

**IN THE MATTER** of the Treaty of Waitangi Act 1975

**AND**

**IN THE MATTER** of the Mana Wahine Inquiry – **WAI 2700**

**AND**

**IN THE MATTER**

of a claim brought by Heeni Jayne Ranginui and Jenny Ranginui-Tamakehu for and on behalf of the descendants of Heeni Matene and Pokairangi Ranginui.

<b>RECEIVED</b> Waitangi Tribunal
<b>24 Sep 18</b>
Ministry of Justice WELLINGTON

**WAI 2157**

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**AMENDED STATEMENT OF CLAIM**

**DATED 24 September 2018**

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## **MAY IT PLEASE THE TRIBUNAL**

### **The claimants**

1. This statement of claim is filed on behalf of the following claimants: Jenny Ranginui-Tamakehu and Heeni Jayne Ranginui.
2. The claimants are grandchildren of Heeni Matene alias Heeni Tunganekore; Heeni Manson ("Heeni") and Pokairangi Ranginui alias Pokairangi Tamaikuku; Po Ranginui ("Pokairangi"). Heeni Matene, with her whanau had customary interests in the area around Matahiwi marae. Heeni's mother was Rato ; Rato's mother was Heeni Rakau

### **The claim**

3. The claimants say they have been, are, or are likely to be prejudicially affected by the ordinances, Acts, regulations, proclamations, notices and other statutory instruments, and the policies, practices, actions or omissions of the Crown as further set out in this statement of claim.
4. The claimants further claim that all the Acts, regulations, orders, policies, practices and action taken, omitted or adopted by or on behalf of the Crown referred to are and remain inconsistent with the terms and principles of the Treaty of Waitangi.

### **Background.**

5. Wahine Maori played a prominent role in traditional Whanganui society. Wahine Maori were political leaders who exercised considerable power within their hapu and iwi- and were active in military and political campaigns and in the community.<sup>1</sup>

(a). When Scottish settler James Coutts Crawford met with Rangatira Pehi Turoa on the Whanganui River- he recorded that the crew of the large war canoe were both tane and wahine.

. . .the great chief Pehi coming down the stream. Nothing is more picturesque than a large Maori canoe. . .the canoe itself is formed with graceful lines. . .The canoe of Pehi, alongside of which we

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<sup>1</sup> Johnston Keresna- yearbook of NZ jurisprudence special edition –Te Purenga vol 8.2 [35]

now lay, to hold communication, was a fine large one, and held the usual heterogeneous crew. Pehi himself, an old and crafty savage, wielded the steering paddle. His crew was composed of both sexes, old as well as young ; a cargo of potatoes was in the centre, and on it stood a dog, while a cat was in the bow, and a kaka at the stern. We had a long talk as to the ascent of the Tangarakau, and the previous arrangement was for the time confirmed. Having presented Pehi with a bottle of porter, we parted company. . . (Crawford, James Coutts 1880, n.b Pehi otherwise known as Te Pehi Turoa)

(b) Upokongaro on the Whanganui River is named for a wahine warrior who was viewed with such respect that when she died her relatives removed her head to prevent its desecration.

The village's name in Māori, *ūpoko* (head) *ngaro* (hidden), refers to a story of how chief's daughter Ira-nga-rangi arranged to have her head removed upon her death and hidden by relatives, who feared it might be desecrated by enemies. Supposedly the preserved head was hidden in a cave on the banks of the Ūpokongaro Stream north of the settlement, from which the village takes its name.<sup>2</sup>

(c) NIMTR surveyor John Rochfort was stopped by Patutokotoko at Te Papa on the Maunganui o te ao river in October 1883- and turned back. The haka party which greeted Rochfort at Te Papa was composed of both tane and wahine:

After breakfast we all started, forming a line about half a mile long, and after going about 2 miles arrived near our destination. Then all the party knelt or sat uncovered, and the catholic service for times of danger was recited by all. Then Kaioroto and Werahiko stripped down and turned out in war costume with only the loin cloth; these two headed the company, and we advanced to within sight of the pah at Te Papa where a white flag was flying. The Hauhau women set up a 'tangi' and the whole scene burst on us; the men and women (about 30 men & ten or fifteen women ) were drawn up in line two deep facing us, all naked except for the loin cloth, and some painted with black patches on their cheeks- 25 were armed with guns or pistols, which as we marched towards them

