

BEFORE THE WAITANGI TRIBUNAL

WAI 2700

WAI 2872

IN THE MATTER OF

the Treaty of Waitangi Act 1975

AND

IN THE MATTER OF

the Mana Wāhine Kaupapa Inquiry

AND

IN THE MATTER OF

a claim by **Dr Leonie Pihama, Ani Mikaere, Angeline Greensill, Mereana Pitman, Hilda Halkyard-Harawira and Te Ringahuiā Hata** (Wai 2872)

BRIEF OF EVIDENCE OF ANI MIKAERE

Dated this 20th day of January 2021



**ANNETTE
SYKES & Co.**
barristers & solicitors

Annette Sykes & Co
Barristers & Solicitors
8 – Unit 1 Marguerita Street
Rotorua, 3010
Phone: 07-460-0433
Fax: 07-460-0434

Counsel Acting: Annette Sykes / Kalei Delamere-Ririnui / Camille Houia
Email: asykes@annettesykes.com / kalei@annettesykes.com / camille@annettesykes.com

RECEIVED Waitangi Tribunal
21 Jan 2021
Ministry of Justice WELLINGTON

MAY IT PLEASE THE TRIBUNAL

Introduction

1. Tēnā koutou katoa. He uri tēnei nō Ngāti Raukawa (Ngāti Huia, Ngāti Pareraukawa) me Ngāti Porou hoki e mihi atu ana ki a koutou.
2. I have worked at Te Wānanga o Raukawa since 2001. Before then, I was a kaiāwhina at the Wānanga but also lectured in law at Auckland and Waikato Universities from 1988-2001. At Te Wānanga o Raukawa I was responsible for the Ahunga Tikanga (Māori Laws and Philosophy) programme from 2003-2009, before becoming co-director of Te Kāhui Whakatupu Mātauranga in 2010. I have recently been appointed to the position of Pou Whakatupu Mātauranga. In 2016, I was awarded Te Kāurutanga, a degree conferred by the founding iwi of Te Wānanga o Raukawa. My thesis, entitled *Like Moths to the Flame? A History of Ngāti Raukawa Resistance and Recovery*, investigates the impact of colonisation on Ngāti Raukawa thought and was published in 2017. My other publications include *He Rukuruku Whakaaro: Colonising Myths, Māori Realities* (2011) and *The Balance Destroyed* (2017).

Themes Underpinning Māori Theories of Creation

3. People everywhere share a common urge to understand who we are by explaining where we come from. Understanding how we fit within our world is a universal human need. While questions such as “who are we?”, “where do we come from?” and “how should we live?” are universal, the way that they are answered is not. In fact, no two peoples respond to them in quite the same way. The way a people answers these questions is formative, shaping their identity by capturing the essence of what makes them unique in the global mosaic.
4. We know that iwi Māori are distinctive—each iwi has its own particular way of making sense of life’s great mysteries. Nevertheless, there are common themes that emerge from the multitude of iwi accounts of creation and these themes convey important messages about the way our tūpuna understood the significance of women.
5. A central feature of iwi explanations for the beginning of the world is whakapapa, which binds humanity to the spiritual forces from which the world was created.

6. One of the most obvious characteristics of whakapapa is that it necessarily encompasses both female and male: “Kotahi anō te tupuna o te tangata Māori, ko Ranginui e tū nei, ko Papatūānuku e takoto nei”.¹ Without male and female, there can be no whakapapa.
7. Our tūpuna conceived of the world as coming into existence via a sequence of generations, each born from the one preceding it. Te Kore is often described as a womb-like state, a space of limitless potential. Te Pō is born from the infinite realms of Te Kore. Rangi and Papa are conceived within Te Pō and themselves conceive many children, who are eventually born into Te Ao Mārama, the world of light.
8. The progression from Te Kore, through to Te Pō and into Te Ao Mārama reveals that our tūpuna relied on the recurring cycle of conception, gestation and birth to help them explain the seemingly inexplicable.
9. It makes perfect sense for our tūpuna to have turned to the everyday miracle of birth in their search for answers to the greatest wonder of all—the fact of our existence. Birth is an occasion when the ordinariness of life is juxtaposed against the wondrous; an event during which the line between mortality and immortality is blurred; a moment when the physical and the metaphysical merge seamlessly. While the process of birth is familiar to us, it never fails to remind us of the mysteries that lie beyond the limits of our human comprehension. Utilising the metaphor of conception, gestation and birth to help us make sense of the fact that we exist enables us to accept our limitations while engendering a profound respect for life, despite (or perhaps because of) those elements that we find unfathomable.
10. The centrality of birthing to our theory of creation serves as a constant reminder of the spiritual potency of the whare tangata. The process that brings each of us into being brought the world into being. Our very existence is centred around the sexual energy of women.

