

# HE HAKAPUTANGA TĒNEI O TE MANA WHENUA ME TE MANA MOANA

## **DECLARATION OF MANA MOANA MANA WHENUA**

#### Kia Hiwa Ra! Kia Hiwa Ra!

Ko te mana, ko te tapu, ko te ihi o ngā hapū katoa o Ngāti Kahu i pouātia rawatia mai i a Ranginui i runga nei, ki a Papatuānuku e takoto nei; mai Te Whatu ki Maunga Tohoraha; whiti atu ki Hukatere kei Te Oneroa-ā-Tōhē; ki Te Make, ā, ka puta atu mā ēnei moana e hora nei ki Hawaiiki Nui. Mai te taha moana ki te tua whenua, ka haere mai ki Ngākahu, ki Ōkakewai, tae noa atu ki runga o Maunga Taniwha. Ko ēnei ngā pou whenua o ngā roherohenga katoa o ngā hapū katoa o Ngāti Kahu. Kei te pupuritia, kei te hakapūmautia nei te mana whenua me te mana moana e ngā uri hakatupu.

[Nā Te Rūnanga-ā-lwi o Ngāti Kahu i hakaetia kia tukuna tēnei Hakaputanga]

#### **Translation**

The hapū of Ngāti Kahu declare that our mana whenua and mana moana encompasses from Te Whatu, te Maunga Tohora, Hukatere and Te Make and the seas from these boundaries to Hawaiikinui and inland to Ngākahu, Ōkakewai, to Maunga Taniwha and in this whole area that the hapū of Ngāti Kahu hold mana whenua which includes absolute ownership.

[Authorised through Te Rūnanga-ā-lwi o Ngāti Kahu]

## **Please Note:**

The hapū of Ngāti Kahu have never ceded their rangatiratanga and mana whenua, which includes their sovereignty, over their lands, seas, fisheries and other estates in the rohe.

Neither the Crown nor any Council or any other entity has authority to issue any licenses for mining, aquaculture, or any other activities whatsoever in the territories of Ngāti Kahu without the express consent of the hapū. Any legislation, policy, by-law or rule purporting to do so is null and void in Ngāti Kahu's territories. Please be advised that anyone seeking to action such a consent or permit provided by the Crown or a Council will be dealt with directly by the hapū.

# **CONTACT:**

Te Rūnanga-a-lwi o Ngāti Kahu 09 4083013 ngatikahu@xtra.co.nz

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ROHE O NGĀTI KAHU

# Te Rūnanga-ā-lwi o Ngāti Kahu

21A PARKDALE CRES PO BOX 392 KAITAIA, 0410

TELEPHONE (09) 408 3013 FAX (09) 408 3093 CELLPHONE: 027-2188-608 EMAIL nkenviro@xtra.co.nz



14 July 2010

Ko Maungataniwha te Maunga Ko Tokerau te Moana Ko Mamaru te Waka Ko Te Parata te Tangata Ko Kahutianui te Tupuna Ko Ngāti Kahu te Iwi

Te Runanga-a-lwi O Ngāti Kahu is the mandated lwi Authority for the 15 marae of Ngāti Kahu.

# Ngāti Kahu Mana Whenua - Mana Moana:

As affirmed in Te Tiriti O Waitangi - Ngāti Kahu is the guardian of the natural resources – land, foreshores, sea, waterways etc – within our tribal region.

Nga hapu katoa o Ngati Kahu declare that our mana whenua and mana moana encompasses from Te Whatu, te Maunga Tohora, Hukatere and Te Make and the seas from these boundaries to Hawaiikinui and inland to Ngakahu, Okakewai, to Maunga Taniwha and in this whole area that nga hapu katoa o Ngati Kahu hold mana whenua

# Population:

We have an estimated population residing in our rohe of 2,300 people. While the total number of Ngāti Kahu spread throughout New Zealand is estimated at 8,313 (information from Statistics NZ 2006 census).

More recent calculations based on genealogical information put that figure closer to 15,000.

# Purpose:

The principal role of Te Runanga-a-lwi O Ngāti Kahu (TRIONK) is to protect, enhance and promote the well being and assets of our people.

# TIHEI MAURI ORA Te Rūnanga-ā-lwi o Ngāti Kahu



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**KO MĀMARU TE WAKA** 

14 July 2010

# Final Cultural Assessment by: TE RUNANGA-A-IWI O NGATI KAHU

Our reference:

153-13.07.2010

Application No:

CON20080400701

Applicant:

Far North District Council

Contact Address:

Private Bag 9021, KAIKOHE

Phone:

0800-920-029

E-mail:

ask.us@xtra.co.nz

Physical Address:

East Coast Bays Wastewater Treatment Plant - Taipa

Hapu and Marae:

Ngati Tara - Parapara Marae & Matakairiri Karepori Marae - Taipa

Kaitiaki:

Mike Wilson & Elizabeth Popata

FNDC/NRC Contact:

Stephen Cooper (FNDC) &

Stuart Saville (NRC - Ph: 0800-002-004)

Application:

Notification of Resource Consent application CON20080400701 under Section 95 of the Resource Management Act 1991 – Far North District Council – East Coast Bays Treatment Plant, Taipa

Follow-up:

Copies to: Mike Wilson. Chappie Harrison, Robert Gabel etc.

Submission by Te Runanga-a-Iwi O Ngati Kahu

- Te Runanga-a-lwi O Ngati Kahu supports the submission by Rob Oxborough (copy attached) in its entirety
- While that submission deals with the LEGAL aspects of the Local Government Agencies concerned – Far North District Council (applicant) and the Northland Regional Council – (overseeing agent):-
- 3. Te Runanga-a-lwi O Ngati Kahu wants to focus on the CULTURAL & SOCIAL aspects of the Resource Consent
- While both Government agencies appear to be working within the LEGAL parameters of the relevant acts (with the exception of the AMMONIA DISCHARGE)
- 5. Both of the Agencies appear to be lacking in cultural sensitivity when it comes to the Cultural and Social aspects of the Taipa/East Coast sewerage discharges
- 6. The Far North District Council has had repeated meeting with the local community Parapara Marae and Taipa Area School Marae (x 2)
- 7. There have been several, separate, meetings regarding the discharge of sewerage district wide
- 8. There is NOTHING in this report (by VK Consultants) that has not been discussed previously and rejected by the local community at ALL 3 MEETINGS!
- 9. The community REJECTED the total discharge into the rivers of Ngati Kahu
- 10. The community REJECTED the increase to 25 years for the 'discharge permit'
- 11. Te Runanga-a-lwi O Ngati Kahu submitted a written statement 15.04.2010 regarding Ngati Kahu's stance (copy attached).
- 12. This stance has not changed or gone away!
- 13. Ngati Kahu & Te Runanga-a-lwi O Ngati Kahu reiterate [again]:-
- 14. Ngati Kahu reiterates our opposition to any liquid discharge into any river in the rohe of Ngati Kahu. This includes discharges from quarries, farms and sewerage. The Far North District Council must find an alternative means of disposal for all discharges. This is a reiteration of Ngati Kahu's opposition which was first moved at Parapara in 2008. Etc.
- 15. In other discussions Far North District Council, supposedly, said they would: a) Not seek to increase the amount discharge to 1570<sup>3</sup>m (this amount is abandoned by Far North District Council in favour of the *status quo* later in the

summary)

- b) Not seek an extension of time (to 25 years) BUT this does not appear to be the case and the application still appears to seek a 25-year permit
- 16. At all meetings the local community has tried to inform the Councils that Parapara River, Aurere Estuary and Tokarau (Doubtless Bay receiving waters) is one of the largest shellfish collecting areas on the East Coast.
- 17. The continual discharge of water, whether it has been treated or not, is anathema to ALL cultures.
- 18. VK Consultants points out that the Parapara River is more contaminated above the discharge point than the discharge point itself?
- 19. These contaminants could be from:
  - a) Farming practices (cattle effluent and/or fertiliser run-off)
  - b) Quarry run-off
  - c) Domestic Wastewater treatment (septic tank/soak hole run-off etc)
  - d) Road run-off
- 20. If any of these contribute to the contamination of the receiving waters; then the Northland Regional Council should do something about it!
- 21. There is nothing in this report that mentions any of the following:
  - a) There has been no mention of [any] upgrade/s in the Annual Plan or the Long Term Council Community Plan ;-
  - b) Biofiltro
  - c) Dhara Biotech
  - d) Ultra violet screening
  - e) Alternate [summer] discharge [to land as discussed with a third party at Taipa]

## CONCLUSSION

Te Runanga-a-lwi O Ngati Kahu contends that the proposal, as is, contravenes the essence of the Resource Management Act 1991 (and associated amendments):-

### Part II

- 5. PURPOSE: (1) The purpose of this Act is to promote the sustainable management of natural and physical resources.
- (2) In this Act, **sustainable management** means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—
  - (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and
  - (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and
  - (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.
    - Ngati Tara (kaitiaki of the waterways, which includes Parapara Stream & Aurere) no longer feel assured of their wellbeing when collecting kaimoana from their rivers
- 6 MATTERS OF NATIONAL IMPORTANCE: In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:
  - (a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:
  - (b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:
  - (c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:
  - (d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:
  - (e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:
  - (f) the protection of historic heritage from inappropriate subdivision, use, and development:
  - (g) the protection of recognised customary activities.

