IN THE WAITANGI TRIBUNAL **WAI 894**
WAI 726

IN THE MATTER of The Treaty of Waitangi Act 1975

A N D Claims in the Urewera Inquiry and consolidated under Wai 894

AND the Wai 726 claim by **ROBERT MARUNUI IKI POUWHARE** on behalf of himself and the Ngati Haka-Patuheuheu Trust

---

STAGE THREE PLEADINGS DATED THE 29TH OF SEPTEMBER 2004 AMENDING AMENDED STATEMENT OF CLAIM DATED 10TH MARCH 2003

WACKROW WILLIAMS & DAVIES
Barristers & Solicitors
Level 14, 48 Emily Place
PO Box 461
DX CP20503
AUCKLAND
Te Kani Williams/Dominic Wilson
Ph. (09) 379 5026, Fax (09) 377 6553
e mail: wackrow&co@xtra.co.nz

18. SOCIO-ECONOMIC IMPACTS

Destabilising the Economic Base of Ngati Haka-Patuheuheu

106. The Claimants repeat causes of action 1, 2, 3, 4, 5, 6, 7, and 10 of Part D of this Amended Statement of Claim and further claim that the Crown, in breach of the Treaty of Waitangi and its principles, actively weakened and/or partly destroyed and/or failed to adequately protect, the economic base of Ngati Haka-Patuheuheu to the material socio-economic detriment of the hapu.

Particulars

I The Pre-contact Economic base of Tuhoe hapu

(a) Before 1865 Ngati Haka-Patuheuheu held customary interests throughout the Waiohau, Matahina, Kuhawaea, Tuararangaia, Hikurangi-Horomanga blocks within the Urewera Inquiry District.[1]

(b) Prior to European contact the people of Tuhoe, including the hapu of Ngati Haka-Patuheuheu, had abundant food and were not starving. Poverty did not exist.[2]

(c) Prior to European contact the people of Tuhoe, including the hapu of Ngati Haka-Patuheuheu, had a distinctive economy adapted to the forest environment and enjoyed a highly

[1] Pouwhare, #C15, pp7-8
[2] Oral evidence of Tamati Kruger to Waitangi Tribunal, 28 June 2004; Murton, B. 2004. *The Crown and the People of Te Urewera, 1860 – c.2000: The Economic and Social Experience of a People.* Department of Geography, University of Hawaii, draft report (hereafter "*Murton*"), para 1.5.1, p46

sophisticated relationship with their forest and other environments.[3]

(d) Before 1865 Tuhoe, including Ngati Haka-Patuheuheu, did not normally suffer from biological poverty (experienced starvation) and Tuhoe were not 'poor' in this sense.[4]

II The Crown's waging of war against Tuhoe

(a) The Crown carried out a war campaign designed to destroy the economic base (including their kainga, cultivations, and other property) of Tuhoe, including Ngati Haka-Patuheuheu.[5]

(b) The Crown engaged in a 'scorched earth' tactic against Tuhoe, including Ngati Haka-Patuheuheu.[6]

(c) There were immediate catastrophic consequences of the Crown's waging of war including the death of about between 20 and 30 percent of the population.[7]

(d) The Crown's waging of war and 'Scorched Earth' tactics also resulted in the loss of life through starvation and disease.[8]

---

[3] Murton, para 2.3.2, p116; para 2.5, p164
[4] Murton, para 2.5, p164
[5] Murton, para 3.10, p196
[6] Murton, para 3.10, p197
[7] Murton, para 3.10, p198
[8] Murton, para 3.10, p196

III Reduction of Land Base

(a) The loss of the warmest and flattest of Tuhoe lands to confiscation (including the restriction on access to the Ohiwa Harbour) was a "*particularly severe diminution of Tuhoe's economic capability*".[9]

(b) The land alienations on the north-western border lands of Te Urewera dramatically reduced the remaining area of land suitable for Ngati Haka-Patuheuheu participation in the pastoral economy.[10]

(c) The political rights of control exercised by the rangatira of Ngati Haka-Patuheuheu were also under assault through the individualisation of title by the Native Land Court process or the 'pseudo-individualisation' of title through the Urewera Commission.[11]

(d) By the early 1930's Ngati Haka-Patuheuheu had lost over 85% of their *core* customary land base. [12]

