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IN THE WAITANGI TRIBUNAL	**WAI 2700** **WAI 3066**
IN THE MATTER OF	The Treaty of Waitangi Act 1975.
AND	
IN THE MATTER OF	The Mana Wahine Kaupapa Inquiry (Wai 2700)
AND	
IN THE MATTER OF	A claim by Angela Gartham (Wai 3066)

AMENDED STATEMENT OF CLAIM
DATED 27 FEBRUARY 2026

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Waitangi Tribunal
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Ministry of Justice
WELLINGTON

Te Mata Law Limited
PO Box 44331
Point Chevalier
AUCKLAND 1246
Tel: 0508-TEMATA (0508-836282)
Counsel Acting: David Stone | Catherine Leauga | Sophie Gordon
David@tematalaw.co.nz | Catherine@tematalaw.co.nz | Sophie@tematalaw.co.nz

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MAY IT PLEASE THE TRIBUNAL

The Claimant

1. The claimant for Wai 3066 is Angela Garnham ("the claimant"). The claimant has previously filed memoranda[1] with the Tribunal to advise she has been appointed as the named claimant of the Wai 3066 claim, following the passing of her mother Rosina Feltham who was the original named claimant of Wai 3066[2].

2. The claimant seeks to amend the Wai 3066 statement of claim to add further causes of action regarding socio-economic support for Māori wahine and their whanau.

3. The claimant brings this claim on behalf of herself, her whanau and all Māori wahine.

The Treaty of Waitangi Act 1975

4. The claimant, falls within section 6(1) of the Treaty of Waitangi Act 1975 namely:

   a. That she is Māori; and

   b. Has been and continues to be or is likely to be prejudicially affected by the various Acts and Crown policies, practices, acts and omissions adopted by, or on behalf of the Crown or its agents.

Introduction

5. Primogeniture being the rule of inheritance at Common Law through which the oldest male child has the right to succeed to the estate of an ancestor to the exclusion of younger siblings, both male and female, as well as other relatives, was not a form of land tenure used by pre-colonial Māori society.

[1] Wai 3066 Memorandum of counsel dated 4 September 2025.
[2] Wai 3066 #1.1.1, Wai 2700 #1.1.170.

6. Primogeniture as a principle of seniority exists in a wide range of societies including Māori, where it forms an important element of social organisation and cosmology. But it does not apply to property rights.

7. Primogeniture had been in existence in England for hundreds of years before the English arrived in New Zealand bringing with them their ideologies (including sexism) behind primogeniture. Only in this decade has the primogeniture rule in respect of succession to the throne of England been changed to allow a female to become Queen should she be first born despite having a younger brother.

8. The English imported with them not only their laws but their ideologies, history and culture concerning land tenure. These English imported approaches to land tenure directly clashed with those held by Māori. Over time English imported systems of land tenure directly alienating Māori women from their ancestral lands. The land alienation suffered by Māori women was deliberate and systemic. The effects of English imported systems of land tenure had profound effects on Māori society as it not only deliberately undermined tikanga, but it attacked the mana of Māori women and led to the destruction of the collective whānau/hapū unit.

MĀORI LAND TENURE

Crown Duty and Breach

9. The Crown had a duty to take into account Māori systems of land tenure in respect of land ownership, but instead ignored those systems and tikanga Māori, and imposed its own system instead.

10. The impact of the Crown imposed land tenurial system was a complete abrogation of the status of wahine Māori as land owners, in effect, their mana wahinetanga.

Particulars: Removing Māori Women's Control Over Māori Owned Land

11. Pre-colonial Māori owned land was not possessed by an individual, but rather by the collective and was passed down intergenerationally. Use rights over resources such as bird-trapping trees and fishing spots were usually inherited on an individual basis.

12. These rights could be passed down by both parents to male and female children and importantly, married women retained land independent of their husbands.[3]

13. The position of Māori women with regard to the ownership of property was in great contrast to that of their Pākehā contemporaries. In Māori society before and after contact, use-rights over land and resources were 'owned' or held by women as individuals as well as by men, subject only to the overriding right of the tribal community and the mana (authority) of chiefs over the land and people.

14. Gifts of land and resources were often made by parents to their daughters on their marriage. These lands remained the property of the women, not their husbands, and they could hand them on to some or all of their children. Residence was often on the wife's lands, rather than the husband's, for at least part of their married life. Although the husband, or the extended families of both husband and wife, might assist the owner to work on and collect the resources of that property, it remained hers, and decisions regarding it were hers to make.[4]

15. The imposition of primogeniture and the shift toward male centric roles is demonstrated through the creation of the Native Land Court through the Native Land Court Act 1865, and the subsequent Native Land legislation that followed.