Section 6(f): added, on 1 August 2003, by <u>section 4</u> of the Resource Management Amendment Act 2003 (2003 No 23).

Section 6(g): added, on 17 January 2005, by section 4 of the Resource Management (Foreshore and Seabed) Amendment Act 2004 (2004 No 94). In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

- (a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:
- (e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:
- o (g) the protection of recognised customary activities.
  - "Shall recognise and provide for": Te Runanga-a-lwi O Ngati Kahu maintains neither of the Councils are treating this aspect of the RMA with the respect it deserves:
  - ❖ Te Runanga-a-lwi O Ngati Kahu maintains that the discharge of any sewerage, untreated discharges from quarries and roads (most maintained by FNDC & NZTA) and discharges of effluent from farms (whether treated or untreated) contravenes (a) 'protection from inappropriate use:
  - Te Runanga-a-lwi O Ngati Kahu maintains both Councils ignore (e) in its entirety
  - Likewise, section (g): the protection of recognised customary activities
  - Ngati Tara (the kaitiaki of Parapara Rivers and the Aurere Estuary) and many thousands of people from the other 14 marae of Ngati Kahu) have fished and collected shellfish from Aurere for over 800-years – so, why aren't their Customary Practices being protected?
- 7 Other matters

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—

- o (a) kaitiakitanga:
- o (b) the efficient use and development of natural and physical resources:
- o (c) the maintenance and enhancement of amenity values:
- o (d) intrinsic values of ecosystems:
- o (f) maintenance and enhancement of the quality of the environment
- o (g) any finite characteristics of natural and physical resources:

- > Te Runanga-a-lwi O Ngati Kahu, again, asserts that neither Council is 'Achieving the Purpose of the Act' in regards to the above sections.
- Again we reiterate: Ngati Tara are the kaitiaki of the waterways within Parapara, this includes Aurere, parts of Tokerau Beach and parts of Tokarau (Doubtless Bay.) Ngati Tara cannot fulfil their duties as kaitiaki because the waterways are contaminated by the aforesaid, accumulated, rubbish.
- Te Runanga-a-lwi O Ngati Kahu does not believe the waterways are being used efficiently (b) or
- > (c & f) Maintained or enhanced as the waterways should be
- Aurere is still used by Ngati Tara as a food gathering place and a place for water sports; i.e. swimming, canoeing, diving, snorkelling etc.
- (d & g) The shellfish are a finite resource; if they ever disappear they will never return. Therefore the waterways should be returned to a healthier state
  - 8. Treaty of Waitangi
- In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Te Tiriti o Waitangi (Treaty of Waitangi).
- ♣ Te Runanga-a-lwi O Ngati Kahu submits that:
- Neither Council is 'Taking into account the principles of the Te Tiriti o Waitangi (Treaty of Waitangi)
- Otherwise Ngati Tara and the rest of Ngati Kahu would be able to carry out their kaitiaki obligations.

Te Runanga-a-lwi O Ngati Kahu wishes to be heard should this matter go to a hearing and may like to include others within our allotted time.

V. C. Holloway,

Environmental Resource Manager

# Te Rūnanga-ā-lwi o Ngāti Kahu

21A PARKDALE CRES PO BOX 392 KAITAIA, 0410

TELEPHONE (09) 408 3013 FAX (09) 408 3093 CELLPHONE: 027-2188-608 EMAIL nkenviro@xtra.co.nz

KO MĀMARU TE WAKA

15 April 2010

Statement from Ngati Kahu

All the Ngati Kahu hapu and marae make the following statement:

- 1. Ngati Kahu reiterates our opposition to any liquid discharge into any river in the rohe of Ngati Kahu. This includes discharges from quarries, farms and sewerage. Far North District Council must find an alternative means of disposal for all discharges. This is a reiteration of Ngati Kahu's opposition which was first moved at Parapara in 2008.
- 2. Ngati Kahu also requires that all subdivisions and developments in our rohe must halt until Council has provided adequate systems and infrastructure to deal with the discharges.
- 3. Ngati Kahu requires Council to give priority in its Annual Plan to cleaning up our rivers and waterways.
- 4. Ngati Kahu are angry that Council consulted with Te Rarawa to negotiate an alternative for the discharge from their rohe, but did give Ngati Kahu the same courtesy.
- 5. Te Runanga-a-Iwi o Ngati Kahu supports its hapu and marae in this statement.

Environmental Resource Manager

# The Iwi Authorities and Local Authorities of Te Taitokerau

# Building a new relationship based on concepts of justice

A statement prepared<sup>1</sup> for the local authorities of Northland on behalf of the following Iwi Authorities of Te Taitokerau

Te Rūnanga o Ngāti Whātua

Ngāti Wai Trust Board Te Rūnanga o Whaingaroa

Te Rūnanga-ā-Iwi o Ngāpuhi

Te Rūnanga-ā-Iwi o Ngāti Kahu

Te Rūnanga o Te Rarawa Te Aupöuri Trust Board

Te Runanga-a-iwi o Ngati Kanu Te Runanga o Ngati Kuri and Ngai Takoto

And delivered at a joint iwi and local government leaders hui,

Kaikohe, July 2003

With the advent of the Local Government Act 2002, the local authorities of Northland are looking to facilitate participation by Māori in local authority decision-making processes. The Northland Regional Council approached the iwi authorities of Te Taitokerau who in turn invited all the local authorities of Northland to attend a meeting with the iwi authorities. This statement has been prepared by the iwi authorities to set a firm basis upon which a new and meaningful relationship between themselves and local authorities can be built. It draws upon concepts of justice deeply embedded within Māori society.

# Taitokerau Concepts of Justice

Over the past 28 years, the Waitangi Tribunal has heard extensive evidence of what Māori generally agree are the injustices that we have suffered under the British Crown. What the Tribunal's inquiries have demonstrated is that at the heart of the injustices suffered by Māori is the failure of the British Crown not only to honour and uphold the Treaty of Waitangi but also to protect Māori rights at common law. Far less has been heard from such fora about what Māori consider to be justice. This statement considers the concept of justice that has been passed down by Māori elders of the iwi of Te Taitokerau. We are aware that much of what is outlined here is shared by many other hapū and iwi throughout the country.

<sup>&</sup>lt;sup>1</sup> Prepared by Professor Margaret Mutu, Māori Studies Department, University of Auckland and Chairperson, Te Rünanga-ā-Iwi o Ngāti Kahu in consultation with the chairs of the above named authorities.

Justice, as such, is not a term widely used and discussed by Māori in our places of learning and debate, that is, our marae. We will sometimes refer to the state's justice system, noting how unjust it is for us, and we know, for example, that the title "Minister of Justice" has nothing to do with overseeing the delivery of justice. In Māori that title is actually "Te Minita mo Ngā Ture - the Minister of Laws" which is, perhaps, a more accurate description. We are also painfully aware that while laws are meant to try to imitate justice and probably do for many non-Māori, those same laws do not imitate justice for Māori simply because they are not based on our values and customs. However, over the decades, Māori have fought long and hard to have our values recognised. As a result there are now provisions in many acts, including the Resource Management Act and the Local Government Act, which do provide for Māori values. Yet lack of knowledge and expertise in the administration of these provisions means that although Māori should be able to access justice, in practice it continues to be denied to us. Over many years Māori elders and scholars have tried to remedy this situation by explaining exactly what these underlying values are. For these are the values that underly provisions such as the hugely important section 6(e) of the Resource Management Act. This statement draws on that work.2

Andrew Sharp (1990:28), in his *Justice and the Māori* describes Leibniz's "virtue of justice" as being "practised when the best is done for everybody in conditions of full knowledge and in a spirit of love." Sharp (1990: 29-30) goes on to define distributive justice as "giving to classes of people what is theirs by right, where classes are distinguished by characteristics that call for or generate those good things that can thought to be demanded for them as of right." This philosophy underpins Westminster law upon which New Zealand law has been built.

