

# Submission to the Justice Committee on the Electoral Amendment Bill

## Introducing Mana Mokopuna – Children's Commissioner

Mana Mokopuna – Children's Commissioner is the independent Crown entity with the statutory responsibility to advocate for the rights, interests, participation and well-being of all mokopuna (children and young people) under 18 years old in Aotearoa New Zealand and, including young persons aged over 18 but under 25 years of age if they are, or have been, in care or custody.

We independently advocate for and with mokopuna within the context of their whānau, hapū, iwi and communities, based on evidence, data and research, including the perspectives of mokopuna.

Our work is grounded in the United Nations Convention on the Rights of the Child (the Children's Convention),<sup>1</sup> Te Tiriti o Waitangi and other international human rights instruments. We are a National Preventative Mechanism under the Optional Protocol to the Convention Against Torture, meaning we monitor places where mokopuna are deprived of their liberty, including in the care and protection, youth justice, youth mental health and intellectual disability spaces.

We have a statutory mandate to promote the Children's Convention and monitor the Government's implementation of its duties under the Convention, and to work in ways that uphold the rights of mokopuna Māori including under Te Tiriti o Waitangi. We place a focus on advocating for and with mokopuna who are experiencing disadvantage, and we recognise and celebrate the diversity of mokopuna in all its forms.

Our moemoeā (vision) is *Kia kuru pounamu te rongo* – *All mokopuna live their best lives*, which we see as a collective vision and challenge for Aotearoa New Zealand.

## Summary & Recommendations

1. Given the statutory mandate of the Children's Commissioner, this submission is focussed on the potential impact of the Electoral Amendment Bill (the Bill) on the rights, interests, participation, and well-being of mokopuna under 18 years old and young people of voting age in Aotearoa New Zealand. In particular, we are concerned the Bill:
  - fails to protect young people's right to vote and participate in democracy by imposing time limitations that will restrict, rather than facilitate, their enrolment to vote
  - fails to protect the electoral rights of rangatahi Māori (young Māori adults) and provide equitable opportunities for their participation in democracy, as required

<sup>1</sup> [Convention on the Rights of the Child | OHCHR](#)

**For more information  
please contact:**

Matt Langworthy

Manager Rights,  
Insights & Advice

[Matt.Langworthy@  
manamokopuna.org.nz](mailto:Matt.Langworthy@manamokopuna.org.nz)

under Te Tiriti o Waitangi, by imposing time limitations that will restrict, rather than facilitate, their enrolment to vote

- fails to protect the rights of young people in prison to vote and participate in democracy
- fails to protect, and disproportionately impacts, the rights of rangatahi Māori in prison to vote and participate in democracy, as required under Te Tiriti o Waitangi
- fails to recognise the right of mokopuna aged 16 and over to vote, and
- has been developed without mokopuna or young people being involved or consulted, and without their views being taken into account.

## Recommendations

2. Because of these concerns, Mana Mokopuna strongly recommends:

- the Bill's proposals relating to closing enrolment early, removing same-day enrolment and banning prisoner voting are abandoned
- a new amendment is included in the Bill to lower the voting age to 16 years of age, and
- before proceeding with the Bill, the Government consults with mokopuna and young people, from all backgrounds and including those in prison, on the proposed changes and make further amendments to the Bill to give effect to their views.

## The Government's obligation to promote children and young people's civic and political participation

“ Let the young youth have more to say. Sometimes the older youth have more say and more opportunities.”

(Mokopuna, aged 14-17)<sup>2</sup>

3. The Children's Convention is an international treaty that outlines the fundamental human rights of every child, including their rights to survival and development, education, healthcare, protection from harm, and to have a say in matters that affect them.
4. In the context of children's civic and political participation and active citizenship, Article 12 of the Children's Convention recognises the right of every child to have a say and actively participate in their own lives, and in the matters that are important to them. A child's right to participate actively in society is strengthened by other key civil rights and freedoms protected by the Children's Convention, including the rights to freedom of expression (Article 13), freedom of thought, conscience and religion (Article 14), freedom of association and peaceful assembly (Article 15), right to information (Article 17), and right to education (Articles 28 and 29).
5. Aotearoa New Zealand, as a States Party to the Children's Convention, is duty-bound under international law to take all appropriate legislative, administrative, and other