IV The Vulnerability of Tuhoe within the new Economic Order

(a) Over the period 1865 to 1885 the access of Tuhoe to food was reduced.[13]

---

[9] Murton, para 4.4, p302
[10] Murton, para, 4.4, p303
[11] Murton, para 4.4, p303; para 6.2.6.3, pp 396-399
[12] Rose, p269
[13] Murton, para 5.8.3, p360

(b) The best crop lands of Ngati Haka-Patuheuheu were along the Rangitaiki River flats (eg Te Houhi) but these were a target for floods.[14]

(c) Money obtained from land transactions was used primarily for immediate and not long-term needs so there was little left by 1898.[15]

(d) Between the 1870s and the late 1890s Tuhoe, including Ngati Haka-Patuheuheu, had become vulnerable to famine and illness, and this was much related "[...] *to their powerlessness, in the face of the colonial state, to claim and enforce food entitlements*".[16]

(e) Tuhoe, including Ngati Haka-Patuheuheu, were vulnerable to 'trigger events' as they became increasingly dependent upon fewer resources (such as maize and potatoes).[17]

(f) Frosts, floods, and potato blights that struck Ngati Haka-Patuheuheu over the period 1892 to 1910 (in particular 1892, 1898, 1901, 1904, 1905 and 1910) became 'trigger events' for famine conditions. The vulnerability of Ngati Haka-Patuheuheu to 'trigger events' was a material impact of the destruction of cultivations, kainga and property by Crown forces during the wars. [18]

---

[14] Murton, para, 5.8.3, p360
[15] Murton, para 4.4, p303; para 6.2.6.3, pp 396-399
[16] Murton, para 5.8.3, p361
[17] Murton, para 5.8.3, p361
[18] Murton, para 5.8.1, pp 349-351; para 5.8.3, pp 359, 360

(g) The Crown did take quick action to alleviate particular distress caused by famine but the relief did nothing to change the root or underlying causes and there was nevertheless a population decline coinciding with the famine.[19]

(h) In summary, Murton argues that "*Effectively, a set of processes initiated by government action created a situation by 1900 where the people of Te Urewera not only found themselves among the poorer segment of society in New Zealand, but more vulnerable than most to 'trigger events'*". [20]

V The Vulnerability of Ngati Haka-Patuheuheu on their Waiohau Lands

(a) Following the wars and the process of the Native Land Court, by 1900 the best remaining pastoral/agricultural flat lands in the legal ownership of Ngati Haka-Patuheuheu were in the Waiohau Block (in particular Te Houhi) along the Rangitaiki River.[21]

(b) Te Houhi was situated within the most valuable Southern section of Waiohau and the northern section into which Ngati Haka-Patuheuheu were forced (after the eviction of 1907) contained soils of poorer quality.[22]

(c) Prior to 1907 Ngati Haka-Patuheuheu were growing crops on their lands at Te Houhi and pastured as many as 1,900 sheep in the vicinity (run by around 13 persons).[23]

---

[19] Murton, para, 5.8.1, p356; 5.8.3, pp 361, 362
[20] Murton, para 5.8.3, pp 361-362
[21] Murton para 7.6.3, p531; Rose, pp 101, 106, 128
[22] Rose, p128
[23] Murton, para 7.6.3, pp 531, 532

(d) The eviction from Te Houhi, and the threat of it in 1906, was "*devastating*" to Ngati Haka-Patuheuheu pastoralism.[24]

(e) The numbers of sheep pastured on the northern Waiohau lands were negligible up to the eviction in 1907 and then nothing following that date.[25]

(f) By 1910 there was only one Maori pasturing sheep on the Rangitaiki valley lands.[26]

Failure to Protect Tuhoe Economic Development

107. The Claimants repeat causes of action 5, 8, 9, 10, 11, 15, 16, and 17 of Part D of this Amended Statement of Claim and further claim that the Crown, in breach of the Treaty of Waitangi and its principles, failed to adequately protect and provide for the economic development of Ngati Haka-Patuheuheu to the material socio-economic detriment of the hapu.