Working from these definitions, Māori rights derive from the values that underpin them. These values and how they manifest themselves are matters that are referred to constantly

<sup>&</sup>lt;sup>2</sup> This is also covered in chapter 7 of the book *Te Whānau Moana: Ngā kaupapa me ngā tikanga: Customs and protocols* written by McCully Matiu and Margaret Mutu, published by Reed.

on our marae and discussed a great deal by Māori elders and scholars. So in talking about Māori concepts of justice this statement will talk at some length about the values that underlie our thinking and world view, and in particular try to describe in English what we mean by the words mana, tapu, tikanga Māori, whanaungatanga, rangatiratanga and kaitiakitanga.

The statement will then move on to comment on The Declaration of Independence and the Treaty of Waitangi (or more precisely, the originals of these documents written in Māori). For our ancestors of Te Taitokerau, their relationships with the incoming British Crown were determined, described and agreed to in these two documents. We will describe very briefly how our ancestors saw our underlying values being upheld through these documents before listing the quite specific notions of the iwi of Te Taitokerau on how that justice can be delivered to us today by local authorities.

In considering the underlying values of mana, tapu, tikanga Māori, whanaungatanga, rangatiratanga and kaitiakitanga<sup>3</sup> this statement will start by considering the English translations of these terms given in the authoritative Williams' *Dictionary of Maori Language*. These can be rather misleading so we then go on to outline the meanings described by various eminent Māori scholars, including our kaumātua (elders) of Te Taitokerau.

#### Mana

William's *Dictionary of the Maori Language* lists 8 meanings for mana providing the following possible translations:

- 1. Authority, control
- 2. Influence, prestige, power
- 3. Psychic force
- 4. Effectual, binding, authoritative

<sup>&</sup>lt;sup>3</sup> Caution is always advised in attempting to describe the social values of one society using the language of another unrelated society. Suffice to point out that criticism has frequently been levelled by Māori against Pākehā anthropologists, historians and other scholars who have written and published their descriptions of Māori culture without considering the fact that their ignorance of the Māori language has severely hampered their understanding of Māori culture.

- 5. Having influence or power
- 6. Vested with authority
- 7. Be effectual, take effect
- 8. Be avenged.

These translations, however, do not describe the source of mana nor how mana is upheld and maintained. That, after all, is not the job of a bilingual dictionary. The result is an unfortunate distortion of the real meaning of mana, which is inextricably based in the spiritual realms of the world.

The Rev. Māori Marsden (Ngati Kahu, Ngai Takoto, Te Aupouri, Ngapuhi), in his article "God, Man and Universe: A Māori View", defines and discusses among others matters the concepts of mana and tapu. For him,

Mana in its double aspect of authority and power may be defined as "lawful permission delegated by the gods to their human agents and accompanied by the endowment of spiritual power to act on their behalf and in accordance with their revealed will." This delegation of authority is shown in dynamic signs or works of power.

There are many different types of mana and many aspects of it as it manifests itself in everyday life. For example, all living things, animals, trees and plants, fish and birds, as well as human beings, are embued with a mana of their own, a mana implanted by the gods. So also are many inanimate objects such as meeting houses and mountains which are personified and addressed in Māori as ancestors and relations.

The terms mana whenua and mana Māori motuhake are among the many terms relating to mana that are heard frequently and are being referred to increasingly by the Waitangi Tribunal in its reports. These are different types or aspects of mana and can be described, albeit very briefly, in the following way:

Mana whenua is the mana that the gods planted within Papa-tua-nuku (Mother Earth) to give her the power to produce the bounties of nature. A person or tribe who "possesses" land is said to hold or be the mana whenua of the area

and hence has the power and authority to produce a livelihood for the family and the tribe from this land and its natural resources.

Every effort is made to protect and uphold mana whenua, not only from loss of "possession" of the land, but also from despoliation by careless exploitation. Mana whenua is a gift from the gods and always remains with the tribe of an area. The imposition of European title, for example, cannot remove mana whenua from a tribe.

The Resource Management Act interprets mana whenua as meaning "customary authority exercised by an iwi or hapū in an identified area". Like Williams' dictionary it falls very short of the real meaning by not incorporating any reference to its spiritual basis.

The term mana Māori motuhake is a term which encompasses a very wide range of types and aspects of mana including mana atua, mana tangata, mana whenua, mana moana, but serves to point out that mana is something which applies to the Māori people of Aotearoa and to them only. It also points to the fact that with such mana, Māori people are embued with the eternal right to live under their own mana and hence determine their own way of life as they themselves see fit to choose.

## Tapu

Williams dictionary lists the following translations for tapu:

- 1. Under religious or superstitious restriction;
- 2. Beyond one's power, inaccessible;
- 3. Sacred (modern)
- 4. Ceremonial restriction, quality or condition of being subject to such restriction.

The Rev. Māori Marsden discusses tapu at some length, not least to dispel some misconceptions of the concept held by early missionaries and anthropologists. He describes it as

The Māori idea of tapu is close to the Jewish idea translated in the words 'sacred' and 'holy', although it does not have the later ethical connotations of the New Testament of 'moral righteousness'.

It has both religious and legal connotations. A person, place or thing is dedicated to a deity and by that act it is set aside or reserved for the sole use of that deity. The person or object is thus removed from the sphere of the profane and put into the sphere of the sacred. It is untouchable, no longer to be put to common use. It is this untouchable quality that is the main element in the concept of tapu. In other words, the object is sacred and any profane use is sacrilege, breaking of the law of tapu.

From a purely legal aspect, it suggests a contractual relationship has been made between the individual and his deity whereby a person dedicates himself or an object to the service of a deity in return for protection against malevolent forces and the power to manipulate his environment to meet needs and demands. (p. 119-120)

It is the laws of tapu which play the most influential role in regulating Māori society. It was for this reason that the tribal experts in the laws of tapu, the tohunga, were outlawed by the colonial government (under the Tohunga Suppression Act of 1907) in a rather vain attempt to gain complete and absolute control for the government over Māori society. The laws of tapu still hold in Maoridom today and their violation continues to bring disaster, pain and injury to its transgressors. Events of this nature are occurring increasingly in Te Taitokerau with the greatest difficulties occurring as non-Māori developers ignore warnings. In particular, wāhi tapu, places that have been set aside as tapu, have been desecrated and violated. Furthermore, köiwi that were found were not properly treated. It can be accepted that much of what was done was done out of ignorance. But it was the mana whenua who suffer the consequences of these violations

through the advent of unexplained illnesses, calamities and even deaths as we struggled to put right the desecrations and violations.

# Tikanga Māori

The Resource Management Act describes tikanga Māori as "Māori customary values and practices". Williams dictionary gives 7 possible meanings for tikanga with the following possible translations:

- 1. Rule, plan, method
- 2. Custom, habit
- 3. Anything normal or usual
- 4. Reason
- 5. Meaning, purport
- 6. Authority, control
- 7. Correct, right

The word Māori is being used in this term as an adjective describing tikanga.

Tikanga Māori, as elders explain it, is the correct way to carry out something in Māori cultural terms. Tikanga Māori is the Māori equivalent of English law. For every hapū throughout Te Taitokerau, this is a vaste body of knowledge, wisdom and custom. It derives from the very detailed knowledge gained from residing in a particular geographic area for many hundreds of years, of developing relationships with other neighbouring communities as well as those further afield, and learning from practical experience what works and what does not. Not surprisingly, this body of law is very different from English law, mainly because it cannot be reduced to writing and hence set in concrete in the way legislation sets English law in concrete.

Tikanga Māori is very flexible and each situation requires its own particular form of tikanga. The particular form it takes on any occasion can always be determined by consensus of the whānau, hapū or iwi concerned if the matter is anything other than very straight forward.

