The Treaty of Waitangi: Principles and Practice

A SEMINAR ON THE TREATY OF WAITANGI

In this handout:
- The Maori context 1800-1840 – a cultural and political setting
- The text of the Treaty and its interpretations
- Breaches of the Treaty
- The Waitangi Tribunal
- Implementing the principles of the Treaty

‘The Founding Document’

What is the Treaty?

The Treaty of Waitangi was written by Lieutenant-Governor William Hobson and James Busby in the first few days of February 1840, and translated into Maori by the missionaries Henry and Edward Williams. The Treaty was based on instructions Hobson had received from London in August 1839.

The Maori translation of the Treaty was substantially different from what the British ostensibly intended, and this has led to ongoing debate as to the document’s actual meaning.

Since its signing between February and June 1840, the Treaty has assumed a vital role in the history, politics, culture and society of New Zealand. It is commonly regarded as one of the founding documents of the country.

Hundreds of breaches of the Treaty occurred in the decades following its signing, and in response to Maori pressure to resolve grievances arising from these breaches, the Waitangi Tribunal was formed in 1975.

In addition to addressing breaches of the Treaty, the Tribunal has been instrumental in establishing the principles of the Treaty, and how these can be applied. More recently, the Fiscal Envelope policy has eclipsed some of the work of the functions of the Tribunal.

Questions to Consider...
- Have you ever discussed the Treaty with your friends/work colleagues?
- What do you think is the common Pakeha view towards the Treaty?
- Can a document signed over 160 years ago still apply to our society today?
- What challenges would our country face if the Treaty were suddenly removed?

Our Commitment to this Workshop

In this workshop, a range of topics and issues relevant to the Treaty will be explored, and participants will be expected to discuss and reflect on the material that will be presented.

Throughout the programme, there is an emphasis on imparting and sharing knowledge, and on looking at constructive ways of incorporating the principles of the Treaty of Waitangi into a work environment.

Above all, there is no single perspective of the Treaty that is promoted. Instead, participants are encouraged to develop their own views and reach their own conclusions.

1800-1840: An Emerging Maori Nation-State

1800-1840 Significant migration, especially in the North
1820 Hongi Hika, Waikato, Kendall visit England – literacy, technology for iron, military and political research
1831 Rangatira letter to King William IV – seeking trade, and in return peace

“We are a people without possessions. We have nothing but timber, flax, pork and potatoes. We sell these things, however, to your people, and then we see the property of Europeans”

1833 Busby appointed first Resident

The Treaty of Waitangi signed between the Crown and around 550 Maori chiefs between 6 February and 21 May 1840.
Criteria that Underline Maori Thinking

I te kore, ki te po, ki te ao marama

Out of nothingness, into the night, into the world of light

Maori law (or the Maori world) was primarily concerned with human and divine relationships. … The fundamental purpose of Maori law was to maintain appropriate relationships of people to their environment, their history and each other.

Waitangi Tribunal, 1997

- A reverence for the total Creation as a whole
- A sense of kinship with other beings
- A sacred regard for the whole of nature and its resources as being gifts from the spiritual power: Te Atua/God
- A sense of responsibility for these taonga [gifts/treasures] as the appointed stewards, guardians and rangatira
- A distinctive economic ethic of reciprocity
- A sense of commitment to safeguard all of nature’s resources [taonga] for future generations


Values governing behaviour ….

Kinship (whanaungatanga), which stresses the primacy of kinship bonds in determining action and the importance of genealogy in establishing rights and status;

Compassion (arohatanga), which is the basis for peaceful co-existence;

Hospitality (manaakitanga), which is a desirable character trait of generosity, caregiving, or compassion, and is generally about establishing one’s mana;

Reciprocity (utu), which concerns the maintenance of harmony and balance, and or mana.


The Treaties of Waitangi: Practice and Principles

All resources were ‘taonga’ (something of value) derived from a supernatural world

Waitangi Tribunal – Muriwhanua report 1988:179

‘Te Ao Marama’
Artist: Thomas Lauterbach

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The Marae: A focal point for many Maori communities.