Particulars

I Tuhoe land development and the Crown

(a) On the whole, Tuhoe, including Ngati Haka-Patuheuheu, used money from land transactions for present consumption rather than long-term land development.[27]

[24] Murton, para 7.6.3, p532
[25] Murton, para, 7.6.3, p532
[26] Murton, para, 7.6.3, p532
[27] Murton, para 7.5.1, p508

(b) From the late 1880s the Crown became actively involved in the farming industry.[28]

(c) There is no evidence that the Crown even contemplated creating any mechanisms to assist Maori to use the money from land sales after 1910.[29]

(d) Tuhoe customary land tenure, including that of Ngati Haka-Patuheuheu, was commuted into an individualised or 'pseudo-individualised' land tenure under Pakeha law. In practice, the tenure meant that Tuhoe land was difficult to raise money against.[30]

(e) From the 1870s there were various legislative restrictions against the alienation of Maori land that included mortgages.[31]

(f) The difficulty in obtaining finance to develop Maori lands inhibited the economic capability of Tuhoe, although there were other inhibiting factors such as the limited Tuhoe land available for farming development and the distance of Te Urewera away from markets.[32]

(g) The inability for Tuhoe, including Ngati Haka-Patuheuheu, to obtain finance to improve their lands meant that by the 1920s (when the farming economy was strong) Ngati Haka-Patuheuheu

---

[28] Murton, para 7.2, p480
[29] Murton, para 7.9, p583
[30] Murton, para 7.5.1, p508
[31] Murton, para 7.5.3.2.1, pp 515-519
[32] Murton, para 7.9, p583

were mainly growing potatoes, maize, and vegetables for subsistence rather than farming.[33]

(h) The failure of the Crown to build roads, as the Crown had promised, through Te Urewera meant that Tuhoe were unable to successfully farm the land that would have been served by them.[34]

(i) In the late eighteenth and early nineteenth centuries, the Crown should have considered subsidisation or other support to assist Tuhoe, including Ngati Haka-Patuheuheu, to obtain finance for land development.[35]

(j) By the 1910s and the 1920s a development 'gap' had been created for Tuhoe land.[36]

(k) During the 1910 to 1920 period there is no evidence that the Crown considered any form of assistance (such as the provision of expertise or on-the-job farm training) for Maori.[37]

(l) The Treaty of Waitangi should have been considered in the development of Crown policy relating to Maori farming and Tuhoe land development in the late nineteenth and early twentieth centuries.[38]

---

[33] Murton, para 7.6.3, p534
[34] Murton, para 7.8, p577
[35] Murton, para 7.5.3.3, p526
[36] Murton, para 7.9, p584; para 8.5, p788
[37] Murton, para 7.9, p585

II The Waiohau Development Scheme

(a) The Waiohau Development Scheme was successful in the 1930s, but encountered difficulties during the 1940s and 1950s.[39]

(b) While the Development Scheme was closed in 1967 it took a further twelve years to distribute the surplus funds to the Ngati Haka-Patuheuheu owners.[40]

(c) After 1929 the economic capability of Ngati Haka-Patuheuheu was enhanced through Crown loan assistance. Also, unemployment relief was paid to some hapu individuals by the Crown through to 1943. However, in the 1940s and 1950s the Development Scheme proved to be inflexible to deal with changing economics and management. In addition most of the units created in the 1930s provided a "*near subsistence standard of living*" and Ngati Haka-Patuheuheu paid a high percentage of their farming butterfat income to repay the Crown development loans (up to 50%).[41]

(d) By the 1950s the Crown Development Scheme policy was weighted towards the farm occupiers rather than the Ngati Haka-Patuheuheu owners.[42]

(e) Some sorely needed housing was provided through the Development Scheme loans. However, Crown control of the scheme meant that certain Ngati Haka-Patuheuheu occupiers

---

[38] Murton, para 7.5.3.3, p525
[39] Murton, para 8.2.6, p657
[40] Murton, para 8.2.6, p658
[41] Murton, para 8.3.1, pp 661,662; para 8.3.2.5, p685; para 8.3.3.1, p686; para 8.3.3.5, p703; para 8.4.3, p736

were evicted from the houses despite objections against the eviction by Ngati Haka-Patuheuheu and a prominent Ngati Haka-Patuheuheu leader Iki Pouwhare.[43]

III Impacts Upon Ngati Haka-Patuheuheu's Traditional Subsistence Economy

(a) The East Rangitaiki Game Reserve was established in 1898 over about 39,000 acres of Maori land including Ngati Haka-Patuheuheu customary lands.[44]

