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WAITANGI TRIBUNAL
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IN THE WAITANGI TRIBUNAL
OF NEW ZEALAND

Wai

IN THE MATTER of the Treaty of Waitangi Act 1975

AND

IN THE MATTER King Country Claims

AND

IN THE MATTER of the claims to the Waitangi Tribunal by **RITCHIE WHAKAMOU WILSON** on behalf of himself and a group known as **TOI TU KI TE RANGI INCORPORATED SOCIETY**

STATEMENT OF CLAIM

LEWIS'
SOLICITORS
CAMBRIDGE

MP HANNA
P O Box 529
DX GA 27511
PH: (07) 827-5147
FAX (07) 827-7991

1.0 TE KAITONO - THE CLAIMANT

1.1 This claim is filed by RITCHIE WHAKAMOU WILSON on behalf of himself and a group known as TOI TU KI TE RANGI INCORPORATED SOCIETY ("the claimants").

1.2 For the purposes of this claim, they together represent all the iwi within the boundaries of Te Rohe Potae namely Ngati Maniapoto, Ngati Raukawa, Ngati Hikairo, Ngati Tuwharetoa and Whakatere.

2.0 TE TONO - THE CLAIM

2.1 This claim concerns te maori mana motuhake o Te Rohe Potae in the King Country. ("Te Rohe Potae")

2.2 Te Rohe Potae was surrounded by a closed boundary known as the aukati.

2.3 Te Rohe Potae was bounded in the north by the Waipa river. The aukati followed the Puniu river to Mount Pirongia, along the course of the Waikato River through to Lake Taupo, then south to Mount Ruapehu. From there it went westward out to the coast at Mokau and onto the Aotea harbour the landing place of the Aotea canoe.

2.4 The claim alleges breaches relating to the destruction of their maori mana motuhake and of customary Maori leadership, the destruction of the authority of the kingitanga, the disruption of political and economic independence of Te Rohe Potae by the Native Land Court and related Legislation and Crown policies.

3.0 BACKGROUND

3.1 In 1859 Potatau Te Wherowhero ("King Potatau") of Ngati Mahuta of Waikato was elected the first Maori king.

3.2 In the early 1860's the Crown declared war against the king movement in an

attempt to impose political dominance and to enforce measures designed to open up the North Island lands to European settlement.

3.3 The second Maori king Tawhiao Matutaera Potatau Te Wherowhero ("King Tawhiao") succeeded his father Potatau in 1860.

3.4 Throughout the 19th century the Rohe Potae remained autonomous controlled by King Tawhiao and the kingitanga.

3.5 Between 1878-1879 the Crown made further attempts to open up Te Rohe Potae which was strongly resisted by King Tawhiao and the kingitanga.

3.6 In 1879 Judge Munro made it clear that the Native Land Court would not recognise the authority of King Tawhiao or the kingitanga over Te Rohe Potae lands.

3.7 In 1882 King Tawhiao petitioned parliament to stop the surveys, leases, sales, road works and the Native Land Court in relation to his lands until a mutually agreed settlement could be reached with the Crown.

3.8 The Crown was not prepared to discuss matters on a partnership basis and King Tawhiao's requests were ignored.

3.9 King Tawhiao took the petition to Britain to have Te Rohe Potae established as a self-governing Maori district under clause 71 of the Constitution Act 1852. The petition was referred back to the Crown and rejected.

3.10 The Crown refused to recognise King Tawhiao's authority and worked with individual hapu and iwi to break down the influence of the kingitanga. In doing so the Crown opened up Te Rohe Potae to the Native Land Court, the Railways and to land purchasing. This culminated in the loss of large tracts of land within Te Rohe Potae and their maori mana motuhake.

4.0 TE TURE - JURISDICTION

4.1 The claimants say that they have been, are, or are likely to be prejudicially affected by the ordinances, acts, regulations, proclamations, notices and other statutory instruments in the policies, practices, acts or omissions of the Crown as further set out in the statement of claim.

4.2 The claimants further claim that all of the acts, regulations, orders, policies, practices and actions taken, omitted or adopted by or on behalf of the Crown referred to are, and remain inconsistent with the terms of the principles of the Treaty of Waitangi.