Ethics
Underpinning Maori Practice

Te ao marama
Enlightenment, the cosmos

Te ao hurihuri
Change and tradition

Wairuatanga
Spirituality

Mauri
Life essences and creation

Mana
Power, authority and common good

Tapu
Being, potentiality and sacredness

Whanau
Extended family as the foundation of society

Whanauungatanga
Belonging

Kotahitanga
Solidarity, oneness

Kaitiakitanga
Guardianship of creation and resources

Hau
Spiritual source of obligatory reciprocity and economics

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The Declaration of Independence 1835

1. We, the hereditary chiefs and heads of the tribes of the Northern parts of New Zealand, being assembled at Waitangi, in the Bay of Islands, on this 28th day of October, 1835, declare the Independence of our country, which is hereby constituted and declared to be an Independent State, under the designation of The United Tribes of New Zealand.

2. All sovereign power and authority within the territory of the United Tribes of New Zealand is hereby declared to reside entirely and exclusively in the hereditary chiefs and heads of tribes in their collective capacity, who also declare that they will not permit any legislative authority separate from themselves in their collective capacity to exist, nor any function of government to be exercised within the said territories, unless persons appointed by them, and acting under the authority of laws regularly enacted by them in Congress assembled.

3. The hereditary chiefs and heads of tribes agree to meet in Congress at Waitangi in the autumn of each year, for the purpose of framing laws for the dispensation of justice, the preservation of peace and good order, and the regulation of trade; and they cordially invite the Southern tribes to lay aside their private animosities and to consult the safety and welfare of our common country, by joining the Confederation of the United Tribes.

4. They also agree to send a copy of this Declaration to His Majesty the King of England, to thank him for his acknowledgement of his flag; and in return for the friendship and protection they have shown, and are prepared to show, to such of his subjects as have settled in their country, or resorted to its shores for the purposes of trade, they entreat that he will be an independent protector from all attempts upon its independence.

Agreed to unanimously on this 28th day of October, 1835, in the presence of His Britannic Majesty’s Resident.

The Maori Translation

1. KO MATOU, ko nga Tino Rangatira o nga iwi o Nu Tireni i raro mai o Hauraki kua oto nei te huiai i Waitangi i Tokerau i te ra 28 o Oketopa 1835, ka wakaputa i te Rangatiratanga o to matou wenua a ka meaia ka wakapatua e matou he Wenua Rangatira, kia huina. Ko te Wakaminenga o nga Hapu o Nu Tiren.

2. Ko te Kingitanga ko te mana i te wenua o te wakaminenga o Nu Tiren kia meaia nei kei nga Tino Rangatira anake i to matou hauhunga, a ka mea hoki e kore e tukua e matou te wakarite ture ki te ta hihunga ke atu, me te tahi Kawanatanga hoki kia meaia i te wenua o te wakarite ture a ana ki te ritenga o o matou ture e meaia nei matou i to matou hauhunga.

3. Ko matou ko nga tino Rangatira ka mea nei kia kia hauhunga ki te ri nga tango ki Waitangi a te Ngahura i tenei tau i tenei tau ki te wakarite ture ki te ritenga a te wakarite o te wenua, a kia uru ratou ki te wakaminenga o Nu Tiren.

4. Ka mea matou kia tuhituhia he pukapuka ki te ritenga o tenei o to matou wakaminenga nei ki te Kingi o Ingarami hei kawae atu i to matou aroha e hoki i waka ki te Kara mo matou. A no te mea ka atawai matou, ka tiaki i nga pakeha e noho nei i atua, e rere mai aana i te hokohoko, koia ka mea ai matou ki te Kingi kia waiho hei mutua ki a matou i to matou Tamarikianga kei wakahoretia to matou Rangatiratanga.

KUA WHAKAAETIA katoa ia e matou i tenei ra i te 28 Oketopa, 1835, ki te aroaro o te Reireneti o te Kingi o Ingarami.

The 1835 Declaration of Independence was signed by James Busby, in his capacity as British Resident to New Zealand, and 35 Maori chiefs, mainly from the Northland region of New Zealand.