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<sup>2</sup> "Without racism Aotearoa would be better": Mokopuna share their experiences of racism and solutions to end it | Mana Mokopuna

measures to give effect to children's rights, including increasing opportunities for civic and political participation.<sup>3</sup>

6. The Government is also obligated under Te Tiriti o Waitangi to actively protect the electoral rights of rangatahi Māori and provide equitable opportunities for their participation in democracy.<sup>4</sup>
7. The Government should amend Aotearoa New Zealand's electoral laws to recognise the rights of all mokopuna aged 16 and over to vote. As declared by the Supreme Court in relation to legal advocacy led by children and young people themselves, the provisions of the Electoral Act 1993 and of the Local Electoral Act 2001, which provide for a minimum voting age of 18, are inconsistent with the right in section 19 of the New Zealand Bill of Rights Act 1990 (NZBORA) to be free from discrimination on the basis of age.<sup>5</sup>

## The impact of the Bill on mokopuna

### First-time voters and younger voters



For so many Māori, Pacific peoples, and rangatahi, same-day enrolment isn't just convenient — it's a lifeline. Life is busy. People move flats. Some of us don't even think about voting until someone...says, 'Come on, let's go.'"<sup>6</sup>

8. Mana Mokopuna is concerned the Bill's proposal to close enrolment earlier and remove same-day enrolment will have a significant impact on the right of young people to vote and participate in democracy, and will disproportionately affect rangatahi Māori and young Pasifika people.
9. Currently, anyone eligible to vote can enrol anytime up to and including on Election Day. This provision was made to increase voting participation and minimise disallowed votes, as it was found the inability to enrol on Election Day disenfranchised some voters, particularly Māori voters, or led to some voters not having their votes counted.<sup>7</sup> Previously, people were able to enrol to vote up to but not including Election Day.
10. The Bill proposes to remove enrolment on Election Day (same-day enrolment) and close enrolment significantly earlier (13 days before Election Day).
11. Mana Mokopuna strongly opposes these changes as they are likely to adversely impact young people's enrolment and voting behaviour and their participation in democratic processes. Research shows restrictive enrolment policies, like those proposed in the Bill, can hinder young people's participation.<sup>8</sup> Conversely, voting laws that make it easier for young people to register and vote, such as same-day enrolment, increase youth voter turnout.<sup>9</sup> This is evidenced in youth enrolment data since 2020, when same-day enrolment was legalised in Aotearoa New Zealand. Youth enrolment has steadily increased with 83.1% of youth enrolled for the 2023 election compared with 80.7% in

<sup>3</sup> Article 4 of the Children's Convention.

<sup>4</sup> [He Aha i Pērā Ai? The Māori Prisoners' Voting Report](#)

<sup>5</sup> [2022-NZSC-134.pdf](#)

<sup>6</sup> [Voting changes will silence voices like mine | E-Tangata](#)

<sup>7</sup> [ris-enabling-election-day-enrolment.pdf](#)

<sup>8</sup> [New Restrictions on Voter Registration Are Likely to Harm Young Voters | CIRCLE](#)

<sup>9</sup> [Rock the Registration: Same Day Registration Increases Turnout of Young Voters | The Journal of Politics: Vol 84, No 1](#)

2020 and 75.6% in 2017.<sup>10</sup> The policy of allowing people to enrol right up to Election Day (which has been the practice since the early 1990s) also facilitates youth enrolment. For example, in the 2023 General Election, 33% of voters aged 18 to 19 years enrolled to vote in the 13 days prior to and on Election Day with the rate significantly higher for rangatahi Māori from the same age group (48%).<sup>11</sup>