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[3] Ann Dupuis "Inheritance - Māori inheritance and succession" (1 July 2011) Te Ara - the Encyclopedia of New Zealand <teara.govt.nz>.

[4] Angela Ballara "Wahine Rangatira: Māori Women of Rank and their Role in the Women's Kotahitanga Movement of the 1890s" (1993) 27 New Zealand Journal of History 127 at 134.

16. The purpose of the Native Land Court was to convert Māori customary title into something approximating British land title. The Act of 1865 required that Māori apply to the Native Land Court for recognition of their interests in a piece of Māori land. The Court would then order a certificate of title specifying the names of the persons who claim interest to the land, however no more than 10 persons could be identified as holding title.[5]

17. This legislation moved land ownership into individual (and usually male ownership) rather than guardianship. This excluded whānau, hapū and iwi members who were not listed on the title, despite their continued customary interest in the land, and eroded Māori women's control over the land.[6]

18. Land alienation had profound effects on Māori society, and in particular Māori women, as it destroyed the collective whānau/hapū unit. That the whānau/hapū unit was given less importance undermined the values that maintained its well-being. The erosion of those values – family and tribal history, language skills, mutual caring and support – eroded the importance of the roles and the women who traditionally performed them.[7]

19. At the signing of the Treaty of Waitangi, Māori women of rank maintained powerful positions within the social and political structure of their iwi and hapū. This is reflected in the fact that some 13 women signed the Treaty on behalf of their hapū.[8]

Native Lands Legislation and Māori Women

20. Section 22 of the Native Lands Act 1869 stated that deeds executed by married Māori women were valid and effectual as if signed by a *feme sole* (unmarried woman). Angela Ballara observed that customary Māori tenure with regard to women was progressively undermined, with challenges

[5] Native Lands Act 1865, ss 21 and 23.
[6] Law Commission *Justice: The Experiences of Maori Women* (NZLC R53, 1999) at [75].
[7] Law Commission *Justice: The Experiences of Maori Women* (NZLC R53, 1999) at [76].
[8] Law Commission *Justice: The Experiences of Maori Women* (NZLC R53, 1999) at [55].

to s 22 by Pākehā husbands, in attempts to gain control of their Māori wives land.[9]

21. However, a few years later, s86 of the Native Land Act 1873, then required that husbands be a party to any deed executed by a Māori woman. Husbands were free to dispose of the interests in land of their Māori wives without the requirement that the wife be party to the deed.

22. Section 139(1) of the Native Land Act 1909 provided that persons entitled on the intestacy of a Māori person to succeed to real or personal property will be determined in the same manner as if the deceased were European. Where the estate consists of beneficial freehold interests in Māori land, the entitlement shall be determined in accordance to Native Custom.[10]

23. Section 140 provided that on the death intestate of any Māori, their wife or husband shall not be entitled to take interest in the real or personal estate of the deceased. The estate would be distributable in the same manner as if the husband or wife had died before the death of the deceased. The widow could apply to the Native Land Court for an interest in the estate if they could prove they do not have sufficient land/property for their maintenance. This marks a difference to the Intestates' Estates Act 1903 whereby the widow of a man who dies intestate is entitled to their share of the estate.

24. In s3 of the Native Succession Act 1881, it was stated that the Court will recognise the validity of Māori customary marriages in accordance with tikanga. In regards to heridiments, the Court would be guided by the law of New Zealand (i.e. by Pākehā law).

25. Changes to legislation regarding land ownership of Māori women have changed overtime to suit colonial standards. The changes have failed to protect the rights of Māori women and these failures have filtered through

[9] Angela Ballara "Wahine Rangatira: Māori Women of Rank and their Role in the Women's Kotahitanga Movement of the 1890s" (1993) 27 New Zealand Journal of History 127 at 134.
[10] Native Land Act 1909, ss 139(1) and 139(2).

to contemporary times whereby the mana of Māori women has been abrogated.

26. The Law Commission stated in 1999 that the influence of introduced laws and culture eventually affected the core of Māori society. When the English common law was applied to Māori women, their status was reduced to that of their English counterparts.[11]

SOCIOECONOMIC SUPPORT FOR MĀORI WAHINE AND THEIR WHANAU

Crown Duty and Breach

27. The Crown has a duty to take into account the principles of the Treaty of Waitangi when designing socioeconomic policies which directly impact Māori wahine and their whanau.