Busby’s plans for a statement of Maori independence, and the introduction of pan-tribal Maori self-government were boosted by the imminent arrival of baron De Thierry – a French eccentric who boasted that he would claim sovereignty over part of Northland. Busby perceived this as part of a French threat to the colony, and so formulated the Declaration of Independence as a response. Signatures were being added to the Declaration up to 1839. The last of which was that of Te Werowero.

However, the Declaration was entirely of Busby’s own making, and lacked the means to enforce its provisions. Eventually, Maori interest in it faded. Yet, despite this, the Declaration did have some important flow-on effects for Maori. These included:

- Created the foundation for a Maori nation state
- Established a precedent for a written constitutional agreement between Maori and the Crown;
- Demonstrated that such documents could be successfully translated into Maori;
- Established a Confederation of Hapu
- Showed the need for Maori from other iwi to be included in any future agreement.
British Policy on the Treaty 1837-1840

Throughout the 1830s, Britain’s policy towards New Zealand could at best be described as ambivalent. There was a persistent desire to avoid intervention and the commitment that accompanied it. A Resident – James Busby – was appointed by the British Government to New Zealand from 1833 to 1840. However, his powers were limited, and there were demands during the decade from missionaries, some settlers, and even some Maori for a stronger British presence in the colony.

The turning point was 1837, when various circumstances collided to push the British to develop a policy on New Zealand, and eventually make a commitment to annex the colony. Among the main influences affecting policy at this time were:

The Church Missionary Society – This was the missionary branch of the Anglican Church. It had a strong affiliation with the Colonial Office and the British Government, and was opposed to further British involvement in New Zealand on the basis that a growing European presence was harmful to Maori.

The New Zealand Association – Later the New Zealand Company. This was a land-trading organisation formed by Edward Gibbon Wakefield. Prior to 1840, it operated in New Zealand without the sanction of any laws, leading to many unethical land dealings with Maori. The Association was opposed to formal British intervention because they felt it would impede their business practices.

Merchants – In the 1838 House of Lords Select Committee on New Zealand, those merchants who testified stated that Maori would welcome the British annexation of New Zealand because it would benefit their trading opportunities, and provide the protection of British law.

Settlers – The increasing number of settlers being brought to New Zealand by the New Zealand Association, and those who were arriving independently, seemed to favour more law and order for the colony – something which they thought would be achieved by British sovereignty being declared over the colony.

Busby – The actions of Busby, particularly his formation of the Declaration of Independence in 1835, forced the Colonial Office to pay more attention to New Zealand, and to devise some alternative to the Declaration, which had not been part of British policy.

Hobson – In 1837, Captain Hobson conducted an investigation into New Zealand at the request of the Colonial Office. He was asked to provide recommendations on the possibilities of New Zealand becoming part of the British Empire. Hobson recommended the involvement of private enterprise in selected parts of the country, but the plans were deemed to complex, and were later rejected in favour of full annexation.

Lawlessness – Parts of Northland, in particular, were notorious throughout the South Pacific on the basis that they contained settlements where no laws applied, and where crime was rife. The British Government felt it had an obligation to impose order on its own subjects, regardless where in the world they were.

Humanitarian Motives – Many senior officials and politicians felt that intervention in New Zealand was inevitable, and therefore, the emphasis of British policy should be on a humanitarian approach to dealing with Maori.

The culmination of these influences was the set of instructions issued to Hobson by the Colonial Secretary, Lord Normanby, in 14 and 15 August 1839. It was these instructions upon which the content of the Treaty was based.
The Texts of the Treaty

ENGLISH VERSION

Preamble
Her Majesty Victoria Queen of the United Kingdom of Great Britain and Ireland regarding with Her Royal Favor the Native Chiefs and Tribes of New Zealand and anxious to protect their just Rights and Property and to secure to them the enjoyment of Peace and Good Order has deemed it necessary in consequence of the great number of Her Majesty's Subjects who have already settled in New Zealand and the rapid extension of Emigration from both Europe and Australia which is still in progress to constitute and appoint a functionary properly authorised to treat with the Aborigines of New Zealand for the recognition of Her Majesty's sovereign authority over the whole or any part of those islands - Her Majesty therefore being desirous to establish a settled form of Civil Government with a view to avert the evil consequences which must result from the absence of the necessary laws and institutions alike to the native population and to Her subjects has been graciously pleased to empower and to authorise me William Hobson a Captain in Her Majesty's Royal Navy Consul and Lieutenant Governor of such parts of New Zealand as may be or hereafter shall be ceded to Her Majesty to invite the confederated and independent Chiefs of New Zealand to concur in the following Articles and Conditions.