5.0 THE FIRST CAUSE OF ACTION - THE PARTNERSHIP PRINCIPLE

5.1 The partnership principle requires the Treaty partners to act reasonably and with the utmost good faith towards one another. The parties owe each other co-operation and in cases where there are Treaty implications a responsibility to make informed decisions which will require some consultation.

5.2 The Crown failed to act reasonably and with the utmost good faith in the following ways:

(a) By refusing to recognise King Tawhiao and the kingitanga as a treaty partner.

(b) By undermining the authority of the kingitanga by dealing separately with individual chiefs and/or tribes.

(c) By ignoring King Tawhiao's requests for Maori local government and control over te aukati.

(d) By ignoring King Tawhiao's petition to parliament to stop the surveys, leases, land sales, road works and the Maori Land Court.

(e) By refusing to negotiate a partnership agreement.

(f) By introducing a land tenure system contrary to Maori customary land tenure.

5.3 The Crown had a duty to carry out adequate consultation with King Tawhiao and the kingitanga.

5.4 The Crown had an obligation to consult with the kingitanga when making decisions which involved Treaty implications.

6.0 THE SECOND CAUSE OF ACTION - THE PRINCIPLE OF ACTIVE PROTECTION

6.1 Article 2 of the Treaty guaranteed to Maori rangatiratanga over inter alia their taonga katoa.

6.2 Mana Maori motuhake and the kingitanga are taonga.

6.3 There is a duty upon the Crown to actively protect Maori interests.

6.4 The Crown failed to recognise the claimant's tino rangatiratanga, mana Maori motuhake and the importance of the Kingitanga to the claimants.

6.5 Failure to recognise the claimants tino rangatiratanga over their taonga has resulted in the following:

(a) A loss of political control and participation in decision making which affect Maori in Te Rohe Potae.

(b) A loss of authority to participate at all levels of decision making including inter alia the local, regional and central government.

(c) A loss of Te Rohe Potae identity.

(d) A loss of economic and social control over issues that affect Maori living in Te Rohe Potae.

7.0 THE THIRD CAUSE OF ACTION - THE NATIVE LAND COURT ACT

7.1 In 1865 the Crown introduced the Native Land Legislation and the Native Land Court which provided a system of title investigation and allocation.

7.2 The Crown's failure to actively protect the land within te aukati resulted in the following:

(a) The breakdown of Maori traditional society and social and political structures;

(b) The destruction of the authority of the kingitanga;

(c) A loss of mana and Maori mana motuhake; and

(d) A loss of political and economic independence.

8.0 PREJUDICIALLY AFFECTED

8.1 The claimants say that they have been, and are likely to be prejudicially affected by the ordinances, Acts, Regulations, proclamations, notices and other statutory instruments and the policies, practices, acts or omissions of the Crown as set out in the statement of claim.

8.2 The claimants further state that the Acts, Regulations, orders, policies, practices and actions 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.

9.0 RELIEF AND RECOMMENDATIONS SOUGHT

9.1 Findings that the Crown breached the Treaty and principles of the Treaty as set out in the statement of claim.

9.2 An apology by the Crown for the breaches as outlined above.

9.3 A recommendation that the Crown meet with the claimants, hapu and iwi within Te Rohe Potae to discuss and develop a workable partnership model.

9.4 A recommendation that the Crown provide resources to the claimants to assist in consultation hui with all affected groups, hapu and iwi.

9.5 Compensation for the loss of an economic base and social dislocation of Maori within Te Rohe Potae.

9.6 A recommendation that the Crown compensate the claimants for the prejudice suffered as a result of the acts, omissions, legislation and practices of the Crown identified in the statement of claim.

9.7 A recommendation that the Crown pay full costs to the claimants for the preparation and presentation of this claim and the costs of recovering any land recommended to be returned or other costs incurred in securing the implementation of the recommendations.

9.8 Any other relief that the Tribunal considers just.

This statement of claim is filed by MP HANNA for the claimants. The address for service of the claimants is at the offices of Lewis', solicitors of 77 - 79 Duke Street, Cambridge.

Documents for service on the abovenamed claimants may be left at that address for service or may be posted to the solicitor at P.O. Box 529; or left for the solicitor at a

document exchange for direction to DX GA 27511; or transmitted to the solicitor by facsimile to (07) 827-7991.

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