As a result, iwi will spend considerable time in hui on marae discussing what an appropriate tikanga for a particular take should be. The marae remains the centre and focal point of a Māori community and is the one institution that has been left largely untouched by contact with Europeans even though certain aspects of European society have been imported such as the use of Christian prayers. In discussing the institution of marae, R.A.Joseph quoted in the Law Commission's 2001 Study Paper entitled "Māori Custom and Values in New Zealand Law" states

Despite the corrosive effect of missionaries and official amalgamationist policies, the Marae as an institution has persisted from pre-European Māori society into the modern era. It therefore has no Western legal base...In addition, the Marae provides common ground where the Pākehā can gain some awareness and insight into Māori life and the importance of biculturalism. The Marae is essentially an institution run by Māori for Māori with inclusion granted to other groups on their terms. Marae therefore fulfil deeply felt needs for the maintenance of culture, assertion of identity, and resistance to amalgamation.<sup>4</sup>

There are more than 200 marae throughout Te Taitokerau that are typical of the hundreds of marae throughout the country in exactly this respect, serving the communal needs of their whānau and hapū in a manner which has been handed down through many, many generations.

Many hui of various kinds are held on our marae, often to discuss particular issues relating to the community. Consensus in such hui is very important, and for that reason they almost invariably run for at least several hours to allow all possible aspects of the take to be thoroughly aired. If consensus is not reached, the hui will either continue until it has been reached, even if it takes several days, or, if the divisions are too great, the hui will be adjourned and reconvened at a later time when everyone has had more time to reflect on the matter.

Time is not an influencing factor when important decisions are to be made. This is a trait of tikanga Māori which has often frustrated and annoyed Pākehā affected by the process.

<sup>&</sup>lt;sup>4</sup> Joseph R.A. (1999:31) quoted in Law Commission (2001:47).

The philosophy of our elders is that they would far rather take their time and reach a well-considered decision than rush it through and end up having to fix up a mess afterwards.

## Whanaungatanga

One of the most fundamental values that holds any Māori community together is whanaungatanga, or the manner in which everyone is related genealogically. Knowledge of how one is related to everyone else within a particular community and to other neighbouring hapū is fundamental to the understanding of an individual's identity within Māori society. It also determines how an individual relates and behaves towards other individuals of that community.5 This behaviour is largely determined by the traditional roles of tuakana/teina (older or younger sibling within an extended family), matua and whaea (parents, aunts and uncles, or all those one generation above), and tamariki/mokopuna (those in the generations below). Matua and whaea have authority over all generations below them and exercise a supervisory and mentoring role in training the following generations to replace them. Within a single generation, tuakana (older siblings, or those descended from older siblings) have authority over teina (younger siblings or those descended from younger siblings). Attempts to overturn these lines of authority are rarely tolerated, unless the ability, skill and personal attributes of a teina earn sufficient respect over a long period of time to warrant such a departure from the norm. On the other hand a tuakana who does not have the inherited qualities and skills of leadership will be set aside by the people in favour of one who does.

In terms of authority and standing, there is a very clear distinction between those whose genealogy connects them to the area and those who do not. Thus, for example, unless an in-law has the necessary genealogical links to a particular community and its lands, they can never hold any authority in respect of either the lands or the community. That is not to say that they cannot play a very active role in the community, and they often do. However, in

<sup>&</sup>lt;sup>5</sup> In particular and a distinct contrast to European/American social standards, the economic standing of an individual has little influence on inter-relationships within a Māori community, unless a member is economically well off and does not distribute that wealth generously amongst his relations. Such behaviour often draws criticism and can lead to alienation and isolation of that individual from the rest of his/her community.

matters of the ultimate authority to speak for and represent the community, any attempts to do so by an "outsider" will bring very swift and strong reactions to stop it.

Methods of determining who "belongs" and who does not are known not only by the "home people" of an area, but also by the close relations of "outsiders" living in their midst. Where those relations of the outsiders are Māori, it is not unusual for those people to warn their close relation off when they observe them attempting to interfere in a community to which they have no genealogical link, regardless of how long they may have lived in that community.

It is rare today in Māori society for an individual with no legitimate connection to a community to claim to speak for it. Remnants of such behaviour stem from governmental bureaucrats and quislings6 (which we refer to as kūpapa) who did develop a very divisive and provocative habit of claiming to hold authority where they did not in fact hold any. This irksome habit was particularly prominent in the 19th century and continued until the 1970s and 1980s. Vast amounts of our whānau, hapū and iwi's land and resources were signed away without the proper authority as a result of the machinations of governmental bureaucrats and quislings. The major national and localised land protests in the 1970s, 80s and 90s and the claims to the Waitangi Tribunal effectively put an end to such behaviour as hapū and iwi reasserted their mana over their own affairs and demanded reparation and restitution for these blatant thefts. However, we still find ourselves occasionally having to deal with quislings, even today. Government bureaucrats are much more weary these days but will still try to wrest what little resources we have left from us, using in particular, the Resource Management and Public Works Acts. The latest attempt to legislate to confiscate the foreshores and seabed from Māori is a clear example and has drawn a very logical, angry and unanimous response from Māori. Those whānau and hapū who are mana whenua of those areas are the owners of their hapu's sea, foreshore and seabed. The Crown's assertion that it owns these cannot be seen as anything other than a blatant lie and iwi throughout the country are currently conveying that message very clearly to the Crown.

<sup>&</sup>lt;sup>6</sup> Quisling - A traitor who aids an occupying enemy force; collaborator. (Collins English Dictionary)

These traditional features of social organisation are still very closely observed in many Māori communities today. The intra-communal relationships are complex yet generally well understood by its members, particularly those in leadership roles.

There are also many Māori who do not whakapapa (have genealogical links) to a particular hapū's area but live in or are connected to the area in various ways. In general, they have a good understanding of the social organisation that exists and they respect it. Likewise some sections of the non-Māori community, and particularly Dalmation families, who have been in the area for more than four or five generations. With some notable exceptions, the rest of the non-Māori population, in our experience and observations, has little or no understanding of the social organisation of the tangata whenua amongst whom they live, and takes little or no part in our activities, particularly those which take place on the marae. As a result there appears to be a widely held and completely erroneous misconception amongst the non-Māori population that the tangata whenua are assimilated into and totally subsumed within the non-Māori community. Nothing could be further from the truth. The level of ignorance in the non-Māori community in this respect has led to several instances of open conflict between them and tangata whenua in recent years, particularly as foreign developers encroach into the area.

# Rangatiratanga

The word rangatiratanga is derived from the word rangatira. Williams' dictionary gives 4 meanings and the following translations for rangatira:

- 1. Chief, (male or female)
- 2. Master or Mistress
- 3. Well born, noble
- 4. Person of good breeding

A rangatira is a person of mana where that mana is derived not only by genealogical seniority but also by his or her own personal qualities and abilities to maintain the support and confidence of his/her people. Should a rangatira lose the confidence of his people, then his mana will suffer and the people will look elsewhere for leadership.

The word rangatira was once analysed by a Ngāti Kahu kaumātua as follows: ranga is a shoal of fish; raranga is to weave or plait; tira is a group of people. A rangatira then is someone who holds a group of people together so that they move as one, like a shoal.<sup>7</sup>

Rangatiratanga is the derived noun from rangatira and is literally translated as 'chieftainship'.

The Waitangi Tribunal has discussed the concept of rangatiratanga at great length in many of its reports, simply because it is a key term in the Treaty of Waitangi. Quoting from the *Muriwhenua Fishing Report* (WAI 22) at p. 181 it states

"Te tino rangatiratanga o o ratou taonga" tells of the exclusive control of tribal taonga for the benefit of the tribe including those living and those yet to be born. There are three main elements embodied in the guarantee of rangatiratanga. The first is that authority or control is crucial because without it the tribal base is threatened socially, culturally, economically and spiritually. The second is that the exercise of authority must recognise the spiritual source of taonga (and indeed of the authority itself) and the reason for stewardship as being the maintenance of the tribal base for succeeding generations. Thirdly, the exercise of authority was not only over property, but of persons within the kinship group and their access to tribal sources.

# Kaitiaki and Kaitiakitanga

The word kaitiaki is derived from tiaki which Williams dictionary translates as 'guard, keep, watch for, wait for'. The prefix kai- denotes the doer of the action and on Williams translations should give 'guardian, keeper, someone who watches for or waits for'. Kaitiakitanga is the derived noun from kaitiaki and therefore should translate as 'guardianship' or something similar.

The interpretation of kaitiakitanga provided in the Resource Management Act 1991 is

<sup>&</sup>lt;sup>7</sup> See Mutu 1992(a):60 footnote 5.