Article the First
The Chiefs of the Confederation of the United Tribes of New Zealand and the separate and independent Chiefs who have not become members of the Confederation cede to Her Majesty the Queen of England absolutely and without reservation all the rights and powers of Sovereignty which the said Confederation or Individual Chiefs respectively exercise or possess, or may be supposed to exercise or to possess over their respective Territories as the sole Sovereigns thereof.

Article the Second
Her Majesty the Queen of England confirms and guarantees to the Chiefs and Tribes of New Zealand and to the respective families and individuals thereof the full exclusive and undisturbed possession of their Lands and Estates Forests Fisheries and other properties which they may collectively or individually possess so long as it is their wish and desire to retain the same in their possession; but the Chiefs of the United Tribes and the individual Chiefs yield to Her Majesty the exclusive right of Preemption over such lands as the proprietors thereof may be disposed to alienate at such prices as may be agreed upon between the respective Proprietors and persons appointed by Her Majesty to treat them in that behalf.

Article the Third
In consideration thereof Her Majesty the Queen of New Zealand extends to the Natives of New Zealand her royal protection and impart to them all the Rights and Privileges of British Subjects.

MAORI VERSION

Tikanga katoa rite tahi ke ana mea ki nga Rangatira, ko nga Hapu o te utu e wakaritea ai e ratou ko te kai hoko e wakaritea a wakaae atai wirehu i nga linga i nga Tangata maori o te wenua, a kia maui tonu hoki te Rongo ki a ratou me te Atanohoe hoki kua wakaaro ia he mea tika kia tukua mai tetahi Rangatira - hei kai wakarite ki nga Tangata maori o te Kawanatanga a te wenua nei me nga motu - na te mea hoki he tokomaha ke nga tangata o tona Iwi Kua noho ki tenei wenua, a e haere mai nei.

Ko te Kui ni e hiahia ania ki nga wakarite a te Kawanatanga kaa kaua ai nga kino e putu mai ki te tangata maori ki te Paketa o noho ture kore ania.

Ko nga Rangatira a te Wakaminengahapu o te wenua nei, a te hoki, kia i uru ki taua Wakaminenga, ka tuku rawa atu ki te Kui ni o Ingarangi ake tonu atu te Kawanatanga katoa o ratou wenua.

Ko te Kui ni o Ingarangi ka wakarite ka wakaee ki nga Rangatira, ki nga Hapu, ki nga tangata katoa o te Nu Tiranite, ti no nga rangatiratanga o o ratou wenua o ratou kainga me o ratou taonga katoa. Onia ko nga Rangatira a te Wakaminenga me nga Rangatira katoa atu, ka tuku ki te Kui ni te hokonga o era wahi wenua e pai ai te tangata nona te wenua, ki te ritenga o te utu e wakaritea a e ratou ko te kai hoko e meata nei e te Kui ni hei kai hoko mona.

Hei wakaritenga mai hoki tenei mo te wakaetaanga ki te Kawanatanga a te Kui ni. Ka tiakina e te Kui ni o Ingarangi nga tangata maori katoa o te Nu Tiranite. Ka tuku ki a ratou nga tikanga katoa rite tahi ke ana mea ki nga tangata o Ingarangi.

TRANSLATION OF MAORI VERSION

Preamble
Victoria, the Queen of England, in her gracious remembrance of the Chiefs and Tribes of New Zealand, and through her desire to preserve to them their chieftainship and their land, and to preserve peace and quietness to them, has thought it right to send them a gentleman to be her representative to the natives of New Zealand. Let the native chiefs in all parts of the land and in the islands consent to the Queen's Government.

