

IN THE WAITANGI TRIBUNAL
OF NEW ZEALAND

WAI 1040

WAI 1384

WAI 245

IN THE MATTER OF

the Treaty of Waitangi Act
1975

AND

IN THE MATTER OF

Te Paparahi o Te Raki
Inquiry

AND

IN THE MATTER OF

a claim brought by Elvis
Reti, Henry Murphy and
Merepeka Henley for and
on behalf of the tangata
whenua of Whangaruru

AND

IN THE MATTER OF

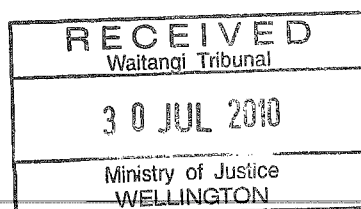
a claim by Hori Parata on
behalf of the children of
Hinetaapu Maihi Mahanga

BRIEF OF EVIDENCE OF HORI TEMOANAROA PARATA

Dated this 30th day of July 2010

Kotuku Chambers
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Brief of Evidence of Hori Temoanaroa Parata

1. My name is Hori Temoanaroa Parata and I provide this statement on behalf of my whanau and the hapu of Ngati Wai.¹

2. I and my 12 siblings were born and raised on our ancestral land at Pataua Island on the coast 16 miles due east of Whangarei. Our parents farmed our land and we were fortunate to be brought up with our old people. They taught us everything, including our customary environmental practises – both on the land and the sea. At 19 years old I joined the 1st Battalion, New Zealand Regiment and served in the Sarawak Campaign in Borneo. By 1967 I had left the army and worked as a diver on inshore construction jobs in the Melbourne Harbour, and later as a deep sea diver on oil exploration rigs in Bass Straights (Victoria) and in the Timor Sea. (Darwin).

3. Following a brief prospecting stint in Far North Queensland I returned to New Zealand to support my whanau, hapu and iwi on issues concerned with injustices toward Maori under Te Tiriti o Waitangi. I joined the Mana Motuhake political party and at the same time I became a trustee of the Ngati Wai Trust Board representing Ngatitakapari and the Paratene te manu Marae.

4. As part of my mahi with the Ngati Wai Trust Board I took on the development of the resource management and conservation portfolios. After 25 years on the Board I left to improve my academic career about 3 years ago. I have just

¹ Whakapapa to be give orally.

completed a Masters Degree in Indigenous Studies from Te Whare Wananga o Awanuiarangi. I am now a fulltime PhD student with the wharewananga.

5. I acknowledge and tautoko the korero of my whanaunga Te Warihi Hetaraka and that of the speakers in the first hearing week - my korero is an enhancement of their words and is provided to:
 - a. briefly describe the period of early contact between our rangatira and Pakeha, including our involvement in the de Fresne affair and Mahanga's journey to London in 1806;
 - b. outline the evolution of, and the meaning and effect of He Whakputanga to which my tupuna Paratene Te Manu was a signatory;
 - c. comment on the involvement of Ngatiwai in the Northern Wars against the British;
 - d. briefly address the loss of authority and control over our ability to practice kaitiakitanga as a consequence of the Crown failure to honour Te Tiriti o Waitangi.

6. Our Ngatiwai whakapapa has been provided by Te Warihi who also described our origins from our founding ancestor, Manaia. We are closely related to Ngapuhi (and other Iwi), through Rahiri's wives Ahuaiti and Whakaruru. Rahiri's son Kaharau is buried at Te Paihere, a sacred burial place at the foot of Whakaturia pa at Tuparehuia in Whangaruru. Hongi's tuakana Kaingaroa is also buried there. We have always been told, "Ngatiwai are Ngapuhi but Ngapuhi are not Ngatiwai".

Early Contact

7. The Pakeha historical record contains several accounts of incidents of early contact between Europeans and Maori. As coastal people our tupuna encountered the whalers, sealers and traders who followed Cook's visit in 1769. From these first visits our tupuna were aware of, and discussed the talk of ship's captains and traders, who spoke of their ambitions for the possible annexation of New Zealand. These ideas were known to our tupuna at that time.