12. We are concerned the Bill's proposal to stop people from enrolling on Election Day and 13 days prior is contrary to youth enrolment trends, and is therefore likely to negatively impact on their right to vote and participate in the democratic process. Research also shows that if a young person does not vote in their first eligible elections, they are less likely to vote in subsequent elections as the voting habit tends to be set during the first 10 years in which people are eligible to vote.<sup>12</sup>
13. We are particularly concerned about the impact on rangatahi Māori and that the proposed changes will breach the Government's obligations under Te Tiriti o Waitangi to protect their electoral rights and provide equitable opportunities for their participation. This obligation is heightened considering over 46% of the Māori population are under 25 years of age.<sup>13</sup> It is essential any law changes do not reverse the recent progress in turnout by Māori voters aged 18 to 24 years, which was higher in 2023 (70.3%) than in the previous four elections, up from 69.7% in 2020 and 61.8% in 2017.<sup>14</sup>
14. As acknowledged in the Regulatory Impact Statement (RIS) for the Bill, placing greater restrictions on people's ability to enrol to vote "will create a barrier to participation and may be seen as a step backwards for accessibility, in light of changes to enable greater participation over recent elections."<sup>15</sup> Aotearoa New Zealand's electoral laws must facilitate rather than restrict the participation of young voters from specific groups. As research shows, young people with different ethnic identities or who are gender diverse are less likely to enrol to vote. As found by the Youth19 Survey, Pākehā/European students were more likely to report they plan to enrol or have enrolled to vote (81.2%) compared to students who identified as Asian (68.4%), Māori (65.4%), gender diverse (64.9%) or Pasifika (63.6%). This is likely to be the same for other key groups, including young disabled people.<sup>16</sup>
15. We are also concerned that the RIS clearly states these proposed changes to enrolment will not necessarily achieve the Government's stated policy objective (to improve the timeliness of the official vote count).<sup>17</sup> The Attorney-General has also raised this concern and took it into account when she concluded that the Bill's proposed changes to enrolment deadlines constituted an unjustified limit on the right to vote.<sup>18</sup>
16. As also stated in the RIS, the Government's policy objective could equally be achieved through automatic enrolment updates, which is another amendment being proposed by the Bill, and that negative impacts on participation, particularly for Māori, would be avoided.<sup>19</sup>

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<sup>10</sup> [Report-on-the-2023-General-Election.pdf](#)

<sup>11</sup> [Report-on-the-2023-General-Election.pdf](#)

<sup>12</sup> [He Aha i Pērā Ai? The Māori Prisoners' Voting Report](#)

<sup>13</sup> [Demographics | All Māori | Te Whata](#)

<sup>14</sup> [Report-on-the-2023-General-Election.pdf](#)

<sup>15</sup> [Improving-the-timeliness-of-the-vote-count-final.pdf](#)

<sup>16</sup> [Youth19](#)

<sup>17</sup> [Improving-the-timeliness-of-the-vote-count-final.pdf](#)

<sup>18</sup> [25072025-Electoral-Amendment-Bill.pdf](#)

<sup>19</sup> [Improving-the-timeliness-of-the-vote-count-final.pdf](#)

17. We therefore call on the Committee to recommend the amendments proposing to close enrolments early and remove same-day enrolment do not proceed, to ensure Aotearoa New Zealand's electoral law continues to facilitate the enfranchisement and participation of all voters, including young people from all backgrounds, and gives effect to Te Tiriti o Waitangi.

### Young people in prison

“ Getting treated different and people think its ok cause they already decided you don't deserve anything else.”

(Mokopuna Māori, aged 14-16, Remand Home)<sup>20</sup>

18. Mana Mokopuna is concerned about the Bill's proposal to reinstate a total ban on prisoner enrolment and voting. Considering the enrolment trends of young people described above, when coupled with being in places of detention, this ban is likely have long lasting negative impacts on young people's enrolment and participation, especially rangatahi Māori.
19. Currently, prisoners can enrol and vote if they are serving a sentence of less than three years.<sup>21</sup> As confirmed by the Attorney-General, an amendment imposing a total ban on prisoner voting would disenfranchise those who have a right to vote and be contrary to section 12 of the NZBORA.<sup>22</sup>
20. Mana Mokopuna is concerned the proposed prisoner voting ban will have a significant impact on young people in prison aged 18 to 24 years, which is a key group that falls within the advocacy mandate of the Children's Commissioner.<sup>23</sup> As at 30 June 2024, Ara Poutama | Department of Corrections managed just over 870 young people aged 18-25 in prison.<sup>24</sup>
21. We are particularly concerned about the disproportionate impact the proposed voting ban will have on rangatahi Māori, who are overrepresented in the youth prison population.<sup>25</sup> Recent figures show wāhine Māori make up 67% of women under 25 years in custody and tāne Māori make up 57% of men under 25 years in custody.<sup>26</sup>
22. While there have been improvements in recent years, rangatahi Māori are less likely to enrol or vote in elections compared to other groups. Not allowing young Māori to enrol or vote while they are in prison will have a compounding effect on an already below-average rate of democratic participation by Māori.<sup>27</sup> We note that after a similar prisoner voting ban was imposed in 2011, Māori were 9.3 times more likely to be removed from the electoral roll than non-Māori.<sup>28</sup>
23. This disproportionate impact on the voting rights of rangatahi Māori while imprisoned is also at odds with the Government's obligations under Te Tiriti o Waitangi to actively protect the electoral rights of Māori and provide equitable opportunities for their