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<sup>2</sup> Chapple, L. J. B.; Veitch, H. C. (1939). *Wanganui*. Hawera, NZ: Hawera Star Publishing. p. 228.

they presented and fired over our heads; and we could hear the bullets whistling past us; they then wheeled and marched in front of us, and drilled in line facing us two deep; fired another volley over our heads, and then held their guns ... We sat down in front of them, about equal in numbers; and then commenced one of their war dances; they formed in line two deep, men in front, women behind, and begun the war haka; making most hideous faces; turning up the whites of their eyes, and some putting out their tongues; all flinging their arms about in perfect unison....then they came forward, one at a time, in war paint, and each fired off a gun, and spoke, one after another.

The women had the same right to speak as the men:

Uenuku (chief) wished for war with the natives who had brought me up- Hoani the same.

Kaari (fired pistol) said she was for war

*Te Oro This is our gun which I told you I would use to shoot you (fired it off). Had it not been for my Lord I would have shot the first man who came over the hill....*

Kaari (again) for war against Winiata and the others; adding "*you are to go back, all of you*"

Haepata Kahakura, Mango Mango (female) Whatarau (female), Tinanga (female) & Te Pikikotuku spoke to the same effect.

(d) When Maori protested the Wanganui River Trust Board altering the flow in river rapids to assist the passage of the river steamers, wahine exercised their rangatiratanga.

In one incident Maori women sat on stones to prevent the stones being dragged from the river. The protestors were arrested and taken to court -evidence was given:

'When the men saw that the native women would not move off the stone, the former went to another stone, and in attempting to put a chain around it the chain slipped into the water- the natives did not touch it. Anderson later called out to the men to clear the natives off the stone, but the latter would not move. The pakeha then got angry and struck one of the women on the face with a pole. The woman would not move, and one of the men tried to hit her with an iron crow-bar, but another woman caught hold of one end and would not let him' (papers-past Wanganui Herald April 3<sup>rd</sup> 1894- Police Court pages.)

## **First Cause of Action. Breach of Duty of Active Protection.**

### **6 The Crown has a duty of active protection of the right of wahine Maori to exercise rangatiratanga. The Crown has failed in this duty.**

(a) The claimants tupuna wahine attempted to protect the whanau and hapu fisheries, when the Wanganui River Trust board were clearing rapids to allow easier access for the river boats.

(b) In March 1894 two of the claimants tupuna wahine Ramari Moetu and Heeni Rakau were arrested and charged with willfully obstructing the Wanganui River Trust in the improving of navigation on the Wanganui River. They were charged in court alongside a number of men.<sup>3</sup>

(c) The obstruction was alleged to involve preventing the Trust Board workers building a training wall in river rapids at Matahiwi, and also setting adrift a punt in the use of the Trust Boards foreman and throwing away crowbars and chains from the punt.

(d) Evidence was given that both men and women were involved in the obstruction. The defendants gave evidence that they were only protecting their fisheries from damage; and their lawyer said their rights to the fisheries had been guaranteed under article 2 of the Treaty.

(e) Counsel for the River Trust Board said that the rights guaranteed under article 2 of the Treaty had been overruled by statute- which provided that the Trust Board could carry out work in the river to clear the way for the steamers.<sup>4</sup>

(f) On the question of the rights under article 2 of the Treaty the magistrate said:

‘An important question of that kind should be taken to the Supreme Court, and could not be decided by the police court- if they could establish that they had a right to the uninterrupted use of the river under the Treaty of Waitangi; then, no doubt the court would give them protection- however they had no right to take the law into their own hands’.

(g) Ramari Moetu and Heeni Rakau were fined £5 each + costs for their part in the obstruction.

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<sup>3</sup> Papers-past Wanganui Chronicle 12<sup>th</sup> March 1894.

<sup>4</sup> Wanganui River Trust Act, Amendment Act 1893.

## **Second Cause of Action**

- 7 **The Crown breached duty of active protection of rights of Wahine Maori in actively discouraging and disallowing wahine from signing the Treaty of Waitangi.**

### **Particulars.**

(a) Only 13 Māori women signed the Treaty of Waitangi (out of some 512 signatures). In Whanganui only one woman is considered to have signed the Treaty – Rere o Maki.

(b) The tupuna wahine of the claimants; despite holding prominent position in Maori society of the time were not given opportunity to sign the Treaty.

