise there is a disconnection between Iwi strategic visions for tertiary education and an effective conduit into tertiary level training. We propose that we are that bridge between hapū, iwi and institutions. Currently we are in consultation with external organisations, whānau, hapū and iwi to provide employment opportunities and a clear pathway home for taurira Māori.
14. We represent taurira Māori within the tertiary sector on Government and non-Government boards and are usually the sole voice for 'Māori' at the decision-making table.
15. We advocate for barrier free education for Māori and ensure we are heard within policy and legislative forums such as Parliament and associated Ministries. We are a not-for profit and non-partisan organization. However, we do not confuse this with our core value to uphold and protect Te Tiriti o Waitangi 1840.

16. Māori Policy, Māori Language, Māori Support Services, Māori Teaching Departments within Tertiary Providers are standing and operating successfully due to decades of commitment, exertion, protests and consultation selflessly paved by past and present Rōpū Tauria Māori. We have often been to the forefront of institution change towards increasing Māori content within institutional programs and policy. As Norman Kingsbury points out: “They were often leaders in pressing for new academic developments, such as the teaching of Te Reo, New Zealand content in courses, Māori studies, Pacific studies, New Zealand's role in the world, to name just a few” (Kingsbury, 27 March 2010, Pg 4 Submission to the Education & Science Select Committee on the Education (Freedom of Association) Amendment Bill).
17. As education becomes normalised, Rōpū Tauria Māori are more of a conduit for success, a conduit out of poverty through learning, and a means for identity/self-identity. Thus, an asset to the growing and evolving needs of the economy of Aotearoa. Please note, these contributions are at no cost to other students, institutions or the Government
18. Support structures like Rōpū Tauria Māori and tauria Māori services work together to ensure every tauria Māori is received well and supported to the best of their ability. Mentoring programmes, academic support programmes, welfare, advocacy, educational, pastoral and cultural representation, social activities, sporting activities and fundraising are offered as part and function to supporting and protecting tauria Māori achievement and transformation.

Impacts of the Education (Freedom of Association) Amendment Bill on Rōpū Tauria Māori Autonomy

18. Our structure is tauria Māori owned and operated and the Bill will irreversibly affect the mandate of the organisation and will impose issues of Rangatiratanga because this will be compromised as a result of the Bill. Our focus will turn into a service outlet for the institution and not a conduit for success through the learning of culture, customs and whānau for our people.
19. The Bill will destroy the voice of tauria Māori and will also disrupt progress towards higher achievements for Māori in education and cause unnecessary dislocation within the tertiary sector. In a proper Treaty relationship, the Crown would support Māori growth and development and be protective of that relationship.
20. Institutions (crown agents) will be the primary source of funding for Rōpū Tauria Māori post the Bill, in lieu of tauria Māori funding their own organisation because they may not know what Rōpū do. We feel that this process will irreversibly affect our voice to speak up on issues that affect us due to fear of losing resources, representation and funding.
21. The functions of Rōpū Tauria Māori are aligned with Te Reo me ōna Tikanga me Te Tiriti o Waitangi. Future, relationships with Institutions will be severely compromised as the role of the institution post the Bill will be that of increased ‘active protection’ and ‘...to act reasonably and in good faith...’ for tauria Māori. We are not confident that evolving needs of tauria Māori will be best represented solely by the institution without having the tauria Māori voice at the decision-

making table. We need to have oversight on support mechanisms that affect taura Māori such as the need for Māori Student Representation on University, Polytechnic and Institutes of Technology Councils.

22. Rōpū Taura Māori deserve the right at the very least to remain independent from the institution and have the support of the institution for its representation, development and growth. However, there is no provision in any crown correspondence on the Bill to date as to the effects on taura Māori. Government benchmarks sector behaviour and if Māori are not acknowledged then this Bill advocates that the institution does not have to include our needs into developments, should the Bill become an Act.
23. The loss of autonomy silences our people to politically speak up on Government legislation or policy without the risk of affecting relationships with institutions and or other stakeholders and their own political agendas.
24. There are barriers for Māori representation that we face currently and this Bill will further discriminate and fragment an already struggling voice.
25. This Bill ensures that we will never again set our own Tikanga on how we are governed and how we operate for our own people. In fact our structure and function will in turn become another university 'commodity'.

Tertiary Education Strategy 2010-2015 compromised

26. The Tertiary Education Strategy 2010-15 outlines that taura Māori should be able to 'access education as Māori', and that they are to be supported with appropriate provisions and resourcing in order to encourage success and achievement into higher levels of education.
27. The Strategy also prioritises culturally appropriate pastoral care and a focus on the non-academic needs of students to support them in their studies. The work of Rōpū contributes directly to achieving many of these priorities and is essential in supporting Māori and rangatahi in higher education.
28. Rōpū operate through Tikanga Māori and this protocol empowers the collective environments of the student, whānau and community. These variables are considered when we tailor support to a struggling student and whānau. Research indicates that low retention and completion rates for taura Māori are worsened by the absence of a cultural relationship with the institution and peers.
29. The removal of support for Rōpū Taura Māori in essence removes another level of support for taura Māori to achieve the strategy's intended goal. A well rounded productive Māori graduate that is not only retained to completion, but is also socially connected to other graduates, and contributing positively to society, and the economic standard of Māori wellbeing.
30. Taura Māori are far more likely to drop out or fail and enrolments will plummet, if the learning environment is not culturally appropriate, or until the Government funds institutions more to counterbalance the affects of having lost a major connecting point that are Māori Rōpū.

