

# **TREATY OF WAITANGI PRINCIPLES**

## **EXTRACTS FROM WAITANGI TRIBUNAL REPORTS**

### **THE PRINCIPLE OF PARTNERSHIP**

"This principle was firmly established by the Court of Appeal in the New Zealand Maori Council case where it was authoritatively laid down that the Treaty signifies a partnership and requires the Pakeha and Maori partners to act towards each other responsibly and in good faith.

**Partnership cont.**

"While the needs of both cultures must be provided for and compromise may be necessary in some cases to achieve this objective, the Treaty guarantee of rangatiratanga requires a high priority for Maori interests when proposed works may impact on Maori taonga."

Preliminary Report on the Te Arawa Representative  
Geothermal Resource Claims. 1993. P. 33

"It was a basic object of the Treaty that two people would live in one country. That in our view is also a principle, fundamental to our perception of the Treaty's terms.....a continuing relationship between the Crown and Maori people, based upon their pledges to one another."

Muriwhenua Fishing Report. 1988. P.192.

Ngai Tahu Sea Fisheries Report. 1992. P.273 Ngawha

Geothermal Resource Report. 1993 P.102

**Partnership cont.**

"It sets down the terms on which the Queen was to establish a government to maintain peace and deal with lawlessness. In return for ceding sovereignty to the Queen, the chiefs, the hapu and all the people were guaranteed their tino rangatiratanga. It involves continuing obligations to give, receive and return."

Te Roroa Report. 1992. P.30

## **THE PRINCIPLE OF PROTECTION OF MAORI RANGATIRATANGA**

"The cession of Maori sovereignty to the Crown was in exchange for the protection by the Crown of Maori Rangatiratanga.

"This principle is fundamental to the compact or accord embodied in the Treaty and is of paramount importance. We see it as over-arching and far-reaching, derived as it is directly from the provisions of articles 1 and 2 of the Treaty... Specifically we refer, in the context of the present claim, to the Crown obligation actively to protect Treaty rights; the tribal right of self-regulation, the right of redress for past breaches, and the duty to consult.

"... It is clear that the cession of sovereignty to the Crown by Maori was conditional. It was qualified by the retention of tino rangatiratanga."

Ngai Tahu Sea Fisheries Report. 1992. P.269

**Protection cont.**

"Maori were protected in their lands and fisheries (English text) and in the retention of their tribal base (Maori text). In the context of the overall scheme for settlement, the fiduciary undertaking of the Crown is much broader and amounts to an assurance that despite settlement Maori would survive and because of it they would also progress."

Muriwhenua Fishing Report. 1988. P.194

**Tribal right of self-regulation**

"The tribal right of self-regulation or self-management is an inherent element of tino rangatiratanga."

Ngawha geothermal Resource report. 1993. P.101

Protection cont.

"'Rangatiratanga' and 'mana' are inextricably related words. Rangatiratanga denotes the mana not only to possess what is yours, but to control and manage it in accordance with your own preferences.

"We consider that the Maori text of the Treaty would have conveyed to Maori people that... they were to protected not only in the possession of their fishing grounds, but in the mana to control them and then in accordance with their own customs and having regard to their own cultural preferences."

Motunui-Waitara report. 1993. P.51

"The main significance of the Maori text for Maori, appears to have been the assurance of their own control."

Muriwhenua Fishing Report. 1988. P. 190

Protection cont.

**Protection cont.****Crown Duty to redress past breaches**

"If failure by the Crown to protect the rangatiratanga of the tribe or hapu results in detriment to Maori there is an obligation by the Crown to make redress."

Ngawha Geothermal resource Report. 1993. P.101

**Duty to consult**

"Before any decisions are made by the Crown, or those exercising statutory authority on matters which may impinge upon the rangatiratanga of a tribe or hapu over their taonga, it is essential that full discussion take place with Maori."

Ngawha Geothermal Resource Report. 1993. P.102

## **THE PRINCIPLE OF MUTUAL BENEFIT**

"Both parties expected to gain from the Treaty, the Maori from new technologies and markets, non maori from the acquisition of settlement rights and both from the cession of sovereignty to a supervisory state power...neither partner in our view can demand their own benefits if there is not also an adherence to reasonable state objectives of common benefit..."

Muriwhenua Fishing Report. 1988. PP. 194-195  
Ngai Tahu Sea Fisheries Report. 1992. P.273



Mutual benefit cont.

"In the context of sea fisheries, where we believe it was envisaged from the outset that the resources of the sea would be shared, this is an important principle. It recognises that benefits should accrue to both Maori and non-Maori as the new economy develops but this should not occur at the expense of unreasonable restraints on Maori access to their sea fisheries."

Ngai Tahu Sea Fisheries Report 1992. PP.273-274

## **THE PRINCIPLE OF OPTIONS**

"The Treaty provided an effective option to Maori to develop along customary lines and from a traditional base, or to assimilate into a new way. Inferentially it offered a third alternative, to walk in two worlds... That same option is open to all people... it was not intended that the partner's choices could be forced."

Muriwhenua Fishing Report. 1988. P.195

"Article 2 contemplated the protection of tribal authority and self-management of tribal resources according to Maori culture and customs. Article 3 in turn conferred on individual Maori the rights and privileges of British subjects. The treaty envisages that Maori should be free to pursue either or indeed both options in appropriate circumstances. The Crown is obliged to offer reasonable protection to maori in the exercise of the rights so guaranteed to them."

Ngai Tahu Sea Fisheries Report. 1992. P.274



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27 June 1994

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*Nick*  
*Copy for Bryce*

Dear Bryce

'PRINCIPLES' OF THE TREATY OF WAITANGI

1. Thank you for your letter of 24 June 1994. I shall supply you with my opinion on the principles of the Treaty of Waitangi just as soon as possible.
2. I have read the material you enclosed with great interest. I think some congratulations are in order. Reviewing the file of material which you have sent me over the past year, it seems clear to me that your efforts are now bearing fruit. It is clear that the Government now realises the need for consultation, so litigation as a possibility now seems to be a diminishing prospect.
3. If you can be as successful in protecting the interests of your members in the process of the consultations themselves as you have been in inducing the consultation policy, much may be achieved.



Chapman Tripp Sheffield Young  
Barristers & Solicitors NEW ZEALAND

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4. It has been, in my view, an extraordinarily successful exercise in keeping sustained pressure on the decision makers to ensure that they travel in the right direction. I admire it.

Best wishes.

Yours sincerely

Sir Geoffrey Palmer  
Consultant