

TE TIRITI O WAITANGI

HE KUPU WHAKATAKI,

Ko Wikitoria, te Kuini o Ingarani, i tana mahara atawai ki nga Rangatira me nga Hapu o Nu Tirani, i tana hiahia hoki kia tohungia ki a ratou o ratou rangatiratanga, me to ratou wenua, a kia mau tonu hoki te Rongo ki a ratou me te ata noho hoki, kua waka(a)ro ia he mea tika kia tukua mai tetahi Rangatira hei kaiwakarite ki nga tangata Maori o Nu Tirani. Kia wakaaetia e nga Rangatira Maori te Kawanatanga o te Kuini ki nga wahi katoa o te wenua nei me nga motu. Na te mea hoki he tokomaha ke nga tangata o tona iwi kua noho ki tenei wenua, a e haere mai nei.

Na ko te Kuini e hiahia ana kia wakaritea te Kawanatanga, kia kaua ai nga kino e puta mai ki te tangata Maori ki te Pakeha e noho ture kore ana.

Na kua pai te Kuini kia tukua ahau, a Wiremu Hopihana, he Kapitana i te Roiara Nawi, hei Kawana mo nga wahi katoa o Nu Tirani i tukua aianei a mua atu ki te Kuini; e mea atu ana ia ki nga Rangatira o te Wakaminenga o nga Hapu o Nu Tirani, me era Rangatira atu enei ture ka korerotia nei.

KO TE TUATAHI,

Ko nga Rangatira o te Wakaminenga, me nga Rangatira katoa hoki, kihai i uru ki taua Wakaminenga, ka tuku rawa atu ki te Kuini o Ingarani ake tonu atu te Kawanatanga katoa o o ratou wenua.

KO TE TUARUA,

Ko te Kuini o Ingarani ka wakarite ka wakaae ki nga Rangatira, ki nga Hapu, ki nga tangata katoa o Nu Tirani, te tino Rangatiratanga o o ratou wenua o ratou kainga me o ratou taonga katoa. Otiia ko nga Rangatira o te Wakaminenga, me nga Rangatira katoa atu ka tuku ki te Kuini te hokonga o era wahi wenua e pai ai te tangata nona te wenua ki te ritenga o te utu e wakaritea ai e ratou, ko te kaihoko e meatia nei e te Kuini hei kaihoko mona.

KO TE TUATORU,

Hei wakaritenga mai hoki tenei mo te wakaaetanga ki te Kawanatanga o te Kuini. Ka tiakina e te Kuini o Ingarani nga tangata Maori katoa o Nu Tirani. Ka tukua ki a ratou nga tikanga katoa rite tahi ki ana mea, ki nga tangata a Ingarani.

KO TE TUAWA

E mea ana te Kawana ko nga wakapono katoa o Ingarani, o nga Weteriana, o Roma, me te ritenga Maori hoki e tiakina ngatahitia e ia.

Na, ko matou, ko nga Rangatira o te Wakaminenga o nga Hapu o Nu Tirani, ka huihui nei ki Waitangi. Ko matou hoki ko nga Rangatira o Nu Tirani, ka kite nei i te ritenga o enei kupu ka tangohia, ka wakaaetia katoatia e matou. Koia ka tohungia ai o matou ingoa o matou tohu.

Ka meatia tenei ki Waitangi, i te ono o nga ra o Pepueri, i te tau kotahi mano, e waru, e wa tekau o to tatou Ariki.

THE TREATY OF WAITANGI

AN EXPRESSION IN ENGLISH OF THE TEXT IN TE REO

(Signed at Waitangi on the 6th February 1840 and afterwards around the country by over 500 Rangatira)

Victoria, the Queen of England, in her gracious thoughtfulness to the Rangatira and Hapu of New Zealand, and in her desire to record both her recognition of their paramount authority and that the lands are theirs, so that all may live in peace and good order, has thought it right to send an officer to make arrangements with the Maori people of New Zealand. Let the Rangatira agree to the Kawanatanga (governorship – the delegated duty to govern Pakeha and other non-Maori) of the Queen over all parts of this land and its islands. This is to be done because a great number of her people have settled in this country, and others will come.

