OFFICIAL

IN THE WAITANGI TRIBUNAL

WAI 1040
WAI 1400

IN THE MATTER OF — The Treaty of Waitangi Act 1975

AND

IN THE MATTER OF — Te Paparahi o Te Raki (Northland) Inquiry

AND

IN THE MATTER OF — a claim by Hone Samuel Ututaonga Paki for and on behalf of the descendants of Ngāti Kura, Ngāti Miro and Ngāti Ruamahoe

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CLOSING SUBMISSIONS ON BEHALF OF WAI 1400

Dated 21 January 2011

RECEIVED
Waitangi Tribunal
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Ministry of Justice
WELLINGTON

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MAY IT PLEASE THE TRIBUNAL

INTRODUCTION

1. This brief closing submission is filed on behalf of Hone Samuel Ututaonga Paki ("Hone") and it relates to his brief of evidence submitted for the first block of hearings of Te Paparahi o Te Raki Inquiry. Hone filed his original claim on the 3 May 2007,[1] and sadly passed away on 25 October 2009.

2. This submission has been filed at the quest of Hone's whanau, as a mark of respect for his enduring desire to participate in a process that he hoped would lead to both an improved position for his whanau and hapu and an improved, invigorated collective understanding of Te Ao Maori by both his whanau and hapu and mainstream New Zealand.

3. His evidence was recorded and transcribed specifically for the initial hearings held during 2010 ("the hearings") concerning his understanding of Te Whakaputanga and Te Tiriti which passed down to him.

4. The purpose of this closing is two-fold.

5. The first purpose is to re-emphasise Hone's evidence from a grass root perspective.

6. The second purpose is to support of all claims and kai korero given at the hearings.

7. This submission does not address the historical or linguistic narrative relevant to Te Whakaputanga or Te Tiriti. These topics were comprehensively covered by other claimants and technical experts throughout the hearings and will undoubtedly be covered by those claimants and experts.

TAUTOKO OF EVIDENCE

8. It was counsel's instruction from Hone that his tautoko for Nuki Aldridge[2] and the evidence presented by Mr Aldridge at the hearings be stated for the record.

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[1] Statement of Claim (Wai 1400, #1.1), p1

[2] Affidavit of Nuki Aldridge, (Wai 1040 #B10)

9. This was because of Hone's general association and support for Te Whakaminenga while living in Keao and Mahingapua during the late years of his life.

10. The representative for Hone's claim wishes to express his tautoko for the contextual issues being covered in the joint closing submission, prepared on behalf of Wai 1509 and others.[3]

THE CLAIM WAI 1400

11. Hone was a retired fisherman living at Mahingapua, Whangaroa.

12. Hone submitted in his claim that he was a member of the hapu Ngati Kura, Ngati Miro and Ngati Ruamahoe, people of the Whangaroa District. Their maraes are associated with the Whakarara tribal committee (Whakarara – Maunga) which included maraes at Takau, Matauri Bay (Ngapuhi), Te Ngaire (Ngai Tupongo), Wainui (Ngati Ruamahoe), Mahingapua and Matangirau (Karangahape).[4]

13. Hone alleges that he and others have been and continue to be prejudicially affected because of the following Treaty breaches[5]:

    a. Environmental degradation and the direct effects of that degradation on the whenua, waterways, sea, and related resources; and

    b. Failure to actively protect taonga which includes, but is not limited to the rivers, streams and other water resources; and

    c. Preventing Maori from exercising tino rangatiratanga which includes but is not limited to the management and control of the foreshore & seabed and associated resources including kaimoana (sea food) and kai mauri (freshwater food); and

    d. Economic deprivation and the impact on employment, health statistics, healthcare services, education, te reo Maori and housing.

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[3] Joint closing submission for Wai 1512, 5118, 1529, 1523, 1524, 1529, 1530, 1539, 1541, 1544, 1582, 1677, 1712, 1825, 1864, 1954, 1955, 1959, 1960, 1961, 1971, 1973, 1979, 2057, 2152, 2153 and 2168

[4] Statement of Claim (Wai 1400, #1.1), p1

[5] Statement of Claim (Wai 1400, #1.1), p2-3

14. Hone's claim has been succeeded to by his eldest son John Terewi, who will present evidence at Te Paparahi o Te Raki Stage Two Hearings where he will address those aforesaid prejudices .

WAI 1400 EVIDENCE

15. All of the knowledge and understanding contained in Hone's evidence was handed down to him from his grandparents and from those before them.[6]

16. The commentary given by Hone, originates at a grass roots level.

17. Hone's evidence says that Whakapapa is the beginning of everything.[7]

18. The destiny of Maori has always been in their hands well before Te Whakaputanga or Te Tiriti were signed.

19. Maori already knew of their independence .[8]

20. When Maori spoke of Te Whakaputanga, they were talking about Whakapapa.

21. Te Whakaputanga cemented in the minds of Maori that independence stemmed from Whakapapa.[9]

22. This is part of Maori lore.

23. Te Whakaputanga was decided by the hapu[10].

24. Te Tiriti followed Te Whakaputanga.

25. Te Whakaputanga and Te Tiriti were meant to stand together[11].

26. Te Tiriti enhanced the understanding of Te Whakaputanga.[12]

27. Te Whakaputanga was about ensuring the destiny of Maori[13].

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[6] Brief of Evidence (Wai 1400), p8-9, para 36-38.
[7] Brief of Evidence (Wai 1400), p20, para 93 & 94.
[8] Brief of Evidence (Wai 1400), p17, para 81.
[9] Brief of Evidence (Wai 1400), p7, para 24.
[10] Brief of Evidence (Wai 1400), p5, para 17-18.
[11] Brief of Evidence (Wai 1400), p6, para 21.
[12] Brief of Evidence (Wai 1400), p13, para 88.

28. Te Whakaputanga ensured that Maori could administer their own affairs in a changing world.[14]

29. The whenua is Whakapapa.

30. The Whakapapa is the whenua.

31. Without whakapapa and whenua, Maori have nowhere to stand. [15]

32. For Hone what was important was to remember that each individual should follow their own Whakapapa and not that of somebody else.[16]

33. Te Whakaputanga allowed Maori and Pakeha to live together on an inclusive basis.

34. Te Tiriti was meant to have complemented Te Whakaputanga but instead, the Treaty (Pakeha version) created barriers[17].

35. Emma Gibbs-Smith in her evidence alludes to the same conclusion where she indicates that the physical presence of barriers was the end of Te Whakaputanga.[18]

36. Nuku Aldrige presented similar whakaaro in his evidence.

37. Hera Epiha also presented similar evidence. [19]

SUMMARY

38. Counsel have been instructed by Hone's whanau of the following:

    a. They wish to finish what Hone started;
    b. They wish to progress Hone's claim to Stage Two Hearings for Te Paparahi oTe Raki Inquiry; and
    c. Hone was passionate about Te Whakaputanga.

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[13] Brief of Evidence (Wai 1400), p10, para 51-52.
[14] Brief of Evidence (Wai 1400), p10, para 51-52.
[15] Brief of Evidence (Wai 1400), p14, para 71.
[16] Brief of Evidence (Wai 1400), p18, para 83.
[17] Brief of Evidence (Wai 1400), p7, para 30.
[18] Brief of Evidence (Wai 1040), #B18(a), p39, para 154.
[19] (Wai 1040), #C29(a)

d. Hone viewed whakapapa and Te Whakaputanga as intwined and inseperable.

e. Hone wanted Te Whakaputanga to be fully understood by all including the knowledge and desires of his tupuna.

DATED at Auckland this 21 January 2011.

Shane Hutton
Counsel for the Appellant