OFFICIAL

THE WAITANGI TRIBUNAL
TE PAPARAHI O TE RAKI INQUIRY DISTRICT

WAI 1040

IN THE MATTER of the Treaty of Waitangi Act 1975

AND

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IN THE MATTER Te Paparahi o Te Raki Inquiry (Wai 1040)

AND

IN THE MATTER OF a Claim by Titewhai Harawira Wai 2220

CLOSING SUBMISSIONS FOR INITIAL HEARINGS

Dated: 23 February 2011

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RECEIVED
Waitangi Tribunal
23 FEB 2011
Ministry of Justice
WELLINGTON

MAY IT PLEASE THE TRIBUNAL,

I have been instructed to file brief closing submissions and uphold the MANA of Ngapuhi.

1. Whilst acknowledging the Tribunal Hearings, there has been no change in the stance of Ngapuhi prior to 1835; ***NGAPUHI DID NOT CEDE THEIR SOVEREIGNTY.***

2. *Ngapuhi did not cede sovereignty* when they constructed, deliberated and signed He Whakaputanga O Te Rangatiratanga O Niu Tireni.[1] (He Whakaputanga). In Counsel's view, it would be fair to say, that for Ngapuhi, this is our primary constitutional document for the ongoing relationship with Pakeha.

3. *Ngapuhi did not cede their sovereignty* when they signed Te Tiriti O Waitangi. Our Tupuna saw Te Tiriti as **an** expression of He Whakaputanga, as we still do so today.

4. Ngapuhi signed Te Tiriti, the treaty which was written in Maori and had been explained to them in Maori without discussion or debate about ceding sovereignty or Rangatiratanga. Counsel submits that there was a meeting of the minds in signing Te Tiriti, But Never in the ceding of their Rangatiratanga. We agree with Johnson Erima Henare [2] when he said,

   '...to suggest that the Rangatira of those times would or could surrender their personal and hapu sovereignty without a fight was absurd. The very fact that Te Tiriti was signed is evidential proof that no demand to surrender or cede sovereignty or rangatiratanga was made."

5. This was the understanding of Ngapuhi prior to the presentation of evidence to the Tribunal Hearing, and that belief has not changed. Rather it has been strengthened by the kotahitanga o te whakaaro, the unison with which the people have presented evidence and reinforced that stance throughout the four weeks of hearings.**Acknowledgements.**

6. Ka mihinui kia Sir Graham Latimer me Titewhai Harawira in their opening remarks for this initial Tribunal Stage one Hearing delivered by Titewhai Harawira at Waitangi, on 10 May 2010.

   "Today, we stand here on the very soil where our Tupuna stood and debated the future of our Ngapuhi nation. Those debates were guided by the rules of Kupu mana, where your word was bond.

   ...those chiefs who signed Te Tiriti O Waitangi, we cannot help but feel immediately proud at the honour and integrity with which they acted. They signed believing the Crown would honour its word, and our Tupuna, they fully honoured their word".[3]

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[1] In the evidence presented by Rina Edwards, Hone Sadler, Erima Henara, Nuki Aldridge, Manuka Henare to name but a few of our people who had the opportunity to present.
[2] Johnson Erima Henare – Amended Brief of Evidence (Wai 1040 # D14(b)) pp 16 – 17 para 49.
[3] Opening Remarks Sir Graham Latimer and Titewhai Harawira dated 10 May 2010.

15. Resources have not been allocated specific to the research of these sacred constitutional documents for Ngapuhi. We did have limited funding to conduct six wananga. The technical witnesses on behalf of Ngapuhi had actually been engaged for the wider Te Paparahi O Te Raki Claim, whose research was material to the initial Hearing.

Waitangi Tribunal lacks Independence: It is simply another Crown entity.

16. The Tribunal is not an Independent arbiter of Justice.
The Members have been chosen by the Crown and the Crown is also their paymaster. This is important given the nature of these initial claims dealing with the constitutional relationship between the Crown and Maori.

17. The issues for Ngapuhi are constitutional, they go to the very existence of the Crown in Aotearoa, their presence being brokered in Tai Tokerau, principally with Ngapuhi.

18. There is a presumption that the Crown sets the agenda for all hearings (and Ngapuhi - crams the spaces with Kaikorero), - it is all heard according to the Crown practices.

19. The legalistic style of hearing submissions required lawyers – this immediately prejudiced people in presenting their own korero, it was filtered and in effect, censored, cut off, edited or abridged or not heard at all!

20. There are people with knowledge pertaining to these documents, who did not have and nor did they want, to have to have legal representation. They were precluded from participating. Those people who have the knowledge and should've spoken – did not, although they were present at some hearings.[

21. The whole process is that, that the Crown has stipulated through its appointees (the fact that the Chairperson and other members on this Tribunal are Maori is irrelevant), who have simply adopted the Crown's processes without question.