Now, because there are numbers of the people living in this land, and more will be coming, the Queen wishes to appoint a Government, that there may be no cause of strife between the Natives and the Pakeha, who are now without law; It has therefore pleased the Queen to appoint me, WILLIAM HOBSON, a Captain in the Royal Navy, Governor of all parts of New Zealand which shall be ceded now and at a future period to the Queen. She offers to the Chiefs of the Assembly of the Tribes of New Zealand and to the other Chiefs, the following laws:-

Article the First
The Chiefs of the Confederation and all the Chiefs who have not joined that Confederation give absolutely to the Queen of England for ever the complete government over the land.

Article the Second
The Queen of England agrees to protect the Chiefs, the Subtribes and all the people of New Zealand in the unqualified exercise of their chieftainship over their lands, villages, and all their treasures. But on the other hand, the Chiefs of the Confederation and all the Chiefs will sell land to the Queen at a price agreed to by the person owning it and by the person buying it (the latter being) appointed by the Queen as her purchase agent.

Article the Third
For this agreed arrangement therefore concerning the Government of the Queen, the Queen of England will protect all the ordinary people of New Zealand and will give them the same rights and duties of citizenship as the people of England.

512 Maori signed the Maori text of the Treaty. Only 30 signed the English version.

HOBSON quickly assembled the text of the Treaty in the first week of February 1840. He was helped in the task by the former British Resident to New Zealand, James Busby. The Treaty was inexpertly translated by Henry Williams and his son Edward during the course of one evening.
What do the Texts Mean?

THE MEANING OF THE TREATY OF WAITANGI has been a matter of considerable debate and analysis, especially during the last thirty years. Because of problems of mistranslation, and the ambiguity of some of the words and phrases, there is no single meaning of the text that has been agreed upon by all those affected in some way by the document. What follows is a summary of the English and Maori versions of the Treaty.

The English Version

**Article 1**
The Chiefs, and other signatories gave all their sovereign powers to the British Crown.

**Article 2**
The Chiefs were granted, in return for their cession of sovereignty, full rights of ownership of their land and other assets. The second part of this article deals with the idea of preemption. This involved the Crown having the first option to purchase Maori land at a mutually agreeable price.

**Article 3**
Maori were granted the same rights as British subjects, but were not actually made British subjects.

The Maori Version

**Article 1**
The Chiefs conferred on the Crown the right for the British to govern the colony, in a mainly administrative capacity.

**Article 2**
The Chiefs were guaranteed their rights of chieftainship (tinorangirotanga) – effectively a sovereign right. Moreover the chiefs were promised their physical possessions and also, all those things that they held precious. The second part of this article closely resembles the English version in the guarantee of preemption.

**Article 3**
Maori were offered the protection of the Crown, and the same rights as English people.

Other Articles?

Mention is sometimes made of the Fourth Article of the Treaty – an article that does not actually appear in the text of the agreement. The so-called Fourth Article promises that Maori custom will be protected by the Crown, as will freedom of religion in the colony. It is based on a response that Hobson gave to a discussion between Bishop Pompallier, Henry Williams, and William Colenso. Evidence shows that this ‘Article’ was only included at the signing of the Treaty at Waitangi, and not at any other location. Under international law, verbal agreements made at the time of the signing of a treaty can constitute a provision of the Treaty. Therefore, it is possible that many other verbal articles could also exist, depending on what was promised to the chiefs when they signed the document.
Breaches of the Treaty

Almost from the time the Treaty was signed, the Crown breached its provisions. Some of this was a result of the confusion surrounding the text. Part of the problem lay with the text of the Treaty itself. For example, Article Two of the Treaty imposed the Crown’s right of preemption, while Article Three asserted that Maori had the same rights and privileges as British subjects— including, presumably, the right to sell their land without restrictions such as the preemption provision. In 1844, the Crown temporarily suspended the preemption provision of the Treaty because it felt that it was unfair to Maori.

However, from the late 1840s, the Crown’s desire to secure more land for the increasing numbers of settlers arriving in the colony resulted in many of the Treaty’s provisions being breached.