## **Third Cause of Action**

- 8 **The Crown undermined wahine and failed to protect their traditional role in Maori society.**

### **Particulars**

- 9 Māori women traditionally had a say in the affairs of the tribe. A newspaper editorial in 1861 noted the participation of Māori women in the [rūnanga](#): 'Ta te [M]aori, me [hui](#) katoa, te iti te rahi, te tane te wahine, te koroheke te ruruhi ... e uru katoa ana ki nga Runanga [M]aori, me o ratou whakaaro me o ratou korero; e whakatika ana tenei wahine me ana korero ano ...' '(but with the Maori Runanga, all must assemble together, the small and the great, the husband, the wife, the old man, the old woman these all obtain admittance to the Runanga Maori, with all their thoughts and speeches ... this woman gets up and has her talk ...)'

- 10 Māori legal academic Ani Mikaere has discussed the impact of colonisation on Māori women, as missionaries and settlers sought to dismiss traditional Māori philosophies and values in favour of their own patriarchal belief system. Mikaere states that Māori cosmology and history was retold to give emphasis to the male characters, while church schools trained Māori girls in domesticity, to become good wives. Most

missionaries and settlers struggled to recognise the leadership of Māori women, preferring instead to deal with their male counterparts.<sup>5</sup>

#### **Fourth Cause of Action**

**11 The Crown has breached the principles of the Treaty by failing to protect the status and leadership roles of wahine Maori.**

**Particulars.**

- 12 Colonisation of New Zealand imported values and rules, which have affected the rights and status of wahine Maori- In particular the position of wahine Maori as land owners and the failure of the Crown to protect this role for wahine Maori.
- 13 Traditionally land was bequeathed to women, as the [mana](#) of women to give birth to descendants meant that mana [whenua](#) (authority over land) was not lost through marriage. During the Kotahitanga movement women argued that the law should recognise Māori women as land owners and leaders in their own right.<sup>6</sup>
- 14 The claimants tupuna Ramari Moetu and Heeni Matene both had land interests in the Ohotu block close to Matahiwi marae.
- 15 Despite wahine Maori being large land owners in their own right; when the Crown made official appointments to governance positions concerning land ownership, the appointees were invariably male.
- 16 All crown appointees to the Aotea Maori Land Council; and later the Aotea Maori Land Board were men.

#### **Fifth Cause of Action**

**17 The crown has breached the principles of the Treaty of Waitangi by failing to respect and protect the role of wahine Maori within the whanau.**

**Particulars.**

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<sup>5</sup> <https://teara.govt.nz/en/te-mana-o-te-wahine-maori-women/page-5>

<sup>6</sup> <https://teara.govt.nz/en/te-mana-o-te-wahine-maori-women/page-5>

- 18 The Crown failed to set aside sufficient reserves for the owners, when vested land was being partitioned and leased to settlers.
- 19 The interests of the claimants tupuna wahine Ramari Moetu and Heeni Matene were recognised by granting them licenses to occupy and later leases of Native reserve land in the Ohotu block.
- 20 However the reserves in which the occupation licenses/ leases were located were not made inalienable and the land was eventually lost to the kuia and their whanau.
- 21 This affected their role as nurturers and guardians of their whanau- and would lead to social deprivation and dislocation of some of the whanau members.
- 22 The different methods of valuation used in determining lease payments meant Maori land owners would be paying more to use their own land than settlers in adjoining farms. This made it difficult for the land owners to survive economically- leading to further dislocation of whanau.

### **23 Prejudice**

As result of Crown undermining the rangatiratanga of wahine Maori, and failing to address the negative affects of colonisation on wahine Maori, the claimants have suffered and will continue to suffer prejudice in the following ways.

- (a) Loss of mana and ability to exercise rangatiratanga;
- (b) Inadequate representation on governance bodies that create and implement official policies;
- (c) Loss of land ownership and authority over property;
- (d) Diminution of their tupuna wahine's ability to nurture and care for their whanau, and the ongoing consequences

### **24 Relief**

The claimants seek findings that:

- (a) The claim is well founded

(b) The acts, omissions, and practices of the Crown in relation to the claimants tupuna wahine are inconsistent with the principles of te Tiriti; and

(c) Any other relief the tribunal thinks appropriate to grant

### **Amendment**

25 Claimants seek leave to further amend this statement of claim following the research being undertaken for this inquiry.

This statement of claim is filed by Mark McGhie- Counsel for the claimants.