8. Maori were curious about the merchandise and weapons of the Paheka, which were far superior to what they had, particularly weapons such as guns, and axes. Despite this interest if these early visitors breached tikanga and violated tapu they were subject to the same sanction as our own people from the rangatira. One of my tupuna, Te Kuri, was involved in the attack on Captain Marion de Fresne and his crews for his repeated failure to respect the customs and mana of the rangatira. There is no question that such violations and breaches were the sorts of things that caused our tupuna to apply utu and muru against Pakeha at that time. They lived their lives according to their own highly developed tikanga.

9. Prior to the attack Te Kuri, had befriended Captain du Fresne, however this friendship could not protect du Fresne when he ignored warnings that he was transgressing tapu. Te Kuri and others killed 2 boat crews from du Fresne's ships as they came ashore, their bodies were gutted and hung for the hangi. Du Fresne's head was cut off and planted on a stake. The tree from which they were hung is still standing.

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10. The French sought retaliation against our people and killed about 270 Ngatiwai - we paid a heavy price for upholding our tikanga.
11. Despite this incident, 33 years later, Te Kuri's son and my great, great grandfather Mahanga, was chosen by a ship's surgeon, John Savage, ("... a healthy stout young man, of the military class, and connected to families of the first consideration ...") to be taken to London.² Mahanga left for England aboard the "Ferret" in 1806. We know his visit as being the first visit by a Maori Rangatira to the English monarchy. Mahanga met King George and Queen Charlotte and on the Queen's invitation performed the haka for them. In response, the King laughed while the Queen recoiled.
12. After a few weeks in London a return passage was arranged and Mahanga arrived back in Ngunguru to live amongst his people of Tewaiariki/Ngatiwai. The historical Pakeha record gives an account of him being treated as porangi because his people could not believe his stories of his visit to England and all the things he had seen in the Pakeha world. However we know Mahanga did not like what he had seen in England – he feared Pakeha would keep coming - in larger numbers, bringing their guns to take his people's land. Mahanga had seen the various weapons of the British and knew that his people would not be able to resist such force.
13. Mahanga warned that his observations of the practices and ways of the Pakeha in their own land were too different to Maori for intermarriage to be successful. His whakaaro was that his uri should marry their own. Mahanga married

² John Savage, "Some Account of New Zealand", 1807 p.38.

Miriama, a wahine from Mahinapua in Whangaroa. Her two sisters also married into Te Kapotai hapu at Waikare and Te Whanau Whero, a Ngatiwai hapu at Whananaki. Mahanga's whakaaro about Pakeha is still alive today.

14. In 1814 Samuel Marsden came to Ngunguru to look for Mahanga, having heard of his visit to England, Marsden wanted his help to bring the Christian message to Maori and to promote the mission station Marsden planned to establish. Marsden and Mahanga met on "the Active" in Ngunguru Bay and when Mahanga saw the ships cat, he asked Marsden if he could have it. Marsden agreed and Mahanga named the cat "Te Hiore" which became known as Mahanga's cat. When the cat eventually died it became a taniwha - it is recorded in our whakapapa today. It is said that if you see Te Hiore that would be either a good sign or a bad one.

Ngati Wai and the Bay of Islands

15. We may view events, from the point of first contact between tangata whenua and Cook to the conclusion of the Northern Wars, in 25 year time spans. During the first 25 year period prominent hapu with interests in the Bay of Islands included the hapu of Ngati Wai, Ngareraumati, and Ngai Tahu along with others who were curious to see what benefits could be derived from the presence of Pakeha and their obvious interest in the Bay. The hapu in the Bay benefited from trade with the Pakeha who increasingly calling in there to restock or undertake maintenance on their ships.
16. As discussed above, korero about Pakeha designs upon our land and resources was passed on to Maori chiefs by dissident Pakeha who no doubt had an axe to

grind with their countrymen or rivals. As early as 1808 our tupuna began to meet to discuss issues associated with the newcomers and their possible intentions towards Maori and our lands, seas and natural physical resources. Whakaminenga hui were held throughout Ngapuhi, particularly in Hokianga, the Bay of Islands and Whangaroa. Later, movements such as Ko Huiarau and the signing of He Whakaputanga resulted from those discussions.