Through wars of conquest, the Crown ‘confiscated’ millions of acres of Maori land, and later sold much of this land to settlers. What land the Crown did not alienate through war, it succeeded in acquiring through legislation, much of which was specifically designed to speed up the process of obtaining Maori land.

This process continued throughout the nineteenth century, and in more subtle ways into the twentieth century. The results of these deliberate breaches of the Treaty were startling. From a total of 66,400,000 acres of land that Maori possessed at the time of the signing of the Treaty in 1840, by the end of the century, the amount of land owned by Maori had been reduced to 11,079,486 acres. Continued pressures for Maori to sell their land, coupled with legislation that forced Maori land alienation, resulted in Maori landholdings declining to around 3,000,000 acres by the early 1980s —less than 5 per cent of the land held just 150 years earlier.

The Maori Response

As the Crown relentlessly pursued policies that openly breached the Treaty, Maori were far from passive about these incursions on the agreement they had viewed as a Kawanata [covenant] with the Crown. There were various reactions and responses to the breaches of the Treaty in the approximately 150 years since the Treaty was signed. These have included war, attempts at representation, and persistent lobbying. The following points represent a brief selection at some of the attempts made by various Maori groups to support the status of the Treaty.

1881
The settlement at Parihaka, which was established by Maori as a non-violent point of resistance to Crown actions, was occupied by British troops. Over a thousand occupants were evicted and many were arrested. A special law was passed allowing the leaders of the community to be imprisoned indefinitely.

1882
A delegation of Nga Puhi chiefs, led by Parore, petition the Queen over grievances under the Treaty.

Selected Legislation

- **Waste Lands Act 1854**
  Enabled the superintendent and council of any Province to recommend to the Governor the sale of Crown lands within its boundaries. This accelerated Maori alienation from the land.

- **Native Reserves Act 1856**
  Commissioners, appointed by the Government, were able to control Maori reserve land which was not “under active use”.

- **Native Land Act 1862**
  Overtly removed the Crown right of pre-emption. It also gave encouragement to the Native Land Court to redefine the status of Maori land, from being communal to being individually owned (and therefore transferable).

- **New Zealand Settlements Act 1863**
  Gave the Government the right to confiscate any Maori land where the Maori occupants were considered to be “in rebellion”.

- **Native Land Act 1867**
  Specific Maori owners had to be listed in the title. This failed to recognise tribal land.

- **Peace Preservation Bill 1879**
  One year’s hard labour was proposed for those Maori who refused to leave their abode after a Government order.

- **Maori Prisoners’ Act 1880**
  200 Maori arrested in Taranaki for preventing the surveying of confiscated land.

- **West Coast Settlement Act 1880**
  Maori could be arrested without a warrant if they hindered any surveying of land.

- **Native Reserves Act 1881**
  Control of Maori Reserve land is taken over by the Public Trustee.

- **Native Lands Administration Act 1886**
  Maori land control turned over to small groups of trustees with the right of sale.
1877
Wi Parata v The Bishop of Wellington. This case determined that the Treaty of Waitangi, if unsupported by specific legislation, did not confer particular Maori land rights.

1884
Delegation led by the head of the King Movement, King Tawhiao, travelled to England, but was unable to get access or receive support for their grievances.

1884
Tawhiao petitioned Parliament to ban the sale of alcohol from territory administered by the King Movement. This represented an attempt to combine Maori authority with that of the Crown in a form of partnership.

1892
A hundred Maori chiefs attempt to unify all tribes under the Treaty. Separate Maori Parliament sessions were held until 1902 when its lack of interest and power led to its demise.

1890s
A Maori Rights Bill was introduced into Parliament in 1894 in order to seek to confirm the rights that had been articulated in the Treaty of Waitangi. When the Bill was tabled, the European members walked out of the House, and in 1896, Parliament rejected the Bill.

1900
James Carroll became the first Maori MP to enter Cabinet.

1900
The Maori Councils Act passed by Parliament. It promoted very limited self-development for Maori.

1924
Ratana took a deputation to England, but on the advice of the New Zealand Government, he was denied access to the King. Ratana saw the requirement to uphold the Treaty as part of his effort to rescue the ‘doomed race’ that he believed Maori were becoming.

