BEFORE THE WAITANGI TRIBUNAL **WAI TBC**

IN THE MATTER OF	the Treaty of Waitangi Act 1975
AND	
IN THE MATTER OF	a claim brought by John Ruddock on behalf of his whānau, and Māori who do not qualify for citizenship by descent generally
AND	
IN THE MATTER OF	the Citizenship Act 1977

STATEMENT OF CLAIM

24 July 2025

RECEIVED
Waitangi Tribunal
24 Jul 25
Ministry of Justice
WELLINGTON

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MAY IT PLEASE THE TRIBUNAL:

Introduction

The claimant

1. This statement of claim is filed on behalf of John Ruddock on behalf of his whānau and Māori who do not qualify for citizenship by descent generally (**the claimant**).

2. The claimant is a citizen of Aotearoa by descent. He has recently moved to New Zealand with his three tamariki who, despite being Māori and descending from a signatory of te Tiriti o Waitangi, have no legal right to be in New Zealand.

3. The claimant is Ngāpuhi and thus makes this claim under s 6 of the Treaty of Waitangi Act 1975.

The claim

4. Māori are not citizens of Aotearoa as of right. The Citizenship Act 1977 (**the Act**) requires Māori whose parents were not born in New Zealand to apply for citizenship, which the Minister has discretion to grant. In considering such an application, there is no explicit requirement for the Minister to consider te Tiriti o Waitangi (as there is no Treaty clause), or the fact that the applicant is Māori and indigenous to Aotearoa.

5. This claim concerns the prejudicial effects the Act has on the claimant's whānau and Māori generally. The claimant alleges that the Act breaches the principles of te Tiriti o Waitangi (**te Tiriti**) by failing to actively protect Māori citizenship rights.

6. While the Act was first introduced in 1977, it has been amended several times and prejudice is arising from its application presently. The claim is thus a contemporary claim that relates to acts and omissions of the Crown subsequent to 21 September 1992.

Background

Māori living overseas

7. In the 2021 Australian census just over 170,000 people recorded Māori ancestry[1]. In the same year, New Zealand's estimated Māori ethnic population was 875,000[2].

8. According to data arising from the 2021 Australian census, 73,791 of Māori in Australia were Australian born[3].

9. A 2007 report by Te Puni Kōkiri brought to light the difficult circumstances that led many Māori to leave New Zealand for Australia. The report indicated that, beyond seeking better economic prospects, many were compelled to find refuge from significant social harms. These included the impacts of gangs, drugs, and crime, as well as domestic violence and abuse.

The Citizenship Act 1977

10. The Act sets out the law relating to the grant of New Zealand citizenship.

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[1] "Data table for Cultural Diversity summary table 4 available at: https://www.abs.gov.au/statistics/people/people-and-communities/cultural-diversity-census/2021.

[2] "Māori population estimates: Mean year ended 31 December 2021" available at https://www.stats.govt.nz/information-releases/maori-population-estimates-mean-year-ended-31-december-2021/#:~:text=For%20mean%20year%20ended%20December,females%20and%20435%2C800%20M%C4%81ori%20males.

[3] https://www.abs.gov.au/census/find-census-data/quickstats/2021/1201_AUS

11. The Act limits citizenship by descent to the first generation born outside of New Zealand[4]. A citizen by descent holds that status from their date of birth or adoption. There is no legal requirement to register that status as citizenship by descent is considered a birthright.

12. New Zealand's previous citizenship legislation treated generations born overseas differently. The first generation automatically received citizenship if they had a New Zealander father. For subsequent generations, citizenship could be passed down indefinitely, but only if each birth was formally registered[5].

13. Section 9 of the Act confers a discretion on the Minister of Internal Affairs (**the Minister**) to grant citizenship in special circumstances. Section 9(1)(b) permits the Minister to grant citizenship to a person where a person "whose father or mother was, at the time of that person's birth, a New Zealand citizen by descent".

14. There is no provision recognising the status of Māori as tangata whenua nor any reference to te Tiriti included within the grant provisions.

15. "New Zealand Citizenship - Citizenship Guidance Document", a document approved by the Minister on 14 December 2023 and amended on 9 June 2024, sets out guidance in relation to the exercise of the ministerial discretion provided under s 9(1)(b) of the Act.

16. The document notes that all applications of this type must be presented for the Minister for consideration and sets out the criteria

[4] Citizenship Act 1977, s 7.
[5] British Nationality and New Zealand Citizenship Act 1948, s 7(1)(b).

the Minister may take into account when considering whether to grant citizenship:[6]

> The Minister considers the applicant's ability to fulfil the standard requirements for citizenship by grant and why the applicant is unable to fulfil a particular requirement.
>
> The Minister may take into account such things as:
>
> - whether the applicant can demonstrate a link to New Zealand
> - whether the applicant has longstanding familial/whakapapa ties to New Zealand
> - whether the applicant has family members living in New Zealand who are New Zealand citizens
> - the circumstances of the parent(s) being citizens by descent
> - why the applicant wants New Zealand citizenship
> - any other factors the applicant wishes the Minister to consider.

17. At present the Minister considers 100-200 special circumstance applications a year.

18. There is no explicit recognition of the status of Māori as tangata whenua nor any reference to te Tiriti included within the guidance document.