22. Canvassing the issues through the filtered legal lenses of a Waitangi Tribunal does not alter the stance and belief of Ngapuhi about the actions of their Tupuna.

23. Counsel submits that some stories have not been presented because that opportunity was not given, and there is still to this day, distrust in the process, and the Crown. Who has the safe pair of hands to be the kaitiaki of the sacredness of the information?

<u>Understandings, relationships and effects</u>.

24. He Whakaputanga and Te Tiriti do not stand alone. Te Tiriti is seen by Ngapuhi, as an expression of He Whakaputanga. (Theme repeated throughout the evidence presented).

25. The korero presented by Ngapuhi-nui-tonu, before the Tribunal and the Crown, is our korero tuku iho. They are <u>our</u> histories, our understandings and our whakapapa.

26. This is the first constructive, (albeit restrictive and biased) opportunity Ngapuhi-nui-tonu have had to present some of their korero to each other, let alone to the Tribunal. Counsel submits this has shown a willingness by Ngapuhi to looking to broker another

35. The interpretation and relevance of He Whakaputanga and Te Tiriti as constitutional documents can only be understood after the issues in the preceeding paragraphs have been presented;

- first to an Independent Tribunal, agreed to by both Ngapuhi and the Crown, and
- secondly, by evidence that illuminates the environment and the influences of the Churches as referred to.

Ngapuhi Korero

36. Evidence presented by Ngapuhi kai korero is now on the record as our history. Counsel notes that this is our tribal intellectual property and request there be protocols be placed upon access to this data from the Tribunal.

37. In particular, korero presented in English, by Rangatira women were not challenged by the tribunal.

- Titewhai Harawira, Ngati Hau[11]
- Hilda Halkyard – Harawira,[12] Te Rarawa, and
- Hokimate (nee Kingi) Painting[13]

38. Counsel submits that like their Tupuna, he kupu mana enei korero kua tukua nei e enei wahine Rangatira, nga uri o o ratou Tupuna i haina I nga Kawenata Tapu.

39. The Mana of Ngapuhi is inviolable – it has NEVER been ceded to another race of people. In fact it has been a cornerstone in the development of **Te Whakapuakitanga mo nga Iwi Taketake – The Declaration of the Rights of Indigenous Peoples 2007.**[14]

> *'...underlying everything is the principle of Rangatiratanga. Rangatiratanga is the mauri of the Indigenous Peoples Declaration.*

Remedies Sought

1. That the Tribunal recognise that there are still more Ngapuhi (and other Maori) korero yet to be heard about He Whakaputanga and Te Tiriti.

Complete the history independently

2. That the Tribunal recommend that there be a further inquiry by an Independent body appointed by both the Crown and Ngapuhi, and

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[11] Evidence of Titewhai Harawira, week one and two.
[12] Evidance of Hilda Halkward week 3.Wai 1040 #
[13] Evidance of Hokimate (nee Kingi) Painting week 3. Wai 1040 #
[14] Opening remarks by Titewhai Harawira, week one. p.4 – 7, paras 10 – 21.

3. its terms of reference to be agreed to also by Ngapuhi and the Crown prior to appointment of its members;
4. That the Independent body be fully resourced to conduct its inquiry,
5. that the Independent body be enabled to choose two legal counsel, (one to represent Ngapuhi and the other to represent the Crown to ensure observance of due process),- otherwise for lawyers to be excluded in their capacity of representing others.
6. That the Crown owes its future citizens the complete history of Aotearoa.
7. That there be a recognition for reconciliation (as per tikanga Maori practice of hohou- I te rongo, between the Crown and Ngapuhi.
8. That there be a follow on effect of a strategy to educate Aotearoa as to its own history, an incorporation within the school curriculums and promotion through a revamp of the 'Te Tiriti Educators '.
9. That there be an interim position created as a Commissioner mo nga Kawanata Tapu o Aotearoa until there is an agreed strategy between Ngapuhi and other Iwi, and Maori and the Crown to finding a resolution.

Report

10. For the Tribunal to write a report, in a timely manner (approx six months), based only on that evidence that was put before this Tribunal prior to any further hearings.
11. Currently there is a review of the Constitutional arrangements in Aotearoa. Counsel submits it is the fervent hope of Ngapuhi to be able to participate in the discussion, with a meaningful finding by this Tribunal.
12. That the Tribunal know that the Report will be taken by Ngapuhi into international forums of our choosing.

Move to settlement

13. Sir Graham Latimer and Titewhai Harawira as leaders of Ngapuhi, have stated that the Ngapuhi Runanga is the appropriate vehicle to advance settlement for the Ngapuhi Nation.

Other relief sought

14. Ngapuhi also seek the following from the Waitangi Tribunal;
    a. Any form of Compensation deemed appropriate,
    b. Protection of the Ngapuhi korero until protocols are established with the Tribunal as to its access , and
    c. Any other relief that the Tribunal deems appropriate.

Kia ora, na
M.aryann Mere Mangu mo Titewhai Harawira.