1932
A petition tabled in Parliament by Tirikatene (based on Ratana’s plan to have the Treaty ratified). However, the petition was held over for 13 years.

1975
The Land March united many Maori from different iwi around the country in an endeavour to pressure the Government to redress grievances arising from breaches of the Treaty. The March converged on Parliament during the third reading of the Treaty of Waitangi Bill.
The Waitangi Tribunal

Background

The Waitangi Tribunal was established in 1975 by the Treaty of Waitangi Act 1975. It is a permanent commission of inquiry and consists of 16 members appointed by the Governor-General on the recommendation of the Minister of Maori Affairs. The Tribunal's primary role is to make recommendations on claims brought by Maori relating to the practical application of the Treaty and to determine whether certain matters are inconsistent with the principles of the Treaty. It is supported in this by the Department for Courts, through the Waitangi Tribunal Business Unit, which provides administrative, research, and support services. The Tribunal's chairperson and deputy chairperson are based in Wellington and their offices are located alongside the business unit's offices in the central business district.

Source: Waitangi Tribunal

Common Questions

Why did the Treaty of Waitangi gain Particular Significance after 1975?
The Treaty of Waitangi has been a significant document - especially for Maori - since it was signed in 1840. However, it was not until the passing of the Treaty of Waitangi Act in 1975, which established the Waitangi Tribunal, that a forum was created with the sole purpose of investigating Treaty grievances held by Maori against the Crown. Prior to 1975, many Maori petitions and protests relating to the Treaty fell on deaf ears. In fact, the Treaty was declared a nullity by one judge in 1877.

What is the Function of the Waitangi Tribunal?
The Waitangi Tribunal was set up to inquire into claims by Maori against any Crown act, policy, action, or omission that prejudicially affects them. A claim lodged with the Tribunal is checked against section 6 of the Treaty of Waitangi Act 1975 To ascertain whether it is one that the Tribunal may look into.

If it is, the claim is then registered, heard, and reported on to the Minister of Maori Affairs. Deciding whether the claim is well founded is a key issue for the Tribunal. If it sees fit, the Tribunal may make recommendations about the claim to the Government.

How are Treaty Claims Resolved?
The Office of Treaty Settlements, not the Waitangi Tribunal, is responsible for settling claims and, as such, is the body that can best report on how claims are resolved. However, the Tribunal completed almost 70 reports on claims covering a range of issues - from te reo Maori and the radio spectrum to the environment, geothermal resources, and fisheries - and the Government has implemented many of the recommendations contained in those reports. The reports have also played a very important role in kick-starting many initiatives and institutions, including Maori radio (reirangi), the Maori Language Commission (Te Taura Whiri i te Reo Maori), and the Maori Broadcasting Funding Agency (Te Mangai Paho).

What is a Wai Number?
As it is registered, each claim is assigned a number for identification purposes. This is known as its 'Wai number', 'Wai' being short for 'Waitangi Tribunal claim'.

What is a District Inquiry?
In order to deal efficiently with all the claims registered with it, the Tribunal groups together those claims within a common geographical area. These areas are known as hearing districts, and the researching and hearing of the claims in an area is known as a district inquiry.

Where are Tribunal hearings held?
The Tribunal can hold hearings anywhere. Often they are on marae, but they may also be in public halls, schools, court rooms, or conference rooms. Because it is a commission of inquiry, the Tribunal has the power to adapt its procedures as it thinks fit.

Who may go to hearings?
Tribunal hearings are open to the public, so anyone may go along.

"The Waitangi Tribunal expects to have reported on all historical claims by 2010 and all generic claims by 2012."

Source: Waitangi Tribunal
Overview
As part of its job to settle grievances arriving from the Treaty, the Waitangi tribunal has had the responsibility of determining what the principles of the Treaty are. Various principles have been devised by the Waitangi Tribunal, and by other writers on the Treaty, to express the intent and purpose of the Treaty in a way that can be used to manage contemporary situations. Because there are numerous variations of these principles, what follows is a summary of the main ones, accompanied by a brief explanation of their meaning:

1. **The Principle of Government**
   This is also known as the kawanatanga principle. It states that the Government has the right to govern and make laws.