Effects on Taura Māori Support Staff

31. There is already evidence that institutions are lagging behind student organisations in terms of engagement, commitment and providing for the changing needs of all students. Institutions will become exhausted with complaints and this extra work will fall on a small set of Māori student support staff who are currently under-resourced, overworked and underappreciated.
32. Māori student support services are pivotal to supporting enrolment, retention and completion of students and naturally give far more than expected as they operate and recognise the same values as Rōpū Taura Māori such as Manaakitanga, Tuākana/Teina, Whanaungatanga, Kotahitanga, Tino Rangatiratanga, Te Reo me ōna Tikanga. The demand for their support is increasing as more Māori access tertiary level.
33. The Government has announced cuts of up to 5% of total funding to institutions if 'completion' rates are not improved. Taura Māori are at risk learners in terms of retention and completion statistics. Māori student support staff presently offer well beyond their academic teaching and research responsibilities to support retention and completion. This Bill will affect the already overloaded schedule of services and as demand increases, they will be left to deal with its repercussions.

Effects on Iwi advancement and development

34. In our extensive consultation with Māori over this particular issue it has become abundantly clear that iwi support Rōpū Taura Māori. Such support comes out of the intrinsic link that they can connect between having a Māori support structure on campus to foster retention and completion.
35. All iwi aspire to be self-sustainable. They allow for their descendants to access a high quality education as outlined in every Iwi strategic vision. They hope to attract trained graduates home to support plans and aspirations of the older generations who mostly had limited contact with the education system post colonisation. The hard work paved between Rōpū and Iwi such as providing employment opportunities for taura Māori will be compromised.

Effects on debt and unemployment for Taura Māori

36. Tertiary providers currently charge compulsory non-academic fees for student support services and aim to spend it on services that matter to students. This Bill will force the Institution to charge higher compulsory non-academic fees to aim at replacing and duplicating work too important to be lost.
37. It is not easy to research a cost-benefit analysis on Manaakitanga, Whanaungatanga, Kotahitanga, Tino Rangatiratanga, Tuākana/Teina, Te Reo Rangatira me ōna Tikanga. All of these outputs need a strong volunteer support base which is an advantage of Rōpū Taura Māori. This is a true example of Māori supporting Māori. The Bill will limit outputs of the Rōpū Taura Māori due to the limited mandate, representation, resources and a change in function.

38. In 2009 Māori student debt was over \$4 billion and continues to grow significantly as fees increase and the cost of living increases. A rise in GST in 2010 has added to the burden of accessing higher levels of education.
39. Taura Māori are among the highest users of the Student Loan Scheme, Course Related Costs and Living Costs. Performance linked funding in the student loan scheme has forced many students to leave with no qualification but still carrying a debt. This Bill will stop the much needed national Māori student representation that will assist in helping to contribute to, inform, and change Government policy and legislation.

Remedy: Te Mana Ākonga seeks formal acknowledgement from the Government and Tertiary Institutions by:

40. **Addressing breaches to the Treaty of Waitangi through the abolishment of the Bill, and make provisions to protect taura Māori as noted below.**
41. **Recognising the Crown's inaction to provide for research and analysis on the impacts of the Bill on taura Maori in the Tertiary Sector, their whānau, hapū, and iwi development and advancement and therefore ask that the Tribunal commission qualitative and quantitative research into the effects of the Bill on taura Māori.**
42. **Acknowledging that the Crown's non-consultation with taura Māori is a breach of Treaty Principles because the Crown has a duty to consult and act reasonably and in good faith.**
43. **Recognising Rōpū Taura Māori as a Treaty Partner to the Crown through the formal acknowledgement of Te Mana Ākonga and Rōpū Taura Māori in the Education Act 1989.**
44. **Active protection of taura Māori interests through formal recognition of taura Māori representation and autonomy under Section 181 (b) and (c) of the Education Act 1989 including representation on university, polytechnics, and institutes of technology councils appointed through Rōpū Taura Māori.**
45. **Addressing the prejudicial effects against taura Māori by recognising that taura Māori have the right to practise Tino Rangatiratanga, Kotahitanga, Whanaungatanga, Manaakitanga, Tuākana/Teina, and Te Reo Rangatira me ōna Tikanga within the Tertiary Sector.**

Date: 31 August 2011

Name: Jacqualene Poutu on behalf of Te Mana Ākonga Executive and Alumni

Signed: