

## Toitū te Tiriti

*The Government has voted Treaty Principles Bill past the first reading. It is designed to erode te Tiriti o Waitangi by undermining the way it is applied in law. NZEI Te Riu Roa opposes this bill and joins the mobilisation of tāngata whenua (Māori), tāngata Tiriti (non-Māori), and many groups and organisations in saying “Toitū te Tiriti” (Honour te Tiriti)!*

### **What is the difference between te Tiriti o Waitangi and the Treaty of Waitangi?**

NZEI Te Riu Roa recognises te Tiriti o Waitangi as the Treaty between the Crown and Tāngata Whenua. It is te Tiriti o Waitangi s recognised and applied in the Education and Training Act.

On October 28, 1835, 34 Māori chiefs signed He Whakaputanga o te Rangatiratanga o Nu Tireni, the Declaration of Independence of the United Tribes of New Zealand. This established Māori authority, declared New Zealand's independence, and asserted that Māori were sovereign of Aotearoa.

The Treaty of Waitangi was first drafted in English and translated into te reo. That document, te Tiriti o Waitangi was signed by up to 540 Māori, with only 39 signing the English draft. As the two documents differ in content and concepts, International Law applies to determine which document we use. *Contra Proferentem* gives preference to the non-drafter (in this case, tāngata whenua) and is applied when there are discrepancies between signed contracts and treaties. This interpretation is supported by the Waitangi tribunal who give more weight to te Tiriti o Waitangi as the authoritative text.

The two documents are not direct translations of each other, and each represent different cultural concepts and understandings of power. Te Tiriti, written in te reo Māori, promised Māori that they would keep control (tino rangatiratanga) over their lands, resources, and people, while giving the British Crown the right to govern (kāwanatanga). The Treaty, written in English, suggested the Crown would have more control, implying full sovereignty over New Zealand. These differences, especially regarding who holds power and to what extent, have caused conflict and debate ever since.

### **What are the Treaty principles?**

The “Treaty principles” were created and developed over the past 40 years through various legal processes attempting to reconcile the differences between the English draft and te Tiriti, to guide how te Tiriti should be recognised today.

While the articles of te Tiriti and the Treaty set out specific promises about things like governance and land, the principles focus on the broader ideas behind those promises. Principles like active protection, redress, partnership, mutual benefit, options, equity, protection, participation have been developed to have te Tiriti applied in a way that works for modern Aotearoa, encouraging Crown and Māori representatives to work together in good faith.

## What the Waitangi Tribunal say about the proposed principles

### Principle 1

The Executive Government of New Zealand has full power to govern, and the Parliament of New Zealand has full power to make laws,—

- (a) in the best interests of everyone; and
- (b) in accordance with the rule of law and the maintenance of a free and democratic society.

Principle 1 misinterprets the kāwanatanga granted to the Crown in 1840, which is not an unbridled power restrained only by its own sense of what is in the best interests of everyone.

### Principle 2

- (1) The Crown recognises, and will respect and protect, the rights that hapū and iwi Māori had under the Treaty of Waitangi/te Tiriti o Waitangi at the time they signed it.
- (2) However, if those rights differ from the rights of everyone, **subclause (1)** applies only if those rights are agreed in the settlement of a historical treaty claim under the Treaty of Waitangi Act 1975.

Principle 2, if enacted, would revoke the promises and guarantees the Queen made to Māori in 1840.

### Principle 3

- (1) Everyone is equal before the law.
- (2) Everyone is entitled, without discrimination, to—
  - (a) the equal protection and equal benefit of the law; and
  - (b) the equal enjoyment of the same fundamental human rights.

Principle 3 bears no resemblance to the meaning of article 3 and that Cabinet's decision to introduce the principle in a Bill was a breach of the Treaty/te Tiriti principles of partnership, equity, and active protection.

The new principles would advance the discredited agenda of assimilation, as they are designed to end the distinct status of Māori as the indigenous people of this country.

## What is wrong with the Treaty Principles Bill?

**Drafted at the exclusion and expense of iwi Māori:** The Crown's process to develop the Bill has purposefully excluded any consultation with Māori, breaching the principle of partnership, the Crown's good-faith obligations, and the Crown's duty to actively protect Māori rights and interests

**Distortion of Te Tiriti:** The Bill claims to “clarify” the principles of the Treaty but fundamentally alters their meaning by selectively and incorrectly interpreting the reo Māori text. The new principles totally betray te Tiriti, denying tino rangatiratanga (self-determination).

**Replacing a relational approach to Te Tiriti with a singular cemented interpretation:** Te Tiriti o Waitangi is a contract between two sovereign peoples. Māori and the Crown share in how Te Tiriti is interpreted and applied. This bill proposes to remove this relational approach to meeting te Tiriti

responsibilities and obligations by introducing a new set of principles developed at the exclusion and expense of Māori.

**Erasure of Māori rights:** The proposed principles eliminate the recognition of Māori as tāngata whenua, focusing instead on individual rights “for all New Zealanders”. This ignores both the historical context and more recent understandings, which confirm Māori have the right to have their sovereignty over their land and resources, and all their taonga protected.

### **How does this relate to my work as an educator?**

As educators and advocates for all learners, it is essential to stand up for a positive vision of a Te Tiriti led education system that centres mokopuna Māori, and voice our concerns about how the Bill and other changes might impact our collective responsibility to uphold and give effect to te Tiriti and ensure that every student receives an inclusive and respectful education.

Māori are guaranteed tino rangatiratanga as per article two of te Tiriti but this is now under threat as the National-led Government redefines the treaty principles with this Bill while actively downgrading references to te Tiriti and its principles from government legislation.

In education, the Government is proposing to demote the place of te Tiriti o Waitangi in the Education and Training Act by removing it as one of the four current primary objectives for boards in their governing of schools and subsuming it under one primary objective.

Te Tiriti o Waitangi has been erased from the English medium curriculum framework, Te Mātaiaho.

The words ‘*Te Mātaiaho is designed to give effect to Te Tiriti o Waitangi and be inclusive of all ākongā*’ have been removed. The words ‘*centrality of Te Tiriti o Waitangi and its principles*’ are replaced with ‘*based on the science of learning*’.

What started as a Te Tiriti-based framework is now narrow and prescriptive and a direct breach of te Tiriti o Waitangi.

It also wants to scrap requirements for statements of National Education and Learning Priorities (NELP) for early childhood and schooling which includes ‘instilling in each child and young person an appreciation of the importance of Te Tiriti o Waitangi and te reo Māori’.

### **What can we do about it?**

#### **Read the Treaty Principles Bill:**

<https://www.legislation.govt.nz/bill/government/2024/0094/latest/whole.html>

**Sign up to stay in touch:** Visit [www.nzei.org.nz/toitutetiriti](http://www.nzei.org.nz/toitutetiriti) to access educational resources and to sign the pledge to submit against the bill so we can keep you informed about this kaupapa.

**Write submissions against the bill:** The Treaty Principles Bill has passed its first reading in Parliament and submissions now open until January 7<sup>th</sup>.

NZEI Te Riu Roa can support you to organise submission workshops and we have created a submission guide to assist people to have their voice heard in opposition to the bill. [NZEI Te Riu Roa is running a series of online submission workshops](#). Stay tuned to NZEI Te Riu Roa

communication channels like our [Facebook page](#) and [NZEI Te Riu Roa Toitū te Tiriti Facebook group](#).

**Oral submissions against the bill:** If you opt to do an oral submission against the bill NZEI Te Riu Roa can support and guide you through this. You can email [anaru.ryall@nzei.org.nz](mailto:anaru.ryall@nzei.org.nz) for resources and support.

**Join the mobilisation:** People all across Aotearoa are standing up together to fight back against this bill. We strongly encourage NZEI Te Riu Roa members and everyone else to join local meetings, marches, and rallies to send a clear message to the Government they are doing the wrong thing.