Kaitiakitanga means the exercise of guardianship; and in relation to a resource, includes the ethic of stewardship based on the nature of the resource itself. (section 2)

By 1997 the inadequacy of this definition had been acknowledged and the interpretation was amended to

Kaitiakitanga means the exercise of guardianship by the tangata whenua of an area in accordance with tikanga Māori in relation to natural and physical resources; and includes the ethic of stewardship.

The understanding of kaitiakitanga held by Te Taitokerau and most other tribes involves far more than just this interpretation or the dictionary translation. Both the Rev. Māori Marsden and Ngāti Te Ata's Nganeko Minhinnick have spoken and written extensively on this issue. They, along with submissions of tangata whenua of various areas of the country made to the Board of Inquiry into the New Zealand Coastal Policy Statement in 1993-4 made references to and explained this concept in a manner consistent with the following explanation.

Kaitiakitanga is the role played by kaitiaki. Traditionally, kaitiaki are the many spiritual assistants of the gods, including the spirits of deceased ancestors, who were the spiritual minders of the elements of the natural world. All the elements of the natural world, the sky father and mother earth and their offspring, the seas, sky, forests and birds, food crops, winds, rain and storms, volcanic activity, as well as man and wars, are descended from a common ancestor, the supreme god. These elements, which are the world's natural resources, are often referred to as taonga, that is, items which are greatly treasured and respected. In Māori cultural terms, all the natural, physical elements of the world are related to each other, and each is controlled and directed by the numerous spiritual assistants of the gods.

These spiritual assistants often manifest themselves in physical forms such as fish, animals, trees or reptiles. Each kaitiaki is embued with mana. Man being descended from the gods is likewise embued with mana although that mana can be removed if it is

violated or abused. There are many forms and aspects of mana of which one is the power to sustain life.

Maoridom is very careful to preserve the many forms of mana it holds, and in particular is very careful to ensure that the mana of kaitiaki is preserved. In this respect Māori become one and the same as kaitiaki (who are, after all, their relations), becoming the minders for their relations, that is, the other physical elements of the world.

As minders, kaitiaki must ensure that the mauri or life force of their taonga are healthy and strong. This includes te hau o te kāinga, the very life essence or "winds" of home, which carry and waft the life essences eminating from both the land and the sea. Tangata whenua are warned of the onset of the depletion in the mauri of their ancestral lands when the characteristics of the hau kāinga start to change as they do with any major development. Over recent years the character of that hau for many hapū of Te Taitokerau has started to change with the advent of intense European-styled development. Tangata whenua must try to restore the hau kāinga that has been unnecessarily interfered with and prevent it from being further altered. A taonga whose life force becomes severely depleted, as is the case, for example, with the Manukau Harbour, presents a major task for the kaitiaki. In order to uphold their mana, the tangata whenua as kaitiaki must do all in their power to restore the mauri of the taonga to its original strength.

In specific terms, each whānau or hapū is kaitiaki for the area over which they hold mana whenua, that is, their ancestral lands and seas. Should they fail to carry out their kaitiakitanga duties adequately, not only will mana be removed, but harm will come to the members of the whānau and hapū.

Thus a whānau or a hapū who still hold mana in a particular area take their kaitiaki responsibilities very seriously. The penalties for not doing so can be particularly harsh. Apart from depriving the whānau or hapū of the life sustaining capacities of the land and sea, failure to carry out kaitiakitanga roles adequately also frequently involves the untimely death of members of the whānau or hapū.

Nganeko Minhinnick of Ngāti Te Ata has written extensively on kaitiakitanga and is careful to point out that only Māori can be tangata whenua, that is, those who hold or are mana whenua for a particular area. Hence only Māori can carry out the role of kaitiakitanga. That is not to say that Pākehā do not have guardianship responsibilities in respect of the country's natural resources, for they certainly do.

## Summary

In summary then we can say that the world view and values of Te Taitokerau are firmly rooted in the spiritual aspects of this world, where we and all other creations, both physical and spiritual, are embued with mana and tapu by the gods. From the spiritual world proceeds the material physical world of Te Ao Marama (The World of Light), and the spiritual (which is the higher order) interpenetrates Te Ao Marama. (Marsden 1992:134). In the physical world the genealogical relationships between people are of highest importance.

Basic concepts of mana, tapu, whanaungatanga, rangatiratanga and kaitiakitanga must be clearly understood as underlying all Māori thinking and determining tikanga Māori. It must also be appreciated that behind these concepts each hapū and iwi has its own wealth of traditions which explain and give substance to the concepts. These traditions invariably hark back to the role played by the atua (gods) in the creation and on-going maintenance of the world in both its physical and spiritual form.

# The Declaration of Independence and the Treaty of Waitangi

Moving on to the Declaration of Independence and the Treaty of Waitangi, the oral traditions of our iwi are very clear about the context in which these two documents were drawn up and signed and what they guaranteed. Their understanding is not the same as most English historians who have written on the matter, although there is an increasing literature which accurately conveys Māori understandings.

As early as 1816, according to some of our traditions, many of the rangatira of the north were becoming concerned about the lawlessness of British immigrants and their inability to have them adhere to tikanga Māori. They discussed the matter over many years, visited the King of England over the matter and asked him to send someone who could keep control over his lawless subjects. The rangatira were very clear, however, that whatever controls the British King may impose upon his subjects, the mana of the rangatira and the hapū must remain in tact, including their mana whenua – it was only the lawless British who needed to be controlled.

The British King did accede to their request and sent a British Resident. In 1835 the British Resident drew up the Declaration of Independence which declared among other things that the many hapū of Māori throughout the country each maintained their own mana and that no other system of government would be permitted to exist over their lands, territories, peoples and possessions. The English translation was inaccurate declaring that all hapū had formed a collective and that sovereignty of the country resided in the collective and would never be ceded to any other power. However, the King of England acknowledged and recognised the Declaration of Independence.

Five years later in 1840 the British drew up the Treaty of Waitangi. It

- acknowledged the Declaration of Independence through reference to the collective,
- set out the purpose for the Treaty as the need to protect Māori from the lawlessness of British subjects,
- gave the Queen of England the right to govern, that is, to make laws and keep the peace,
- guaranteed to Māori complete authority and control over all that was theirs (including themselves)
- guaranteed to Māori all the rights and privileges of British citizens.

There has been much debate over the inaccuracies in the translation of that document into English. The most serious error and the one which had the most devastating affect on Māori was to translate the word kāwanatanga (which is borrowed from the English word

'governance') as if that word was mana, using the English word sovereignty. In effect the English version claimed that Māori had done what they would never willingly and knowingly do, that is, give up their mana to someone else. Rangi Walker has noted that following the signing of the Treaty, the English settlers acted as if Māori had ceded sovereignty while Māori had acted as if they had not. It has been interesting to note that the present government has finally publicly conceded that at international law, it is the original Māori document that is authoritative where there are differences between the Māori and English versions. As a result it has been very refreshing and long overdue to see the country's largest daily newspaper, the *New Zealand Herald*, finally acknowledging and discussing not only the specific terms of the Treaty but also the fact that the Māori version is the authoritative document.

As far as our ancestors were concerned and they have passed this down to our generation and we are passing it on to our children and grandchildren, our concepts of justice as developed through our societal values and customary laws, including our mana and sovereignty, were all guaranteed and protected under these two documents. That, of course, was not the view of the British settlers, who chose instead to ignore these documents and to attempt to impose English law and English notions of justice upon Māori to the exclusion of Māori concepts of justice and Māori customary law. But for our ancestors, and for us their descendants, if those two documents were upheld and honoured in this country, then Māori would enjoy justice along with non-Māori.

Yet it was not until 1975 and the establishment of the Waitangi Tribunal that Māori protest against the injustices finally started to be listened to, albeit away from the public gaze of the streets and stolen lands of the Māori and in the much less publicly visible hearings of the Waitangi Tribunal. Then the Resource Management Act of 1991 included the very powerful section 6(e) which provides that as a matter of national importance, all persons exercising functions and powers under that Act, in relation to managing the use, development, and protection of natural and physical resources, "shall recognise and provide for... the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga." What this section

acknowledges is that as mana whenua, Māori are the ultimate human authority for all natural resources within their territories. The imposition of British law has not changed that, but the administration of that law has made the kaitiaki responsibilities of mana whenua much more difficult and burdensome to carry out. In developing a relationship between iwi authorities and local authorities in Te Taitokerau, priority must be given to relieving the extraordinarily heavy burden carried by mana whenua by ensuring that section 6(e) is fully and properly implemented.