¹ .Te Rangikāheke, quoted by Grey, G in *Ko Nga Mahi a Nga Tupuna Maori* (2nd edition) Auckland, H Brett, 1885, p 7.

11. This basic truth is reinforced, indeed amplified, by the story of Hinenuitepō and her mokopuna, Māui. The way that Māui met his death confirms, in no uncertain terms, the unassailable power of the *whare tangata*.
12. Māui's chosen strategy to achieve immortality—attempting to reverse the birthing process—is also significant. It clearly establishes the birth canal as a two-way conduit between Te Pō and Te Ao Mārama.
13. Our creation theories establish the centrality of women to *whānau*, *hapū* and *iwi*, positioning them as agents of transition: between the physical and the metaphysical, between the unconscious and the conscious, between *tapu* and *noa* states, between life and death.

Implications of Creation Theory for Mana Wahine

14. It is not surprising, therefore, to find women featuring prominently in *iwi* traditions. Within my own *iwi*, Ngāti Raukawa, it is evident that women were empowered, not limited, by the fact of being female. In this regard, they were merely following the pattern of female strength and diversity laid down by our *atua wāhine*—as so beautifully expressed, for example, in the landmark publication: *Wāhine Toa: Omniscient Māori Women* by Robyn Kahukiwa and Patricia Grace.²
15. In considering the status and role of women within my own *iwi*, I have found the Mātene Te Whiwhi manuscripts extremely helpful. They record material that was dictated to Mātene Te Whiwhi by his mother's brother, Te Rangihaeata, during the 1850s.
16. Known to the outside world primarily for his military prowess and his steadfast refusal to submit to the Crown, Te Rangihaeata was also a spiritual leader within the *iwi*, well-versed in *karakia*. As the son of Waitohi and the brother of Rangi Topeora, he would have considered it normal for power and influence to be wielded by women as well as by men.

² Ōtaki: Te Tākupu, 2018.

17. The manuscripts contain a wealth of stories about both men and women who exhibit a wide range of abilities and who perform all manner of roles.
18. Hineteiwaiwa plays a pivotal role in a number of Te Rangihaeata's accounts. She is revealed not only as a woman with an exceptional array of talents, but also as possessing the wisdom to utilise those talents to maximum effect. It is proposed to focus on Hineteiwaiwa as a way of exploring the implications of our theories of creation for mana wahine.

Hineteiwaiwaiwa: The Embodiment of Mana Wahine

19. When Hineteiwaiwa is in labour with Tūhuru (Hineteiwaiwa and Tinirau's son) Te Rangihaeata records that the birth is a difficult one and that karakia is utilised to facilitate the process.³ The person who recites the karakia is not identified but the words of the karakia clearly indicate that it is Hineteiwaiwa herself.⁴
20. The account of Tūhuru's birth is brief but instructive. The magnitude of Hineteiwaiwa's responsibility—to bring new life into the world—is matched by her confidence in her ability to do what is necessary; her sense of her own power is palpable. It is also apparent from the words of her karakia that the act of giving birth is regarded as no mere bodily function; it is an event during which the forces of nature (lightning, storms) can appropriately be called upon, a time when tūpuna/atua associated with fertility (Hinetinaku, Hinemataiti) should rightly be summoned. Giving birth is a process during which the mother is united with tūpuna through the ages, fully immersed in the spiritually charged, life-and-death act of drawing a human being out from Te Pō and into Te Ao Mārama.
21. Hineteiwaiwa's ability to formulate and execute complex and potentially dangerous strategy in order to achieve a desired goal reveals her as a woman with formidable political skill and significant leadership qualities. In the well-

³ Te Whiwhi, M *Te Rangihaeata Manuscript*, GNZ MMSS 46, p 30.