<sup>20</sup> ["Without racism Aotearoa would be better": Mokopuna share their experiences of racism and solutions to end it | Mana Mokopuna](#)

<sup>21</sup> Section 80(1)(d) of the Electoral Act 1993.

<sup>22</sup> [25072025-Electoral-Amendment-Bill.pdf](#)

<sup>23</sup> Section 7 of the Children's Commissioner Act 2022, see definition of 'young person'.

<sup>24</sup> [Ara Poutama Aotearoa - Annual Report 23/24](#) at 35.

<sup>25</sup> [Ara Poutama Aotearoa - Annual Report 23/24](#) at 32.

<sup>26</sup> [FINAL Young People and Young Adult Thematic Inspection .pdf](#) at 44.

<sup>27</sup> [SAR-Prisoner-voting-and-the-voting-rights-of-detained-people.pdf](#) at 16.

<sup>28</sup> [He Aha i Pērā Ai? The Māori Prisoners' Voting Report](#) at 17.

participation. This was a key finding of the Waitangi Tribunal when it inquired into the 2011 prisoner voting ban. The Waitangi Tribunal also found the ban was a serious breach of Te Tiriti o Waitangi because rangatahi Māori are more likely to be imprisoned than non-Māori, and that an enrolment and voting ban would impede the development of positive voting habits. The Waitangi Tribunal noted the ban operated as a de facto permanent disqualification due to low rates of re-enrolment upon release.<sup>29</sup>

24. Mana Mokopuna opposes the proposed prisoner voting ban as it breaches young prisoners' right to vote and the rights of rangatahi Māori under Te Tiriti o Waitangi, and it would disproportionately impact rangatahi Māori. The ban is also likely to deter young people from enrolling or voting on their release from prison, further impacting on their rights and political participation.

### Recognising the rights of mokopuna aged 16 and over to vote

“ [The election] affects the future generations so the ones that are actually going to live through it should have a say in who controls their future.”

(Mokopuna, aged 15)<sup>30</sup>

25. Mana Mokopuna is disappointed the Bill does not include an amendment to lower the voting age to 16. The Bill presents a key opportunity to implement this important change and for the New Zealand Government to advance young people's right to participation and meet its obligations under the Children's Convention.
26. Mokopuna have made it clear lowering the voting age to 16 is important to them. Through our direct work hearing the voices and views of mokopuna throughout Aotearoa New Zealand, we repeatedly have seen the wisdom and thoughtfulness young people can bring when they consider issues like eliminating racism, supporting mental wellbeing, or tackling the climate crisis – to name a few of the many issues mokopuna have shared their views with us on. It makes sense they have the right to hold leaders to account and act on their concerns. We acknowledge and commend the work of the youth-led campaign, Make It 16, who have advocated powerfully – including up to the Supreme Court – and all of the mokopuna involved in leading this advocacy for Aotearoa New Zealand to lower the voting age to 16 and uphold children's civil and political rights.<sup>31</sup>
27. The Supreme Court has been clear - preventing 16 and 17 year olds from voting is unjustified age discrimination and in breach of section 19 of the NZBORA.<sup>32</sup> Around the world, many countries have made the intentional decision to lower the voting age, including, for example, the recent decision of the Government of the United Kingdom to lower the voting age to 16.<sup>33</sup>
28. Expanding voting eligibility to 16 and 17 year olds in Aotearoa New Zealand will also support more equitable outcomes for mokopuna Māori and Pasifika as population