Some courts and the Waitangi Tribunal have known for a long time that the inability to include Māori values in law was severely discriminatory against Māori. Yet it took until 1994 and the completion of the Tribunal's hearings into the Muriwhenua land claims, for the Chairman of the Tribunal, Edward Taihākurei Durie, to issue a working paper on Māori custom law. Much of what has been described in this statement was canvassed at length by kaumātua in those hearings and for the first time, a judge listened and took them seriously. It was not until 2001 that the Law Commission issued its Study Paper entitled "Māori Custom and Values in New Zealand Law". Essentially it demonstrates that Māori custom law and New Zealand law as it is presently constructed are hugely different. Waikato University has hosted a major government funded research project over the past 6 years dedicated to working out how Māori custom law and New Zealand law can work together to deliver justice to all New Zealand citizens. The project is headed by a retired Youth Court judge, Mick Brown (Ngāti Kahu, Ngapuhi).

To put this into a nutshell, Māori concepts of justice provide for the recognition and acknowledgement of mana Māori motuhake, a concept that encompasses our own sovereignty. For justice to be delivered to Māori it must be preceded by the return of all lands, seas and other resources that were wrongly acquired from Māori and the formal acknowledgement and recognition of Māori societal structures, values and customs including our own forms of government. And then, in terms of Article III of the Treaty of Waitangi, each and every whānau, hapū and iwi is entitled to all the rights and privileges afforded to non-Māori New Zealanders. That includes full housing, local government services and representation at all levels of government. British immigrants to New Zealand

have enjoyed these privileges and conditions for over 163 years. Māori simply want to catch up. It is the responsibility of each iwi authority in Te Taitokerau to actively pursue such justice for each and every one of the whānau, hapū and marae.

# Where to for the relationship between iwi authorities of Te Taitokerau and local authorities of Northland

The relationship between iwi authorities of Te Taitokerau and local authorities of Northland is one between two very different types of authorities. Iwi authorities represent the ultimate human authorities for the well being of all our natural resources, that is, the mana whenua. Those who are mana whenua are also the ultimate owners of the land, and where use rights have not been given over to others, such as in the foreshore and seabed, rivers and lakes, mana whenua are also the legitimate owners. Within the society and structures that mana whenua operates, mana, authority and control, is completely decentralised, with ultimate authority lying with the whānau and hapū who are mana whenua. Iwi authorities, then, must refer all decision-making back to mana whenua who, in turn, will direct iwi authorities in respect of those decisions, or act upon them themselves if they so choose.

Local authorities, on the other hand, operate within a completely centralised society where authority to act is delegated from the Sovereign through Parliament. The nature of that authority is spelt out in legislation and local authorities have decision-making powers which are defined by that legislation.

Where these two different types of authorities interact, they can only do so successfully if both types of authority fully recognised and understand the distinct but overlapping responsibilities and functions each one has. In practice this means that where, for example, mana whenua reach a decision on the use of a particular natural resource of theirs, the local authority is obliged, in terms of the Resource Management Act, to uphold that decision, or at the very least, reach agreement with mana whenua, through their iwi authority if they so wish, on that use.

It will require considerable expertise, patience and understanding to ensure that such a relationship between iwi authorities and local authorities will grow successfully. For local authorities this will require properly mandated and/or qualified experts in Māori matters at all levels, from the elected body through to senior management and throughout the entire organization. For iwi authorities it will require managers and staff suitably qualified in all areas of local authority work. We have a long way to go but the success of our journey will be largely determined by how we set out along the pathway.

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## **Acts of Parliament**

Resource Management Act 1991

Tohunga Suppression Act 1907

Local Government Act 2002

Public Works Act 1981

# **GLOSSARY**

hapū group of related families

hui gatherings, discussions, meetings, usually on marae

**iwi** group of *hapū*, tribal groupings

karakia prayer, incantation

kaumātua respected elders, decision-makers for the iwi or hapū

köiwi bones, human remains

kuia respected older woman

mana power, authority, ownership, status, influence, dignity, respect,

derived from the gods

mana whenua traditional status, rights (including ownership) and responsibilities

in respect of lands and physical and natural resources within their

traditional territories, deriving from the ancestors and gods

marae local community and its meeting place and buildings

matua parent, father or uncle (including any male cousin of your mother,

father, aunts, uncles)

mokopuna grandchildren, those two or more generations below you

rangatira chief, leader, one who has ability to keep the people together

rangatiratanga chieftainship including sovereignty, rights of self-determination,

self-government, the authority and power of iwi or hapū to make

decisions and to own and control resources

take topic, issue

tamariki children, those in the generation below you

tangata whenua people of the land, those who hold mana whenua in an area, Māori

people

taonga valued resources, assets, prized possessions both material and non-

material

tapu sacredness, spiritual power or protective force

teina younger brother or male cousin of a male, younger sister or female

cousin of a female

tikanga customary correct ways of doing things, protocols

tuakana older brother or male cousin of a male, older sister or female cousin

of a female

wāhi tapu special and sacred places

wairua soul, spirit

whaea mother, aunt (including any female cousin of your father, mother,

aunts and uncles)

whakapapa genealogy, ancestry, identity to a place, hapū or iwi

whānau extended family, family group

whanaungatanga kinship, relationship through whakapapa, bonds

# Tāpiritanga I – Appendix I

# He Whakaputanga o te Rangatiratanga o Nu Tireni

A Declaration of the Paramount Authority or Sovereignty in Respect of New Zealand

In this Appendix, the Maori text is that read out to, discussed and signed by the rangatira of the hapu. The English text is a literal translation provided by Professor Margaret Mutu.

- 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 28 o Okatapa 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 wakaritea 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 pu te rongo kia mutu te he kia tika te hokohoko a ka mea hoki ki nga tauiwi o runga kia wakarerea te wawai kia mahara ai ki te

- 1. We, the paramount leaders of the iwi of New Zealand north of Hauraki met at Waitangi in the North on 28 October 1835 and declared the paramount authority over our lands and said we would declare a state of peace to be called the Gathering/Confederation of the Tribal Groups of New Zealand.
- 2. The kingly authority and ultimate power, authority and control of the lands of the Confederation of New Zealand is declared here to lie only with the paramount leaders at our meeting and we also declare that we will never give over lawmaking power to any other persons or any other governing body to have any say over the lands of the Confederation. The only people who we have said are authorised to set down our laws we have spoken of at our meeting.
- 3. We the paramount leaders say here that we will meet at the council at Waitangi in the autumn of each year to set down laws so that judgement will be correct, that peace will prevail, that wrongdoing will end, that trading will be conducted properly and correctly, and we also say to the iwi of strangers of the south to abandon fighting so that they can give

<sup>&</sup>lt;sup>1</sup> This translation was discussed with and approved by a number of Taitokerau kuia and kaumātua. See Mutu, Margaret, 2004, "The Humpty Dumpty Principle at Work: The Role of Mistranslation in the British Settlement of Aotearoa. "He Whakaputanga o te Rangatiratanga o Nu Tireni" and "The Declaration of Independence" in Sabine Fenton (ed), For Better or for Worse: Translation as a Tool for Change in the Pacific. Manchester, St Jerome, pp.11–36.

- 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 kawe 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 wakaetia katoatia e matou i tenei ra i te 28 o Oketopa 1835 ki te aroaro o te Reireneti o te Kingi o Ingarani.

Paerata

Auroa

Hare Hongi

Hemi Kepa Tupe

Ware Poaka

Waikato

Titore

Moka

Warerahi

Rewa

Wai

Reweti Atuahaere

Awa

Wiremu Teti Taunui

Te nana .

Ρi

Kaua

Tareha

Kawiti

Pumuka

Kekeao

Te Kamara

Pomare

Wiwia

Te Tao

Marupo

Kopiu

Warau

Ngere

Moetara

- thought to saving our lands and so that they can join the Confederation of New Zealand.
- 4. We have said that a document/letter is to be written to the King of England concerning the compilation of this declaration of ours to convey our warm acknowledgement that he has agreed with the flag for us. And because we look after and protect the Europeans living ashore here who come here to trade, so therefore do we say to the King that he remain as a mentor to us in our 'childhood' [that is, as we are learning their ways], lest our paramount authority be denied. We have all agreed on this day, the 28th of October 1835 in the presence of the King of England's Resident.