The claimant

19. The claimant was born in Paddock, Australia in 1987 and raised in Hawai'i. He is a New Zealand citizen by descent.

20. His late mother Rhonda, was a celebrated Māori entertainer known across the Pacific as "The Voice of New Zealand", and he is also a direct descendant of Mohi Tawhai, an original signatory to te Tiriti o Waitangi.

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[6] New Zealand Citizenship - Citizenship Guidance Document Updated June 2024 accesible at https://www.dia.govt.nz/diawebsite.nsf/Files/Citizenship-2023/$file/Citizenship-Guidance-June-2024.pdf.

21. The claimant moved to New Zealand with his three tamariki in April 2025. The claimant's children currently have no legal right to be in New Zealand and are unable to attend school.

22. The claimant has applied for residency visas and for the Minister to exercise their discretion to grant citizenship in this special circumstance. The process is lengthy and expensive.

Treaty principles and duties

23. The treaty envisages that the relationship between Māori and the Crown "*should be founded on reasonableness, mutual cooperation and trust*." This reflects that the treaty "*creates responsibilities analogous to fiduciary duties*" between the Crown and Māori.

24. The Crown has ongoing obligations arising from the treaty to Māori. Relevant principles to this claim include:[7]

    a. te kāwanatanga and te tino rangatiratanga;[8]

    b. te matapopore moroki – noting that the *Māori Electoral Option* Tribunal affirms that the Crown has a duty to sustain Māori citizenship rights;[9]

    c. te mana taurite – noting that the Tribunal has previously held this extends to substantive and not merely formal equality[10]; and

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[7] *New Zealand Maori Council v Attorney-General* [1987] 1 NZLR 641 from 660 ["*Lands"* case].
[8] Waitangi Tribunal *He Aha i Pērā Ai?: The Māori Prisoners' Voting Report* (Wai 2870, 2019) p 11. Waitangi Tribunal *Tū Mai te Rangi!: Report on the Crown and Disproportionate Reoffending Rates* (Wai 2540, 2017) pg 25.
[9] Waitangi Tribunal, Maori Electoral Option Report, Wai 413, p 15.
[10] See for example: Waitangi Tribunal, *Maori Electoral Option Report* (Wai 413,1994) p 12;. Waitangi Tribunal *Tū Mai te Rangi!: Report on the Crown and*

d. te houruatanga.[11]

25. The Privy Council has held that if a taonga is in a vulnerable state, it may require the Crown to take especially vigorous action, particularly where the vulnerable state can be attributed to past breaches of its treaty obligations.[12]

Breaches of the treaty

26. The claimant alleges that the Act is inconsistent with the principles of te Tiriti.

Cause of action: the Crown has failed to actively protect Māori citizenship rights.

27. As part of the fundamental exchange entered into with te Tiriti, Māori were guaranteed the benefits of full citizenship. As such, citizenship is a taonga to Māori.

28. Under New Zealand's current legislation, citizenship is a prerequisite to exercise certain te Tiriti, human and other rights.

29. Fundamental to the right of citizenship is the right to enter Aotearoa. Section 18(2) of the New Zealand Bill of Rights Act 1990 (**NZBORA**), confers on every New Zealand citizen the right to enter New Zealand.

Disproportionate Reoffending Rates (Wai 2540, 2017) pg 27; Waitangi Tribunal *He Aha i Pērā Ai?: The Māori Prisoners' Voting Report Report* (Wai 2870, 2019) pg 13.
[11] Waitangi Tribunal *Tū Mai te Rangi!: Report on the Crown and Disproportionate Reoffending Rates* (Wai 2540, 2017) pg 27.
[12] *New Zealand Maori Council v Attorney-General* [1994] 1 NZLR 513 (PC) [*Broadcasting* case].

30. This right is intrinsic to the exercise of tino rangatiratanga. Without citizenship, the ability of Māori overseas to exercise tino rangatiratanga over their whenua and way of life is impaired in certain circumstances.

31. The right to enter Aotearoa is also integral to Māori maintaining connections to their whenua, te ao Māori, te reo Māori and their culture and identity as the indigenous peoples of Aotearoa.

32. Further, te Tiriti guarantees to Māori all other rights that flow from citizenship.

33. Accordingly, the claimants allege that in restricting New Zealand citizenship of Māori under the Act, the Crown has failed to actively protect:

    a. citizenship of Aotearoa as a taonga to the Ruddock whānau and Māori generally;

    b. the ability of all Māori to exercise rangatiratanga;

    c. the connection of all Māori to their land, culture, language and identity; and

    d. all other rights of Māori that flow from citizenship.

Prejudice

34. The Act has and will continue to cause prejudice to Māori by:

    a. depriving the claimant's whanau of basic rights in New Zealand;

b. depriving Māori of citizenship to New Zealand at birth, where they are tangata whenua;

c. alienating Māori overseas from their turangawaewae;

d. inhibiting Māori from exercising rangatiratanga within their home rohe; and

e. impairing connections of Māori overseas with their culture, language and identity.

Recommendations

35. The claimants seek the following:

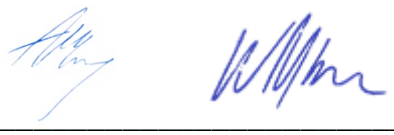
a. an apology;

b. a finding of the facts in their favour; and

c. that the Act be amended to properly reflect the status of Māori as tangata whenua and the Crown's te Tiriti obligations;

d. any other recommendations the Tribunal considers appropriate

Dated 24 July 2025



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