⁴ GNZ MMSS 46, pp 30-31.

known story of Kae, who killed and ate Tinirau’s pet whale Tutunui, it is Hineteiwaiwa who takes responsibility for outwitting and capturing Kae.

22. Accompanied by a carefully selected group of women— Raukatauri, Raukatamea, Itiiti, Rekareka, Ruahauatangaroa and others—Hineteiwaiwa devises and implements a daring plan. The women travel to Kae’s village, intent on kidnapping him. They are not sure what he looks like, other than that he has distinctive, overlapping teeth. In order to identify him, it is necessary that the women induce him to laugh. Generally regarded as the first ever kapa haka, they are well-equipped for the task. Kae, however, proves difficult to please, requiring them to redouble their efforts: “[K]a whakaritea nga mahi a Raukatauri i reira, te haka, te waiata, te putorino, te koauau, te tokere, te ti ringaringa, te ti rakau, te pakuru, te papaki, te porotiti, mutu katoa enei mea kaore a Kae i kata, ka whakaaro ratou me aha ra kia kata a Kae”.⁵
23. Their determination is eventually rewarded when Kae finally discloses his true identity by laughing. Aside from revealing the level of perseverance required in order for the women to achieve their goal, the lengthy list of items that they perform indicates the diversity of talent within their group.
24. The story of how Hineteiwaiwa’s kapa persuades Kae to laugh also provides a graphic illustration of the life-and-death significance of the whare tangata. Te Rangihaeata’s main account of this story does not go into the details of how the women eventually resolved the problem of identifying their prey⁶ but Timoti Kāretu provides the words to their haka, along with a translation which might explain why Kae was unable to contain himself:⁷

E ako au ki te haka | I learn to haka

E ako au ki te ringaringa | I learn to explore with my hands

⁵ GNZ MMSS 46, p 33.

⁶ It is interesting to note, however, the contents of another of the Te Whiwhi manuscripts (MMSS 54), which includes a brief summary of the same story, with the main protagonist named as “Ngae”. The words of the haka are included in this account (at p 59) and are very similar to those provided by Kāretu: “Ako au ki te kowhiti/kaore te kowhiti/ako au ki te whewhera/kaore te whewhera/E kowhiti nuku/E kowhiti rangi/E kowhiti werewere/Puapua e/Hanahana e/Tinaku e.”

⁷ Kāretu, *Haka!*, pp 15-16.

E ako au ki te whewhera | I learn to open wide

E kāore te whewhera | Not to open wide

E ako au ki te kōwhiti | I learn to twitch

E kāore te kōwhiti | Not to twitch

E kōwhiti nuku, e kōwhiti rangi | Pulsating upwards, pulsating downwards

E kōwhiti puapua, e kōwhiti werewere | My vagina throbs, my vagina fibrillates

E hanahana a tinaku . . .e! | A haven of lingering warmth.

25. Such is Kae’s delight at the women’s most intimate revelation of themselves that he bursts out laughing, thereby sealing his fate. The parallel between what happened to Māui and the means by which Kae is identified before being conveyed by the women to a certain death is unlikely to be coincidental. As Māui presumptuously approached the vulva of his kuia, believing himself up to the task of unilaterally reversing the birth process, and as Kae feasted his eyes on the genitals of the women before him, each of the men was confronting his own mortality.
26. The story of Kae’s demise also reveals women as expert in karakia. In order for their mission to succeed, Hineteiwaiwa and her companions not only had to trap Kae into revealing his identity by making him laugh; they also needed a plan that would enable them to kidnap him from under the very noses of his relations. The strategy for dealing with this second dilemma is karakia, which puts their hosts into a sound sleep: “[K]a rotua te whare e nga wahine ra, ka whakamoemoea; kia tupuatia a Kae e ratou, ka warea te whare katoa e te moe, me Kae hoki”.⁸
27. It is plain that Hineteiwaiwa and her party know how to utilise the relevant karakia to good effect. So soundly does Kae sleep that even when he awakes the next morning to find himself in Tinirau’s house, he does not immediately realise

⁸ GNZ MMSS 46, p 34.

the trick that has been played on him, thinking instead that he is still in his own house and imagining that Tinirau is visiting him.