The Queen desires to arrange Kawanatanga so that no evil will come to the Maori people or to the Pakeha, who are living here in a state of lawlessness.

Now the Queen has been pleased to send me, William Hobson, a Captain in the Royal Navy, to be the Kawana for all parts of New Zealand which have been allocated, or shall be allocated, to the Queen. And she says to the Rangatira of the Confederation of the Hapu of New Zealand and the other Rangatira, these are the laws spoken of:

THIS IS THE FIRST

The Rangatira of the Confederation and all the other Rangatira who have not joined that Confederation delegate Kawanatanga to the Queen of England forever for lands entrusted to Pakeha and other non-Maori.

THIS IS THE SECOND

The Queen of England will make the arrangements and recognises the Tino Rangatiratanga (retained paramount and ultimate authority, which includes sovereignty) of the Rangatira, Hapu and all the people of New Zealand over their lands, villages and everything else that is held precious. But the Rangatira of the Confederation and all the other Rangatira allow the Queen to trade for the use of those pieces of land that the owners consent to allocate, subject to agreement over payment which will be agreed to between the Rangatira and an agent who will be appointed by the Queen.

THIS IS THE THIRD

This is the arrangement for the agreement to the Queen's Kawanatanga. The Queen will care for all the Maori people of New Zealand and ensure that they have the same access to the laws and customs as the people of England.

THIS IS THE FOURTH

The Governor says that all faiths - those of England, of the Wesleyans, of Rome and also Maori custom and religion - shall all alike be protected by him.

(This fourth article was agreed to before any of the Rangatira had signed the Treaty. It came about when the Catholic Bishop Pompallier asked Hobson that there be a guarantee of freedom of religion. The Anglican missionary William Colenso subsequently worded the article then Hobson and the Rangatira agreed to it.)

Now we, the Rangatira of the Confederation of the Hapu of New Zealand, assembled here at Waitangi and we, the other Rangatira of New Zealand, understand the intent of these words and agree to their entirety, and so we put here our names and our marks.

Done at Waitangi on the 6th day of February in the year of our Lord 1840.

An English Version

PREAMBLE

Her Majesty, Victoria, Queen of the United Kingdom of Great Britain and Ireland, regarding with Her Royal Favour the Native Chiefs and Tribes of New Zealand, and anxious to protect their just Rights and Property, and to secure to them the enjoyment of Peace and Good Order, has deemed it necessary, in consequence of the great number of Her Majesty's Subjects who have already settled in New Zealand, and the rapid extension of Emigration both from Europe and Australia which is still in progress, to constitute and appoint a functionary properly authorised to treat with the Aborigines of New Zealand for the recognition of Her Majesty's Sovereign authority over the whole or any part of these islands. Her Majesty therefore being desirous to establish a settled form of Civil Government with a view to avert the evil consequences which must result from the absence of the necessary Laws and Institutions alike to the native population and to Her subjects has been graciously pleased to empower and to authorise me William Hobson, a captain in Her Majesty's Royal Navy, Consul, and Lieutenant-Governor of such parts of New Zealand as may be or hereafter shall be ceded to Her Majesty, to invite the confederated and independent Chiefs of New Zealand to concur in the following Articles and Conditions.

ARTICLE THE FIRST

The chiefs of the Confederation of the United Tribes of New Zealand and the separate and independent Chiefs who have not become members of the Confederation, cede to Her Majesty the Queen of England, absolutely and without reservation, all the rights and powers of Sovereignty which the said Confederation or Individual Chiefs respectively exercise or possess, or may be supposed to exercise or to possess over their respective Territories as the sole Sovereigns thereof.