2. **The Principle of Self Management**
   This is also known as the rangatiratanga principle. It states that iwi have a right to organise, as iwi, and to control their own resources.

3. **The Principle of Equality**
   All New Zealanders are equal under the law.

4. **The Principle of Reasonable Cooperation**
   Both Government and iwi are obliged to co-operate in issues of major common concern.

5. **The Principle of Redress**
   The Government is responsible for providing effective processes for the resolution of grievances.

6. **The Principle of Partnership**
   The Treaty created a partnership between Maori and the Crown.

7. **The Principle of Participation**
   Maori have a right to participate in all aspects of government and society in the country.

8. **The Principle of Protection**
   The crown is obliged to assist in the protection of Maori natural, physical, cultural and spiritual resources.

9. **The Principle of Development**
   Developments in technology and so forth since the signing of the Treaty make it necessary for the treaty to consider situations from a contemporary perspective.

A Case Study in the Development Principle: **The Radio Spectrum Claim**

**Background**
What is the radio spectrum? The radio spectrum is that part of the electromagnetic spectrum that is mainly used for communication processes. Radio waves of electromagnetic radiation that can be transmitted and received at specific frequencies. Radio waves can be modulated (altered) to transport information like sound, video and data from one point to another.

How is it managed? Until 1989, the New Zealand spectrum was managed under a radio-licensing regime administered by the New Zealand Post Office. Under this system, users were granted a licence to transmit at a particular frequency or frequency. However, the Radio Communications Act 1989 established a system whereby blocks of frequencies, known as Management Rights or Spectrum Licences were sold to third parties. This made possession of these Spectrum Licences a property right, which could be traded.

The Claim
The Maori claimants assert that the radio spectrum is a taonga, guaranteed to Maori under Article Two of the Treaty. According to the claim, the Crown does not have the arbitrary right to claim full possession, ownership, or trusteeship control of the resource.

The Opposing Argument
Opponents to the Maori claim suggested that Maori have no right to any radio frequencies on the basis that there was no mention made of such frequencies in the Treaty, and that the Maori signatories to the Treaty were not even aware of their existence when they signed the agreement.

The Development Principle
However, while such opposing arguments are superficially true, they do not examine the entirety of the issue. First, although the Maori signatories to the Treaty did not know of the existence of radio frequencies, this is also true for the Crown in 1840. In reality, the radio frequencies are a resource which effectively came into existence and acquired a value after the conclusion of the Treaty. This is at the heart of the development principle, in which the meaning of the provisions of the Treaty can accommodate changes in technology and in other areas that have occurred since 1840.
Sources

The amount of literature that has been produced on the Treaty of Waitangi, especially since 1975, has been enormous, and in a few cases, of dubious quality. The following list of sources is by no means complete. However, it does contain references that are useful for those who wish to further their interests on this topic.


Glossary

Airiki paramount chief
Atua God
hapu sub-tribe
hui meeting
iwi tribe
kai food
kaitiakitanga guardianship
kaumatua elder
kaupapa philosophy
kawanata covenant, esp. between man and God
kawanatanga Governorship cf. Pilate and Rome
mahinga kai traditional food sources
mana respect; honour; dignity; sovereignty
mana moana title/sovereignty over the sea
marae meeting house; courtyard in front of meeting house
moana sea
pakeha European
rangatira chief
rangatiratanga chieftainship
tangata whenua people of the land
taonga treasure
tapu sacred
tika correct, fair, right
tikanga the correct way
wairua spirit; spirituality
whanau extended family
whenua land, placenta

Suggested Reading

THE PATH TO THE TREATY OF WAITANGI
Paul Moon

THE TREATY AND ITS TIMES
Peter Biggs and Paul Moon

THE TREATY OF WAITANGI
Claudia Orange

HEALING OUR HISTORY
Robert Consedine

KA WHAWHAI TONU MATOU
Ranginui Walker