28. Kae's iwi, Te Aitanga a te Pōporokewa, eventually retaliate by killing Tūhuru. Once again, it is to Hineteiwaiwa that Tinirau turns in order to ensure that their action does not go unavenged. Realising that his own iwi cannot defeat Te Aitanga a te Pōporokewa, Tinirau asks Hineteiwaiwa to seek out the legendary Whakatau for assistance. Throughout the preparations for and execution of his assault on Te Tihi o Manono (the home of Te Aitanga a te Pōporokewa), it is Hineteiwaiwa with whom Whakatau liaises. He tells her to return home and make certain preparations; he travels there to ensure that the preparations have been carried out; and he appears undeterred when she tells him that Tinirau's ope remains there, too afraid to launch an attack on the enemy. He sends word to her to watch the sky above Te Tihi o Manono: when she sees it glowing red, she has the satisfaction of knowing that the death of her child has been avenged.

The Legacy of Hineteiwaiwa

29. Te Rangihaeata's accounts of Hineteiwaiwa are entirely consistent with the messages that are coded within a theory of creation which is founded on whakapapa and which identifies the whare tangata as a site of power.
30. Hineteiwaiwa is acutely aware of the particular strengths that she brings to any given situation and she is adept at utilising those strengths to achieve her desired outcomes.
31. A perusal of Ngāti Raukawa traditions confirms that my own kuia were similarly conscious of the unique qualities that women brought to any role; and that they knew exactly how to employ them effectively.
32. Waitohi illustrates this point very well. Her father was Werawera (Ngāti Toa Rangatira), her mother Parekōhatu (Ngāti Huia, hapū of Ngāti Raukawa). Her brother, Te Rauparaha, settled on the Kapiti coast during the early 1820s and wanted his Ngāti Raukawa relatives to join him. He made repeated invitations to them, without success. On one occasion, when a visiting group of Ngāti

Raukawa were about to leave Ōtaki and return north to Maungatautari, Waitohi issued the following invitation: “Haere ki aku werewere. Haeremai hei noho i te whenua mai i Whangaehu ki Kukutauaki”. In response to her invitation, a series of Ngāti Raukawa migrations subsequently occurred over the next several years.

33. Given the significance of what was being asked and given the fact that earlier requests issued by her brother had been unsuccessful, one would expect Waitohi to have chosen her words carefully. To Ngāti Raukawa, the literal meaning of the word “werewere” is “pubic hairs”. An example of the way the term is used is the tikanga: “Tai-tamatāne whai i te ure tu; Tai-tamawahine/tamāhine whai i ana werewere”, which suggests that sons typically follow their male side while daughters follow their female lineage. It was Waitohi’s choice of this term that is said to have swayed her Ngāti Raukawa relatives: “Our elders would say it was her use of the word ‘werewere’ which stirred their emotions”.⁹ There is no doubt that Waitohi fully appreciated the power of the word to persuade—and knew that it could only be wielded with suitable effect by a woman.
34. In later years, Te Manahi of Ngāti Huia stressed that it was Waitohi’s statement that had swayed them: “[N]a Waitohi kē te kupu ka whati mai, ehara nā Te Rauparaha”.¹⁰ This evidence supports the suggestion, noted by Wakahuia Carkeek, that many of Te Rauparaha’s strategies and military successes were attributable to “the genius of his elder sister”, with few major undertakings being entered into “without her advice and counsel”.¹¹
35. Waitohi’s political authority is illustrated by the fact that she was responsible for allocating land to the various hapū of Ngāti Raukawa who responded to her call to come south. She also marked out the boundary between Ngāti Raukawa and Te Āti Awa, both important allies of Ngāti Toa Rangatira. Determination of such rights was crucial for the maintenance of stability within the region. The fact that tensions between Ngāti Raukawa and Te Āti Awa boiled over into armed conflict at Te Kuititanga, shortly following Waitohi’s death in 1839,

⁹ This explanation was provided by Iwikatea Nicholson, 9 November 2016.