<sup>29</sup> [He Aha i Pērā Ai? The Māori Prisoners' Voting Report](#)

<sup>30</sup> [What-is-Important-Mai-World-Issues-Report-Dec18.pdf](#)

<sup>31</sup> [Lower the Voting Age | Make It 16](#)

<sup>32</sup> [2022-NZSC-134.pdf](#)

<sup>33</sup> [Voting age to be lowered to 16 by next general election](#)



groups that on average have a much younger age profile in comparison to other population groups.<sup>34</sup>

29. As shown in evidence from overseas, lowering the voting age to 16 also has a positive impact on young people's political participation. In Scotland, where the voting age was lowered to 16 in 2014, it was found being allowed to vote from 16 had a lasting effect on young people's voter turnout as they get older.<sup>35</sup>
30. Mana Mokopuna calls on the Committee to recommend an amendment is added to the Bill to lower the voting age to 16 years of age, to ensure mokopuna can have a meaningful say in decisions that impact their daily lives, and to recognise their status as citizens today and into the future.

## Children's right to participate and share their views on the Bill

“ They don't come to us or email us asking for our opinion. They only ask those who are over eighteen.”

(Mokopuna Māori)<sup>36</sup>

31. In addition to the issues we have shared above in relation to the substance of the Bill, we emphasise our concerns, from a child rights perspective, about the process followed to develop the Bill.
32. The right of mokopuna to be consulted and have their views given weight during Government decision-making processes is guaranteed under Article 12 of the Children's Convention. Article 12 requires the Government to listen to the voices of mokopuna when considering any legislation, and particularly legislative changes that affect mokopuna, such as those proposed in the Bill. This duty to listen requires the Government to actively facilitate the participation of mokopuna in its own processes, to listen to mokopuna, and to take their views and submissions seriously.<sup>37</sup>
33. The Government is also under an obligation under Te Tiriti o Waitangi to engage in transparent policymaking in consultation and partnership with Māori, including mokopuna Māori and rangatahi Māori.
34. However, we are not aware of any consultation with any mokopuna or young people during the development of the Bill. This failure to actively facilitate mokopuna participation in this kaupapa, a kaupapa which is important to them and has significant, far-reaching implications for their present and future, disregards the rights of mokopuna to participate and have their voices heard and seriously considered in decisions that affect them.

## Conclusion

35. Mana Mokopuna opposes the Bill's proposed amendments relating to closing enrolment early, removing same-day enrolment, and imposing a blanket ban on prisoner voting.

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<sup>34</sup> In 2023, 46.5% of the Māori population and 50.1% of the Pasifika population in Aotearoa New Zealand are under 25 years of age. See [Demographics | All Māori | Te Whata](#) and [Tupu Ola Moui Volume 1: Pacific Population in New Zealand | Ministry of Health NZ](#)

<sup>35</sup> [Votes at 16 in Scotland](#)

<sup>36</sup> [Mokopuna Voices Summary report 2021 | Mana Mokopuna](#)

<sup>37</sup> For further information on children's participation rights and Government see [Getting It Right: Are We Listening? | Mana Mokopuna](#)

These proposed amendments fail to protect the rights of young people to vote and participate in democracy.

36. Mana Mokopuna advocates for the Bill to be amended to include provisions to lower the voting age to 16 years and to have a meaningful say in decisions that impact their daily lives as current and future citizens, as provided under the Children's Convention.
37. Before proceeding with the Bill any further, the Government should consult with young people, from all backgrounds, including those in prison, on the proposed changes, and make further amendments to the Bill to give effect to their views.
38. Passing this Bill as it is would be a backwards step in Aotearoa New Zealand's civil and political rights framework, and a missed opportunity to give effect to the Government's obligations under the Children's Convention and Te Tiriti o Waitangi. Instead of undermining the civil and political rights of young people, Aotearoa New Zealand should be taking steps to progress and fulfil these more comprehensively. This is essential, given that decisions made today at the political and systemic levels will impact on young people for the longest time to come.