17. In the second 25 year period, the effect of Hongi's trip to England and the arrival of an increasing number of guns devastated our people. This new technology changed the way we fought. The ancient protocols of battle were destroyed with the introduction of the gun and I believe that our ability to resolve disputes amongst ourselves was affected by the arrival of this new weaponry. Hongi changed the whole battle ground and altered the tribal landscape forever. With his weapons he had the fire power to deal to all of his enemies. Ngatiwai fought alongside Hongi Hika in his devastating campaigns.

18. Within my whakapapa I belong to two Ngatiwai hapu, Ngatikorora, (my mother's side) and Ngatitakapari, (my father's side), they both reside in the Ngunguru Bay. From Ngatitakapari I am descendant of Mata Te Kura, who ensured the survival of her hapu following near annihilation by Tainui. Mata Te Kura was a niece to Paratene Te Manu, one of the main chiefs Hongi would seek out from among Ngatiwai to accompany him in war. Paratene's prowess as a warrior was legendary and he along with others would partake in all the customs of war. Ngatiwai were well known as warriors.

19. Hongi relied on Ngatiwai to call others from the surrounding district to support his take and cause when he was planning to go on a campaign. A call would go out from Whangarei Harbour and all the chiefs who responded were known as '*tira paraoa*' which is one of the reasons Whangarei Harbour has the name '*te rerenga paraoa*' meaning '*The Gathering-place of Whales*'. The chiefs of Ngatiwai responsible for training and maintaining a force of young warriors were only too willing to join Hongi; it gave them the opportunity to practice the art of war as well as blood the young warriors.

20. During one of these campaigns the people of another Ngatiwai warrior chief, Te Tatua, who lived on Aorangi (one of the two Poor Knights Islands) suffered a massacre at the hands of a Hokianga hapu. A slave who lived on Aorangi had been severely punished over an incident involving a pig and while Te Tatua and his warriors were in the south with Hongi, the slave went to the mainland coast to report his grievance to willing listeners. He also reported that the island was undefended with only women, children and the elderly left there. The rangatira, Waikato was one of those who heard about what had happened and a Te Hikutu war party from South Hokianga went to the Aorangi to take utu from Te Tatua's people. Te Hikutu raided Aorangi arriving at night and slaughtering all of the women, children and old people. Te Tatua's small son Wehiwehi was the only survivor of his family - a slave had hidden him in a cave.

21. When Te Tatua came home and saw that his people had been slaughtered he put a tapu on the island and told his warriors to go ashore to the mainland and occupy the immediate coastline as kaitiaki of the sacred covenant at the Poor Knights. This placement of himself and his warriors included from Aotea (Great

Barrier Island) to Tawharanui on the mainland and up the eastern seaboard to Rakaumangamanga and Tapeka. These are just some of the known battles of our people with their Ngapuhi whanaunga.

22. While we were constantly battling Ngapuhi our links to one another are very strong. As mentioned above Kaharau is buried in Whangaruru because his mother was Ngai Tahu of the Manaia descent. Despite this raturaru the relationship between Ngapuhi and Ngatiwai is one of mutual recognition and respect. We recognise each other's Te Tinorangatiratanga and respect each other's autonomy. This has always been the case from then to the present day.

23. When Hongi and his warriors invaded Ngatiwai territory in the Southern Bay of Islands at Tapeka, Terawhiti, Ngatiwai took refuge on Moturahurahu, a small island off Urupukapuka Island. People were killed on both sides, but peace was made when Wharerahi, who was related to Ngatiwai, swam out to Moturahurahu to broker a peace agreement. The peace making included the exchange of Wharerahi's Dogskin korowai with "Te Muramura", a Ngatiwai mere pounamu. A significant part of the peace making was the agreement that from that time on the descendants of Auparo (the mother of Wharerahi who was killed in the turnip patch at Waimate), would forever reside among our Northern most hapu, Ngati Kuta.