¹⁰ This statement is drawn from the evidence of Manahi that was given at the Ngākaroro Hearing of the Māori Land Court in 1874: Carkeek, W *The Kapiti Coast: Maori Tribal History and Place Names of the Paekakariki-Otaki District*, Wellington, AH & AW Reed, 1996, p 23.

¹¹ Carkeek *The Kapiti Coast*, p 23.

might well be taken as an indication of the extent of her authority and of the political uncertainty that her absence precipitated.

36. As the example of Waitohi shows, Ngāti Raukawa recognised that women have their own, quite distinct (and distinctive) source of power. The potency of the whare tangata was an acknowledged fact of life.
37. This is reflected in our mōteatea, which indicate that our tūpuna understood the birth canal as a conduit between Te Ao Mārama and Te Pō. When facing the imminent possibility of death, for example, they readily employed imagery that reinforces the significance of the whare tangata as depicted in the stories of Māui and of Kae. The ngeri “He Oranga Nei Hoki Tātou”, composed by Te Rauparaha, provides an excellent example. It finishes with the lines:¹²

Kūkutia! Wherawherahia! | So hold tight, then open wide

Ki te tohe mai ia he aha te kai | Should he persist in asking what the food

mā te niho kehokeho | for the vulva’s teeth is

He keho anō! | Tell him it is vulva!

Tū ana te kehokeho! | Long live the vulva!

Ngaua ki ō niho, he mamae poto | Sink in your teeth! The pain is short!

Kei pakoko kei tua tērā whaitua | Lest that region wither

Tihē! | So let there be life!

38. While there is much about the ngeri that current generations may struggle to fully grasp, I suggest that the image being conveyed is clear enough. The toa are being urged to confront death squarely, to not only face it down but to charge enthusiastically towards it, to attack it with a degree of fearlessness that would surely make formidable foes of any force. The magnitude of what is at stake—

¹² The translation is taken from Kāretu, T *Haka! The Dance of a Noble People*, Auckland: Reed Books, 1993, pp 41-42.

the sense of being poised on the cusp of one's mortality, no less—is articulated with spine-tingling force.

39. Te Rauparaha also makes highly effective use of the image of the birth canal as occupying the transitional space between Te Ao Mārama and Te Pō in “Kīkiki Kākaka”.¹³ The story behind this composition is well-known. While being pursued by a group from Waikato, Te Rauparaha asked for Te Heuheu's assistance and was sent to Rotoaira with instructions to seek help from Wharerangi. Wharerangi hid Te Rauparaha in a kūmara pit and placed Te Rangikōaea over the mouth of the pit. When Te Rauparaha's pursuers arrived at Rotoaira, Wharerangi told them that Te Rauparaha had been and gone. Doubting the truth of this statement, the group from Waikato searched the village, their tohunga reciting karakia as they went. It is generally understood that the power of the karakia was counteracted by Te Rangikōaea, her whare tangata preventing Te Rauparaha from being detected and thereby saving his life.
40. The description of Te Rauparaha crouched inside the kūmara pit while Te Rangikōaea straddles the mouth of this small, enclosed space, conjures up a powerful image of the pit as an extension of the whare tangata. It is the ability of the whare tangata to remain intact in the face of potential intrusion by the karakia that determines Te Rauparaha's chances of survival.
41. From the words he used, it is clear that Te Rauparaha understood very well that his fate lay in the hands—or, perhaps more accurately, in the genitals—of the woman who sat above him. He was fearful lest the barrier between himself and his would-be captors be interfered with; he knew that if the karakia were able to upset the spiritual potency of the vulva, its power to protect him would be nullified. It would become a “tara wāhia”—it would break open, disclosing the contents of the dark pit beneath. Instead of the kūmara pit acting as a whare tangata, enabling him to be reborn into Te Ao Mārama (as eventually occurred, once the Waikato ope had moved on and he climbed triumphantly back to the

¹³ Royal, TAC *Kāti Au i Konei: He Kohikohinga i ngā Waiata a Ngāti Toarangatira, a Ngāti Raukawa*, Wellington: Huia Publishers (1994), pp 82-85.

light of day), it would become a pit of death, the place where his life would certainly be brought to a swift end.