Hiamoe Pukututu

Te Peka

Eruera Pare

te kaituhituhi

Hone Wiremu Heke

**English Witnesses** 

Henry Williams

James Clendon

George Clarke

Gilbert Mair

Ko matou ko nga Rangatira ahakoa kihai i tae ki te huihuinga nei no to nuinga o te waipuke no te aha ranei - ka wakaae katoa ki te waka mutunga Rangatiratanga o Nu Tireni a ka uru ki roto ki te whakaminenga.

We the chiefs, even though we did not reach this meeting because there were so much flooding or for whatsoever reason, all agree to the final paramount authority of New Zealand and enter into the Confederation.

Nene

Huhu

Тоца

Panakareao

) English writing

1836

13 January

Kiwi Kiwi

9 February

Tirerau

29 March

Hamiora Pita - Matangi

Tawai Mete Patuone No te Popoto No te Mahurehure

No Ngati Moe No te Ngati Rangi

1837

25 June

Parore

Kahu

Te Morenga

No te Ngati Apa

No Ngati Tautahi

12 July

No Te Rarawa

1838

Mahia

Jany 16 Sept<sup>r</sup> 24 Taonui

Papahia

No te Popoto

No Te Hapouri

Hapuku

No te Rarawa

25

No te Watu apiti (Hawkes Bay) Na ko Ngati Mahuta - ko Kakawai he kai tuhituhi

1839

July 22

Ko te Werowero

A declaration of Independence of Native Chiefs of New Zealand made in 1835 in the British Resident in New Zealand.

# Tāpiritanga II – Appendix II

# Te Tiriti o Waitangi

The Treaty of Waitangi

In this Appendix the Māori text is that read out, discussed and signed at Waitangi and at numerous other places around the country. The English text is a literal translation provided by Professor Margaret Mutu.<sup>1</sup>

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 Atanoho hoki kua wakaaro ra he mea tika kia tukua mai tetahi Rangatira hei kai wakarite ki nga Tangata Maori o Nu Tirani – kia wakaaetia e nga Rangatira Maori te Kawanatanga o te Kuini ki nga wāhi katoa o te Wenua nei me nga Motu - na te mea hoki he tokomaha ke nga tangata o tona Iwi Kua noho ki tēnei wenua, a e haere mai nei.

Na ko te Kuini e hiahia ana kia wakarite 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 Hopihona he Kapitana i te Roiara Nawi hei Kawana mo ngā wahi katoa o Nu Tirani e tukua aianei, amua atu ki te Kuini e mea atu ana ia ki nga Rangatira o te wakaminenga o Now, Victoria, the Queen of England in her well-meaning thoughts for the heads of the tribal groupings and the tribal groupings of New Zealand, and out of her desire also to recognise their paramount authority and their lands, and so as to maintain peace with them and peaceful habitation also, has thought that it is a right thing to send a head of a tribal grouping as an arranger with the Māori people of New Zealand – so that the 'governance' of the Queen to all places of this land and the islands will be agreed by the heads of the tribal groupings of the Māori because indeed of the many of her people who are already living on this land, and are coming.

Now the Queen desires to arrange the 'governance' so that no evil will come to Māori, and to European living in a state of lawlessness.

So the Queen is agreeable to send me, Wiremu Hopihana, a Captain in the Royal Navy to be governor for all parts of New Zealand (both those) being allocated now and in the future to the Queen and says to the leaders of the tribal groupings of the

<sup>&</sup>lt;sup>1</sup> The translation provided here was approved as accurate by the kuia and kaumātua of Ngāti Kahu and by Professor Sir Hugh Kāwharu, Ngāti Whātua, whose own draft translation is frequently referred to as an authoritative translation because it is quoted in the *Lands* case decision (*New Zealand Maori Council v Attorney-General* [1987] 1 NZLR 641, 663). Sir Hugh advised that he had drawn the translation up very hurriedly at the request of the Court of Appeal in the *Lands* case (personal communication, November 2000). See Mutu, Margaret, 2010, 'Constitutional Intentions: The Treaty Text' in Malcolm Mulholland and Veronica Tawhai (eds), *Weeping Waters*, Wellington, Huia, pp. 13–40. The oft-quoted English text usually referred to as The Treaty of Waitangi is not a translation of Te Tiriti (Ibid; Mikaere, Ani, 2011, *Colonising Myths: Māori Realities*. Wellington, Huia, p. 125).

<sup>&</sup>lt;sup>2</sup> 'Governance' is used here to translate 'kawanatanga' only because 'kāwanatanga' was a word created by English missionaries from the English word 'governance'. It is difficult to say how Māori would have understood kāwanatanga in 1840, other than it being the word that described the mechanism the Queen would use to control her lawless English subjects (Mutu 'Constitutional Intentions', p.22).

ngā hapu o Nu Tirani me era Rangatira atu enei ture ka kōrerotia nei.

# Ko te tuatahi

Ko nga Rangatira o te Wakaminenga me nga Rangatira katoa hoki ki hai 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 kai hoko e meatia nei e te Kuini hei kai hoko 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 ngā tangata o Ingarani.

W. Hobson Consul + Lieutenant Governor

Na ko matou ko nga Rangatira o te Wakaminenga o nga hapu o Nu Tireni 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 rau e wa tekau o to tatou Ariki.

Ko nga Rangatira o te Wakaminenga

Confederation of the tribal groupings of New Zealand and other leaders these laws spoken of here.

# The first

The heads of the tribal groupings of the Confederation and all the leaders of tribal groupings who have not entered that confederation allow the Queen of England all the 'governance' of their lands.

# The second

The Queen of England agrees and arranges for the heads of the tribal groupings, for the tribal groupings and all the people of New Zealand their paramount and ultimate power and authority over their lands, their villages and all their treasured possessions.

However, the leaders of the Confederation and all the heads will allow the Queen to trade for [the use of] those parts of land which those whose land it is consent to, and at an equivalence of price as arranged by them and by the person trading for it (the latter being) appointed by the Queen as her trading agent.

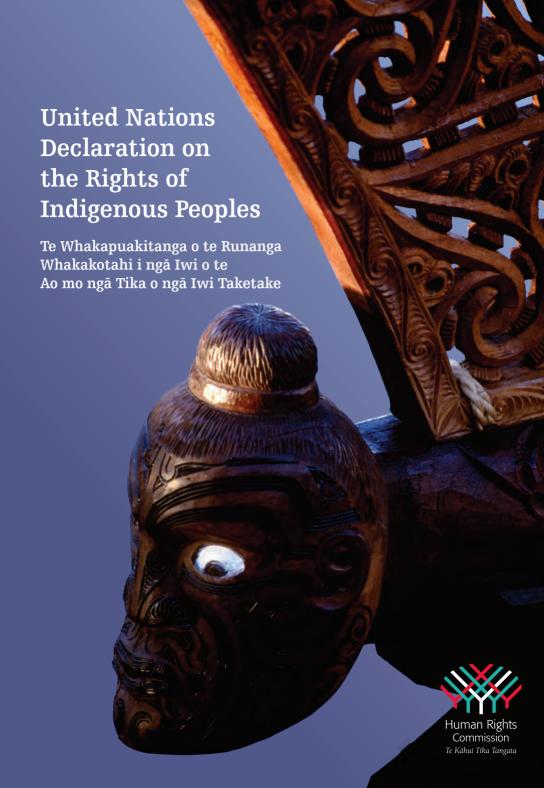
# The third

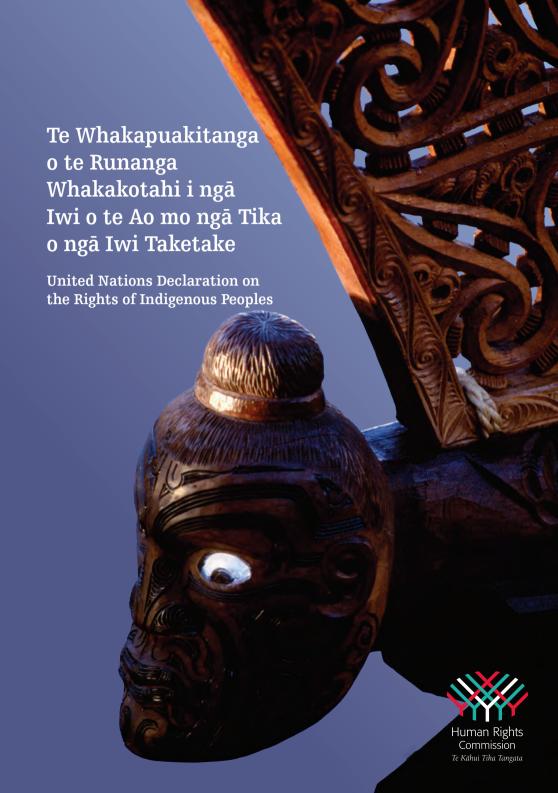
This is also the arrangement for the agreement to the 'governance' of the Queen – the Queen of England will care for all the Māori people of New Zealand and will allow them all the same laws/customs as the people of England.