24. In another incident Ngapuhi attacked Ngatiwai at Whangaruru and Ngatiwai took refuge on Motukauri which is a small island in the Whangaruru Harbour near Tuparehuia. Ngatiwai warriors were expert at, not only attack, but also

defence. In traditional Maori warfare and using traditional weapons small islands were easier to defend than large ones.

25. In the third 25 year period - up to the signing of He Whakaputanga and Te Tiriti and the subsequent war with the redcoats - the influence of the missionaries grew. Following Hongi's death in 1828 the hapu dynamics in the Bay of Islands changed, the arrival of other Ngapuhi hapu into the Bay meant an increase in tension and warfare. The three centres of authority in the Bay at that time were at Te Puna – controlled by Tareha, at Pahia and at Te Rawhiti. Despite these tensions, the rangatira continued to meet to discuss He Whakaputanga.

He Whakaputanga

26. By 1830 the missionaries were exercising a significant influence on hapu affairs and the way in which hapu interacted with each other. However our tupuna were also considering the way in which Christianity could be incorporated or evolved into their own spirituality. Paratene Te Manu was involved in Whakaminenga and the evolution of alternatives to Christian religion such as Ko Huriarau. Whakameninga was the precursor to He Whakaputanga.
27. It is relevant to say that during this time the whakaaro of Ngatiwai are not well recorded in the historical record as our principle of “te whakaiti, te whakaiti nui, te whakaiti nuirawa” came into play. However Ngatiwai rangatira continued to exercise their power and authority through the use of their traditional tikanga and practices and Paratene Te Manu played a prominent role in the selection of Te Kara and as a signatory to He Whakaputanga.

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28. Paratene, like all Maori chiefs, was a staunch protector of mana Maori motuhake and was prepared to defend it with his life. By the time of Hongi's death Paratene had observed changes in the attitudes of the Pakeha and the missionaries. The rumour that the tupuna had heard about a possible annexation by the Pakeha was showing real signs of being true, but which Pakeha? The chiefs knew the British Resident James Busby and the missionaries, but they had also heard that the French were considering taking the chiefs land as utu for Marion du Fresne. This rumour was intensified by the knowledge of a previous agreement between Hongi and a so-called Frenchman, Baron de Thierry who had bought guns for Hongi in exchange for land at Hokianga when he was in England. The rumour was that de Thierry was coming to claim his lands. The tupuna were also aware of the Americans who already had Clendon in residence.
29. Hongi had established a relationship with British Royalty when he and Waikato were in England and this relationship provided a template for a continuing relationship between the British Crown and the current rangatira. Paratene and others drafted a letter to King William - to see if he was willing to become a friend of the chiefs who had been gathering as a confederation.
30. On receipt of King William's agreement to be their friend and protector the chiefs signed He Whakaputanga asserting their mana and authority to all nations. Paratene was one of the signatories, providing the basis for the people of Ngatiwai to take to the battle field to assert their mana against any encroachment on their authority.

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31. He Whakaputanga is a declaration that recognises the sovereign authority of the chiefs of Aotearoa. Five years later on 6 February 1840 those same chiefs debated, then signed, Te Tiriti o Waitangi allowing the Pakeha to govern their own people, many of whom were escaped convicts and run away sailors.
32. After Te Tiriti was signed Hobson left the district and took the government to Auckland to live among Ngatiwhatua and Tainui, enemies to Ngapuhi at that time. The Pakeha at Kororareka were becoming increasingly arrogant and Paratene and the other chiefs were concerned that Kororareka had developed into a place of disrepute. Drinking, gun running, brothels - all manner of undesirable activities were taking place there, causing Pakeha themselves to call it 'The Hellhole of the Pacific'. The chiefs and especially Hone Heke were now of the view that the Pakeha were in breach of what they considered their sacred covenant, Te Tiriti. Hobson moving away from the district after Te Tiriti was signed is not what the chiefs had in mind.
33. The chiefs had expected Hobson to stay among them and govern his own unruly people. The Pakeha including the missionaries were trading guns to any Maori who could afford one. Now that the Pakeha had their own government, they no longer felt they had to be accountable to the chiefs and as a result they were being marginalised. The Pakeha at Kororareka had become a law unto themselves and Hone Heke and others were beginning to regret signing Te Tiriti. In less than five years after Te Tiriti's signing Hone Heke and Kawiti had sacked the Pakeha's town of Kororareka and the first war between Maori and the Crown was declared in the north.