42. There are many more examples that could be cited to illustrate the way that our theories of creation have laid the foundation for the acknowledgement and celebration of mana wahine within the traditions of Ngāti Raukawa. While I do not presume to speak for other iwi, the degree of commonality between our creation theories and those of others suggests that others will have plenty of examples of their own.

Whakapapa, Hierarchy and The Phenomenon of Mana Wahine

43. Whakapapa is central to the way our tūpuna understood their place in the universe.
44. Reliance on a whakapapa framework to make sense of our existence requires us to value every person as part of an endlessly expanding whole. This is not to be confused with some feel-good notion of equality or sameness; rather, it recognises that the particular qualities of every person contribute to the vitality of the whakapapa network in its entirety. Whether female or male, young or old, teina or tuakana, each person plays their part in establishing the precedents that are bequeathed to later generations. Without the unique characteristics of each and every individual, the strength of the collective is diminished.
45. Whakapapa necessitates a focus on relationships: between people; between people and their non-human relatives; between past, present and future generations. It reminds us that relationships must be carefully managed because everything in our world is connected. Failing to nurture key relationships will result in imbalance which will ultimately be to the detriment of all.
46. Whakapapa is inherently non-hierarchical and is driven by the logic of inclusion.
47. For the British colonists, hierarchy acted as a social cement. Their conception of a well-ordered society was one where every person understood and accepted their place in the pecking order, willingly submitting to some while demanding submission from others.

48. The success of colonisation relied upon the notion of hierarchy becoming normalised amongst the colonised. This is because of what it taught the colonised about the inevitability of domination and its corollary, subordination.
49. Andrea Smith has rightly pointed out that the introduction of patriarchy is a crucial first step in achieving the colonisation of peoples whose societies are not hierarchical.¹⁴ Patriarchy provides a powerful incentive to half of the target population (men) to accept the logic of hierarchy because of the benefits that accrue to them.
50. The missionaries played a crucial role in introducing patriarchy to Māori. With the gender and colour of God (who sits at the top of the hierarchy) beyond dispute, Christianity is premised on the belief that maleness and whiteness are inherently superior to femaleness and colour. Māori were encouraged to accept their “God-given” place on the lower rungs of creation, Māori men accorded an automatic advantage over their female relatives by virtue of their genitalia.
51. Colonisation has been an unrelenting attack on the whakapapa foundations of Māori philosophy. It has sought to disrupt and to sever relationships, both between people and between people and their non-human relatives.
52. The introduction of patriarchy is just one aspect of this process. Because it drives a wedge between male and female, it is designed to destroy the fabric of Māori society—and therefore, of Māori resistance.
53. To some extent, even the very concept of whakapapa has been colonised. Since the arrival of the written word, we have been encouraged to think of whakapapa as a series of charts, beginning with a tupuna at the top of the page and descending, in a direct line, to subsequent generations. When combined with Western understandings of hierarchy as representing the natural order of things, we tend to associate names appearing at the top and to the left of the page as being more significant than—as being “senior” to—those appearing further down and to the right. The higher up the chain a name appears, the more super-

¹⁴ Smith, *A Conquest: Sexual Violence and America Indian Genocide*, Cambridge MA: South End Press, 2005, p 23.

human they seem to us; the further to the left a sibling sits on the page, the more important they must be.

54. Overlaying this privileging of hierarchy is the drive for simplification, which frequently results in the rationalising of information so that the names of those deemed “less important” are omitted. Women’s names are often the first to be erased from the record.
55. The way that whakapapa is written has affected the way that visualise and speak about it. Indeed, speakers regularly use terms such as “ka heke iho” when talking about a subsequent generation, as opposed to “ka puta mai”, which identifies birthing and, by clear implication, women as integral to the process.
56. It should be noted that the very term “mana wahine” is a product of the “patri-fying” of Māori thought and practice. Our tūpuna are most unlikely to have felt the need to refer to “mana wahine” because it was simply the case that all people, female and male, had mana. It is only because the colonists regarded “mana” as an exclusively male characteristic—and because of the enthusiasm with which some Māori men embraced that belief—that it has become necessary to identify “mana wahine” as a phenomenon.

DATED this day of January 2021



Ani Mikaere