28. This duty extends to include all stakeholder groups including central government departments such as Te Puni Kokiri, Ministry of Social Development, Kainga Ora, local government and all Crown agents to ensure they:

a. Uphold and give effect to the principles of the Treaty and subsequent duties which arise under the Treaty;
b. Work with Māori in a cohesive, mana enhancing way;
c. Actively consult with Māori;
d. Do not design policy that actively prevents or restricts Māori from exercising their mana and tino rangatiratanga;
e. Provide user friendly policies and practices that actively encourages, supports and promotes greater numbers of Māori to live and build on their land; and
f. Provide user friendly policies and practices that actively supports Māori wahine and their whanau to access socioeconomic support when this may be required.

[11] Law Commission *Justice: The Experiences of Maori Women* (NZLC R53, 1999) at [60].

29. The Crown have failed to take into account the principles of the Treaty when designing socioeconomic policies. The Crown have failed to work in partnership with Māori to design policy which allows Māori to exercise their mana and tino rangatiratanga. The Crown have failed to provide services for Māori which are easily accessible and supportive of the needs of Māori wahine and their whanau.

Particulars

30. A study by the Ministry of Health in 2013 shows how non-Māori were more advantaged than Māori across all socioeconomic indicators presented. Māori adults had lower rates of school completion and much higher rates of unemployment. More Māori adults had personal income less than $10,000, and more Māori adults received income support. Māori were more likely to live in households without any telecommunications (including internet access) and without motor vehicle access. More Māori lived in rented accommodation and lived in crowded households.[12]

31. In comparison to Māori men, more Māori women received a personal income less than $10,000, more Māori women received income support, and more Māori women lived in rented accommodation.

32. Whilst the rate of Māori living in deprivation is higher than that of non-Māori, the rate of Māori women living in deprivation is also higher in comparison to Māori men.[13]

33. Government statistics highlight the inequity which exists not only between Māori and non-Māori but between Māori women and Māori men. The Crowns laws and policies should be addressing the inequities which exist however

[12] https://www.health.govt.nz/our-work/populations/Māori-health/tatau-kahukura-Māori-health-statistics/nga-awe-o-te-hauora-socioeconomic-determinants-health/socioeconomic-indicators.
[13] https://www.health.govt.nz/our-work/populations/Māori-health/tatau-kahukura-Māori-health-statistics/nga-awe-o-te-hauora-socioeconomic-determinants-health/neighbourhood-deprivation.

current laws and policies fail to address the inequities and Māori women continue to fall through the cracks.

34. The inequities which exist for Māori wahine today can be linked back to the loss of Māori wahine land, resources, taonga tuku iho, and the abrogation of their mana.

35. Government departments today are failing to address the inequities which exist for Māori wahine, nor are these inequities being addressed in a mana enhancing way.

36. Māori wahine face racism and discrimination in their dealings with Government agencies. Māori wahine are made to feel ashamed for trying to access social support and services, which the Government also fails to actively promote.

37. Whilst support is available for some of the most vulnerable, support is often inadequate and additional wrap around support is required to help Māori wahine and their whanau, who despite best efforts, are struggling to pay high market rents, working and receiving a low wage, and have more outgoings than incomings.

38. Social support from the Government is often insufficient to meet the needs of Māori wahine, which can result in wahine having no choice but to turn to crime or seek support and assistance from their whanau, to help them survive and get by.

39. The Crown has failed to provide wrap around support and services for Māori wahine and their whanau, and has failed to support Māori wahine who are struggling to get above the poverty line.

40. The Crown has failed to assist Māori wahine to reduce debts and to obtain financial security for themselves and their whanau, which often has a big impact on their day to day living, health and overall welfare.

41. Despite having an abundance of land and resources prior to colonisation, it is not uncommon to find Māori wahine today, struggling to stay in their feet as the Crown have failed to actively protect their wellbeing and ensure an equity in access to land, resources, economic growth and wellbeing.

Prejudice

42. Because of the Crown's imposition of law and policies which have failed to reflect or give effect to tikanga Māori, Māori have suffered, but particularly Māori women. That suffering includes:
    a. Alienation from ancestral lands;
    b. The breakdown of the whānau and hapū structure;
    c. The abrogation of mana from women;
    d. Breakdown of traditional Māori support structures;
    e. Racism and discrimination; and
    f. Socio-economic deprivation.

Findings and Recommendations

43. The claimants seek the following findings and recommendations:

    a. That this claim is well founded; and

    b. Other findings and recommendations the Tribunal deem appropriate.

44. The claimant reserves the right to amend this claim further.

DATED at Auckland this 27th February 2026.

David Stone
Counsel for the Claimant

TO: The Registrar, Waitangi Tribunal; Crown Law Office; and those on the notification list for the Wai 2700 Mana Wahine Inquiry.