(b) The East Rangitaiki Game Reserve was established without consultation with Ngati Haka-Patuheuheu or Tuhoe generally.[45]

(c) Initially in 1898 the East Rangitaiki Game Reserve was for the protection of introduced animals, but by 1903 the reserve protected all game.[46]

(d) Some introduced animals such as pigs, horses, deer, and opossums became part of the resources or subsistence economy of Tuhoe including Ngati Haka-Patuheuheu.[47]

(e) The East Rangitaiki Game Reserve included part of the hunting grounds of Ngati Haka-Patuheuheu for pigs and deer.[48]

---

[42] Murton, para 8.4.4.5, p762
[43] Murton para, 8.4.1, pp 770-771; 8.4.5.3, p776; 8.4.5.3, p778
[44] Murton, para 10.3.3.1, p972
[45] Murton, para 10.3.3.1, p972
[46] Murton, para 10.3.3.1, p974
[47] Murton, para 10.4.5.5, p1044

(f) The Animals Protection legislation from 1903 "*effectively criminalised for Maori the cultural harvesting of indigenous bird species by the early twentieth century*".[49]

(g) National Park policy and legislation has restricted the ability of Tuhoe, including Ngati Haka-Patuheuheu, to hunt for food.[50]

(h) It is now difficult for Ngati Haka-Patuheuheu to catch enough tuna from the Rangitaiki for major marae events. The deteriorating tuna catch appears to be primarily caused by hydro-electric dams and commercial catch down-river.[51]

(i) The creation of game reserves, sanctuaries, and the National Park has "*impacted upon the lives of the communities of Te Urewera*".[52]

IV Unemployment and Urban Drift

(a) From around the 1920s many Tuhoe, including Ngati Haka-Patuheuheu, developed a reliance upon seasonal and casual work in addition to food grown and hunted or gathered.[53]

(b) From the 1930s there was greater reliance on full-time rural work on farms, as part of the Waiohau Development Scheme, or in forestry at places such as Kaingaroa.[54]

---

[48] Murton, para 10.3.3.2, p976
[49] Coombes, #A121, pp 180,181; Murton, para 10.2.1, p957
[50] Murton, para 10.4.5.3.2, pp 1031, 1032
[51] Hare, #C17, paras 43, 44; Murton, para 10.3.5.5, pp 1001, 1004
[52] Murton, para 10.1, pp 951, 952
[53] Murton, para 11.1, p1063
[54] Murton, para, 11.1, pp 1065, 1072, 1077; para 11.3.2, p1082

(c) With growth in the logging industry in the 1950s and 1960s and the creation of work through hydro-electric dam construction in the 1960s, some Ngati Haka-Patuheuheu men were able to remain in their rohe.[55]

(d) Iki Pouwhare has noted that Ngati Haka-Patuheuheu has assisted the country in the war effort at a high cost to the hapu.[56]

(e) Despite the forestry and dam construction labour, urban drift of Tuhoe, including Ngati Haka-Patuheuheu, began in the late 1940s.[57]

(f) The urban drift of Ngati Haka-Patuheuheu was assisted by the Crown through its special relocation scheme in the 1960s which moved three whanau from Waiohau to Whakatane and at least one whanau from Waiohau to Taneatua.[58]

(g) By 1966 86% of male Maori of Te Urewera were predominantly working in manual occupations and this is a significantly greater proportion than non-Maori.[59]

(h) By the 1970s most Tuhoe individuals, including Ngati Haka-Patuheuheu, are no longer in Te Urewera and by 2001 only about 20% of Tuhoe live within the rohe.[60]

---

[55] Murton, para 11.6.1, p1140; para 11.6.3, p1151; para 11.7, p1155
[56] Murton, para 11.3.2, p1082
[57] Williams, #C16, para 64, 65; Murton, para 11.7, p1156
[58] Murton, para 11.7, p1159
[59] Murton, para 11.9, p1171

V Crown Welfare Assistance

(a) From 1898 Maori became eligible for old age pensions, but the process was "*fraught with difficulties*" as officials were extremely cautious with Maori applications.[61]

(b) Until 1939 old age pensions were less for Maori than Pakeha. This difference was justified on the basis that Maori had land holdings, but the Crown did not take into account that the Tuhoe land could not be sold or leased.[62]