Battles

34. After Kawiti and Hone Heke sacked and burned Kororareka, the British declared war and began to bring large numbers of soldiers to New Zealand to fight Maori. Chiefs such as Waka Nene had for some time considered they would be the protectors of the civilian Pakeha and so there was a division amongst the chiefs about Hone Heke and Kawiti's sacking of Kororareka.

35. Sometimes called "Hone Heke's War" Heke was also at war with some of his own Ngapuhi people and by the time that Kawiti constructed his pa at Raupekapeka many others who had joined him and Hone Heke in previous battles, had left and gone home. Ngatiwai were at Raupekapeka making up over half the fighting force, whole whanau were there, supporting Kawiti. Mahanga's oldest son Te Rahirahi, who would have been about 13 or 14 years old, was a waterboy at Raupekapeka.

36. Following the battle at Raupekapeka and the fall of the pa Kawiti escorted Ngatiwai and others including Ngatipukenga and Te Kapotai back to Whangarei where he stayed at Pukepoto pa. While he was there he had a dream about the futility of fighting the Pakeha. The next morning he gave his famous peace speech called, '*Takahi te Riri*' where he told the people to trample anger asunder for one hundred years. He told them that it was useless trying to fight the Pakeha because they had different value systems to us. He told the people to learn the ways of the Pakeha and their value systems for one hundred years and

then pick the battle up again and fight for their lives. I believe that that albeit we are in a paper war, we are in a battle today.

37. Kawiti's peace speech brought an end to the Ngapuhi war in the north and now Ngapuhi suffer the after effects of that experience and the affect of being branded as rebels. Kawiti said one hundred years but it will be more like two hundred years before Ngapuhi is on an even footing again because we had hurt each other as well.

Results of Te Tiriti - Criminalisation of Kaitiakitanga

38. One of the results of the signing of Te Tiriti is that we have lost our ability to control, manage and protect our natural physical resources within our environment. Our cultural and spiritual values had become vulnerable and subjected to desecration. Pakeha have had control of our environment and the ability to tiaki papatuanuku according to our customs and traditions is no longer ours. Now Pakeha is able to not only 'Other' us, but are able to smother us under their value systems as well. Our ability to care for and protect our environment and the people from negative practices is now totally marginalised. Pakeha began to make rules and laws for the management of the environment and its resources and in the process criminalising our traditional practices of Kaitiakitanga.

Conclusion

39. The Issues before the Tribunal today pose questions as to the Maori understanding of the meaning and effect of He Whakaputanga and Te Tiriti.

40. We know that our ancestors who signed Te Tiriti did so in good faith in the hope of securing trade and growth for their people. They had no idea about the deviousness that could come from the Pakeha. Our tupuna expected that the British would moderate and control the bad behaviour of their people in the same way as they did with their people. They believed the Pakeha King to be a good man and a man of honour in love and war. In this regard they saw him as someone like themselves. They expected him to be a person who would protect their rights and punish wrongs imposed on them by his people.

41. There is no question that the chiefs had their own agenda for engaging with the Pakeha in some form of governance. The Chiefs had no doubts about their own mana and they put their trust in the King to ensure that his representatives' intentions were honourable. Our tupuna signed He Whakaputanga and Te Tiriti so that their power and authority could be recognised and provided for. They would never give their power and authority away, or forego their way of life and they never imagined that by signing those documents their power and authority could be taken from them. The only way they understood this could happen would be through the loss of life.

42. The last thing on their minds was that their power and authority could be taken by the stroke of a pen.

Hori Temoanaroa Parata

30 July 2010