ARTICLE THE SECOND

Her Majesty the Queen of England confirms and guarantees to the Chiefs and Tribes of New Zealand and to the respective families and individuals thereof, the full exclusive and undisturbed possession of their Lands and Estates, Forest, Fisheries, and other properties which they may collectively or individually possess, so long as it is their wish and desire to maintain the same in their possession; but the Chiefs of the United Tribes and the Individual Chiefs yield to Her Majesty the exclusive right of Pre-emption over such lands as the proprietors thereof may be disposed to alienate, at such prices as may be agreed upon between the respective Proprietors and persons appointed by Her Majesty to treat with them in that behalf.

ARTICLE THE THIRD

In consideration thereof, Her Majesty the Queen of England extends to the Natives of New Zealand Her royal protection and imparts to them all the Rights and Privileges of British Subjects.

Now therefore, We the Chiefs of the Confederation of the United Tribes of New Zealand being assembled in Congress at Victoria, in Waitangi and We the Separate and Independent Chiefs of New Zealand claiming authority over the Tribes and Territories which are specified after our respective names, having been made fully to understand the Provisions of the foregoing Treaty, accept and enter into the same in the full spirit and meaning thereof. In witness of which, we have attached our signatures or marks at the places and the dates respectively specified.

Done at Waitangi, this Sixth day of February in the year of Our Lord, one thousand eight hundred and forty.

NOTE: There was no record on the English version of the agreement on the protection of religious freedom and customary law. (The Fourth Article).

AS YOU CAN SEE THERE ARE TWO DOCUMENTS: THE TREATY IN TE REO (including its expression into English) AND THE ENGLISH VERSION

The Treaty in the Maori language was signed by Captain Hobson and over 500 Rangatira, over 40 of them at Waitangi on February 6th 1840.

The English version, only written after February 6th, was signed at Port Waikato/Manukau, where the discussion would have been of the content of the Maori text, but the English version was signed (by approximately 40 Rangatira).

WHEN TWO DOCUMENTS CONFLICT

In International Law where there is any ambiguity

- the contra proferentem principle applies, which means that a decision is made against the party that drafts the document
- the indigenous language text takes preference.

In oral cultures such as Maori, verbal agreements take preference over what is written.

This means that for the Treaty of Waitangi the text in te reo takes precedence on all these counts

IN NOVEMBER 2014 THE WAITANGI TRIBUNAL SUMMARISED THEIR CONCLUSIONS ON THE NGA PUHI CLAIM (WAI 1040):

- *The rangatira who signed te Tiriti o Waitangi in February 1840 did not cede their sovereignty to Britain. That is, they did not cede authority to make and enforce law over their people or their territories.*
- *The rangatira agreed to share power and authority with Britain. They agreed to the Governor having authority to control British subjects in New Zealand, and thereby keep the peace and protect Maori interests.*
- *The rangatira consented to the treaty on the basis that they and the Governor were to be equals, though they were to have different roles and different spheres of influence. The detail of how this relationship would work in practice, especially where the Maori and European populations intermingled, remained to be negotiated over time on a case-by-case basis.*
- *The rangatira agreed to enter into land transactions with the Crown, and the Crown promised to investigate pre-treaty land transactions and to return any land that had not been properly acquired from Maori.*
- *The rangatira appear to have agreed that the Crown would protect them from foreign threats and represent them in international affairs, where that was necessary.*

THE TREATY

is an instrument of the Declaration of Independence of New Zealand – He Wakaputanga o te Rangatiratanga o Nu Tirenī – which was made on 28 October 1835. It is between the Crown and the many Hapu.

- Tino Rangatiratanga was retained by Maori in Article Two of the Treaty.
- Kawanatanga was granted to the Crown in Article One.
- Article Three assured to Maori access to the same laws and customs as the people of England.
- The Fourth Article guaranteed Crown protection of religious freedom for all.

It established a relationship with Maori, giving Pakeha and other settlers a place - if it is honoured.

In 1840 'Pakeha' referred to all those who were not Maori - now often referred to as 'tangata Tiriti.'