(c) It was not until 1944 that the age and widow's benefits equalled those of Pakeha.[63]

VI Tuhoe Education and Schools

(a) Ngati Haka-Patuheuheu experienced significant difficulties in obtaining schools in their rohe from 1877 (Galatea School). They had to build the school buildings at Te Houhi themselves and the Crown was only prodded into action once the Presbyterian opened a mission and the school requested by Ngati Haka-Patuheuheu in Te Houhi in 1893.[64]

---

[60] Murton, para 11.9, p1172; para 11.11, p1249
[61] Murton, para 12.4.3, p1267; para 12.7, p1306
[62] Murton, para, 12.44, p1275; para 12.7, p1307
[63] Murton, para 12.1, p1308
[64] Murton, para 13.3, p1318; para 13.4.2.1, pp 1327, 1329; para 13.4.2.2, p1334; para 13.4.2.4.3, p1392; para 13.4.3.3, p1458

(b) Between 1880 and 1945 the Crown policy was to have local community schools that sought to "civilise" or assimilate Maori.[65]

(c) The schools banned the use of Te Reo Maori and many Ngati Haka-Patuheuheu, and Tuhoe, were disciplined for using Maori in school.[66]

(d) By the 1970s some Ngati Haka-Patuheuheu youth had a limited understanding of Te Reo Maori and in 1974 only a quarter spoke fluently.[67]

(e) The education system has generally failed Tuhoe and failed to motivate Tuhoe children to achieve standards beyond the minimum so that underachievement has been the norm. From the mid to late twentieth century the education system was "*not either appropriate or sufficient quality*" to help lift Tuhoe out of the lower end of the socio-economic scale. [68]

(f) However, through the 1970s to present there have been a number of positive changes to the local Te Urewera schools made by Maori once the Crown accepted that issues of Tuhoetanga, language and culture are "*inextricably intertwined with issues of general education achievement*". [69]

---

[65] Williams, #C16, paras 68, 93, 95; Murton, para, 12.44, p1275; para 12.7, p1307
[66] Williams, #C16, para 49; Murton, para 13.4.4.3, pp 1475-1477
[67] Williams, #C16, para 116; Murton, para 13.5.3.4, pp 1572,4 1573; para 13.5.3.6, p1586
[68] Murton, para 13.7, p1666; para 13.7, p1668
[69] Murton, para 13.7, p1664

VII Socio-Economic Status

(a) There is a strong link between poverty or a low standard of living and a range of negative social conditions or negative socio-economic indicators.[70]

(b) At present on the basis of socio-economic indicators Tuhoe, including Ngati Haka-Patuheuheu, are generally worse off and poorer than most other Maori and much worse off and poorer than the overall New Zealand population.[71]

(c) Ngati Haka-Patuheuheu, and Tuhoe generally, were heavily affected by pandemics throughout the 1840s to mid 1900s which were made worse by Tuhoe starvation.[72]

(d) Intestinal diseases remained prevalent in Tuhoe to the 1950s in the absence of secure water supplies and proper waste disposal.[73]

(e) Through the mid to late nineteenth century the majority of diseases among Tuhoe were indicators of, and a consequence of, a low standard of living.[74]

(f) Still at present, Tuhoe have a higher mortality rate and incidence of infectious diseases than non-Maori.[75]

---

[70] Murton, para 14.1, p1669; para 14.4.3.6, pp 1772, 1773
[71] Murton, para, 1.5.4.4, p77; para 1.55, p81
[72] Murton, para 14.1, p1670; para 14.3.2, p1678; para 14.3.5, p1750
[73] Murton, para 14.3.5, p1750
[74] Murton, para 14.1, p1670
[75] Murton, para 14.4.3.6, p1789

(g) Relative to their neighbours Tuhoe have poor housing, lower incomes, higher unemployment rates, more overcrowding, lower education levels and greater overall poverty.[76] Murton argues with regard to Crown culpability that "*a set of events initiated by the introduction of a different type of political economy in which market forces dominated, especially with regard to land and resources, led to this situation among the people of Te Urewera.*"[77]

[76] Murton, para 1.5.4.4, p77; para 1.5.5, p81; para 14.4.3.6, p1789
[77] Murton, para 1.5.5, p81