HE WAKAPUTANGA O TE RANGATIRATANGA O NU TIRENI

THE DECLARATION OF INDEPENDENCE OF NEW ZEALAND

28 OCTOBER 1835

- is an international declaration
- was signed on 28 October 1835
- was witnessed by the Crown Resident

1. Ko matou, ko nga Tino Rangatira o nga iwi o Nu Tireni i raro mai o Hauraki kua oti nei te huihui i Waitangi i Tokerau i te ra 28 o Oketopa 1835, ka wakaputa i te Rangatiratanga o to matou wenua, a, ka meatia ka wakaputaia e matou he Wenua Rangatira, kia huaina **ko te Wakaminenga o nga Hapu o Nu Tireni**.

2. Ko te Kingitanga ko te mana i te wenua o te wakaminenga o Nu Tireni ka meatia nei kei nga Tino Rangatira anake i to matou huihuinga. A, ka mea hoki e kore e tukua e matou te wakarite ture ki te tahi hunga ke atu, me te tahi Kawanatanga hoki kia meatia i te wenua o te wakaminenga o Nu Tireni. Ko nga tangata anake e meatia nei e matou e wakarite ana ki te ritenga o o matou ture e meatia nei e matou i to matou huihuinga.

3. Ko matou ko nga Tino Rangatira ka mea nei kia huihui ki te runanga ki Waitangi a te ngahuru i tenei tau i tenei tau ki te wakarite ture, kia tika ai te wakawakanga, kia mau ki te rongo, kia mutu te he, kia tika te hokohoko. A, ka mea hoki ki nga tauwi o runga, kia wakareea te wawai, kia mahara ai ki te wakaoranga o to matou wenua, a, kia uru ratou ki te wakaminenga o Nu Tireni.

4. Ka mea matou kia tuhituhia he pukapuka ki te ritenga o tenei o to matou wakaputanga nei ki te Kingi o Ingarani hei kawae atu i to matou aroha nana hoki i wakaae ki te Kara mo matou. A, no te mea ka atawai matou, ka tiaki i nga pakeha e noho nei i uta, e rere mai ana ki te hokohoko, koia ka mea ai matou ki te Kingi kia waiho hei matua ki a matou i to matou Tamarikitanga kei wakakahoretia to matou Rangatiratanga.

Kua wakaaetia katoatia e matou i tenei ra, i te 28 Oketopa 1835, ki te aroaro o te Reireneti o te Kingi o Ingarani.

1. We the hereditary chiefs and heads of the tribes of the Northern parts of New Zealand, being assembled at Waitangi in the Bay of Islands, on this 28th day of October, 1835, declare the independence of our country which is hereby constituted and declared to be an Independent State under the designation of **the United Tribes of New Zealand**.

2. All sovereign power and authority within the territories of the united tribes of New Zealand is hereby declared to reside entirely and exclusively in the hereditary chiefs and heads of tribes in their collective capacity, who also declare that they will not permit any legislative authority separate from themselves in their collective capacity, nor any function of government to be exercised within the said territories, unless by persons appointed by them and acting under the authority of laws regularly enacted by them in Congress assembled.

3. The hereditary chiefs and heads of tribes agree to meet in Congress at Waitangi in the autumn of each year for the purpose of framing laws for the dispensation of justice, the preservation of peace and good order, and the regulation of trade. They also cordially invite the southern tribes to lay aside their private animosities and to consult the safety and welfare of our common country by joining the Confederation of the United Tribes.

4. They also agree to send a copy of this Declaration to His Majesty the King of England to thank him for his acknowledgement of their flag. In return for the friendship and protection that they have shown and are prepared to show to such of his subjects as have settled in their country or resorted to its shores for the purposes of trade, they entreat that he will continue to be the parent of their infant State, to protect it from all attempts upon its independence.

Agreed to in its entirety by us on this 28th day of October, 1835, in the presence of His Britannic Majesty's Resident.

- was the forerunner of the Treaty of Waitangi
- has a flag to symbolise tribal rights to trade as independent nations