W. Hobson Consul + Lieutenant Governor

We the heads of the tribal groupings of the Confederation of the tribal groupings of New Zealand who met here at Waltangi along with the heads of the tribal groupings of New Zealand see the likeness of these words, they are taken and all agreed to by us and so our names and our marks are indicated. This was done at Waltangi on the sixth day of February in the year of our Lord eighteen hundred and forty.

The leaders of the Confederation





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Waea/telephone 09 309 0874
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# Te Whanganui ā Tara – Wellington

Level 1, Vector Building, 44-52 The Terrace
PO Box 12411, Thorndon, Te Whanganui ā Tara/Wellington 6144
Waea/telephone 04 473 9981
Waea whakaahua/fax 04 471 6759

#### Ōtautahi - Christchurch

Level 2 Moeraki/Rakiura Suite, Plan B Building, 9 Baigent Way, Middleton PO Box 1578, Ōtautahi/Christchurch 8140
Waea/telephone 03 379 2015
Waea whakaahua/fax 03 353 0959

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Level 3, Zurich House, 21 Queen Street
PO Box 6751, Wellesley Street, Tāmaki Makaurau/Auckland 1141
Waea 09 309 0874
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PO Box 12411, Thorndon, Te Whanganui ā Tara/Wellington 6144
Waea 04 473 9981
Waea whakaahua/fax 04 471 6759

#### Ōtautahi - Christchurch

Level 2 Moeraki/Rakiura Suite, Plan B Building, 9 Baigent Way, Middleton PO Box 1578, Ōtautahi/Christchurch 8140
Waea 03 379 2015
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Wasa Wilakaalida/lax 03 333 0737

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# United Nations Declaration on the Rights of Indigenous Peoples<sup>1</sup>

# Preamble:

*Guided by* the purposes and principles of the Charter of the United Nations, and good faith in the fulfilment of the obligations assumed by States in accordance with the Charter;

Affirming that indigenous peoples are equal to all other peoples, while recognising the right of all peoples to be different, to consider themselves different, and to be respected as such,

Affirming also that all peoples contribute to the diversity and richness of civilizations and cultures, which constitute the common heritage of humankind,

Affirming further that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust,

Reaffirming that indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind,

Concerned that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests.

Recognizing the urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources.

Recognizing also the urgent need to respect and promote the rights of indigenous peoples affirmed in treaties, agreements and other constructive arrangements with States,

Welcoming the fact that indigenous peoples are organizing themselves for political, economic, social and cultural enhancement and in order to bring to an end all forms of discrimination and oppression wherever they occur,

<sup>1</sup> The United Nations Declaration on the Rights of Indigenous Peoples was adopted by the United Nations General Assembly on 13 September 2007.

The Human Rights Commission acknowledges the work of Bobby Newson and his team, Merimeri Penfold and Te Taurawhiri I Te Reo Maori for the text in Te Reo Maori.

Published by the New Zealand Human Rights Commission, February 2008.

Convinced that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs,

Recognizing that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment,

Emphasizing the contribution of the demilitarization of the lands and territories of indigenous peoples to peace, economic and social progress and development, understanding and friendly relations among nations and peoples of the world,

Recognizing in particular the right of indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children, consistent with the rights of the child,

Considering that the rights affirmed in treaties, agreements and other constructive arrangements between States and indigenous peoples are, in some situations, matters of international concern, interest, responsibility and character,

Considering also that treaties, agreements and other constructive arrangements, and the relationship they represent, are the basis for a strengthened partnership between indigenous peoples and States,

Acknowledging that the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights as well as the Vienna Declaration and Programme of Action, affirm the fundamental importance of the right to self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development,

Bearing in mind that nothing in this Declaration may be used to deny any peoples their right to self-determination, exercised in conformity with international law,

Convinced that the recognition of the rights of indigenous peoples in this Declaration will enhance harmonious and cooperative relations between the State and indigenous peoples, based on principles of justice, democracy, respect for human rights, non-discrimination and good faith,

Encouraging States to comply with and effectively implement all their obligations as they apply to indigenous peoples under international instruments, in particular those related to human rights, in consultation and cooperation with the peoples concerned,

*Emphasizing* that the United Nations has an important and continuing role to play in promoting and protecting the rights of indigenous peoples,

Believing that this Declaration is a further important step forward for the recognition, promotion and protection of the rights and freedoms of indigenous peoples and in the development of relevant activities of the United Nations system in this field,

Recognizing and reaffirming that indigenous individuals are entitled without discrimination to all human rights recognized in international law, and that indigenous peoples possess collective rights which are indispensable for their existence, well-being and integral development as peoples,

Recognizing also that the situation of indigenous peoples varies from region to region and from country to country and that the significance of national and regional particularities and various historical and cultural backgrounds should be taken into consideration,

Solemnly proclaims the following United Nations Declaration on the Rights of Indigenous Peoples as a standard of achievement to be pursued in a spirit of partnership and mutual respect:

Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.

## Article 2

Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.

#### Article 3

Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

# Article 4

Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

# Article 5

Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

#### Article 6

Every indigenous individual has the right to a nationality.

# Article 7

- 1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.
- Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

- 1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.
- 2. States shall provide effective mechanisms for prevention of, and redress for:
  - (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;

- (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
- (c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;
- (d) Any form of forced assimilation or integration;
- (e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.

Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.

# Article 10

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

#### Article 11

- Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.
- States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

- Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.
- States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.

- Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.
- States shall take effective measures to ensure that this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.

#### Article 14

- 1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.
- 2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.
- States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

#### Article 15

- Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information.
- States shall take effective measures, in consultation and cooperation with the
  indigenous peoples concerned, to combat prejudice and eliminate discrimination and
  to promote tolerance, understanding and good relations among indigenous peoples
  and all other segments of society.

- Indigenous peoples have the right to establish their own media in their own languages and to have access to all forms of non-indigenous media without discrimination.
- States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. States, without prejudice to ensuring full freedom of expression, should encourage privately owned media to adequately reflect indigenous cultural diversity.

- Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law.
- 2. States shall in consultation and cooperation with indigenous peoples take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment.
- Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, inter alia, employment or salary.

#### Article 18

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

# Article 19

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

#### Article 20

- Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.
- Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.

- Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.
- States shall take effective measures and, where appropriate, special measures to
  ensure continuing improvement of their economic and social conditions. Particular
  attention shall be paid to the rights and special needs of indigenous elders, women,
  youth, children and persons with disabilities.

- Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.
- States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

#### Article 23

Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

#### Article 24

- Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services.
- 2. Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.

#### Article 25

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

- Indigenous peoples have the right to the lands, territories and resources which they
  have traditionally owned, occupied or otherwise used or acquired.
- Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.
- States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

#### Article 28

- Indigenous peoples have the right to redress, by means that can include restitution
  or, when this is not possible, just, fair and equitable compensation, for the lands,
  territories and resources which they have traditionally owned or otherwise occupied
  or used, and which have been confiscated, taken, occupied, used or damaged
  without their free, prior and informed consent.
- 2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.

#### Article 29

- Indigenous peoples have the right to the conservation and protection of the
  environment and the productive capacity of their lands or territories and resources.
  States shall establish and implement assistance programmes for indigenous peoples
  for such conservation and protection, without discrimination.
- States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.
- States shall also take effective measures to ensure, as needed, that programmes
  for monitoring, maintaining and restoring the health of indigenous peoples, as
  developed and implemented by the peoples affected by such materials, are duly
  implemented.

- Military activities shall not take place in the lands or territories of indigenous peoples, unless justified by a relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned.
- States shall undertake effective consultations with the indigenous peoples concerned, through appropriate procedures and in particular through their representative institutions, prior to using their lands or territories for military activities.

- Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.
- 2. In conjunction with indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.

# Article 32

- 1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.
- States shall consult and cooperate in good faith with the indigenous peoples
  concerned through their own representative institutions in order to obtain their free
  and informed consent prior to the approval of any project affecting their lands or
  territories and other resources, particularly in connection with the development,
  utilization or exploitation of mineral, water or other resources.
- 3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

#### Article 33

- Indigenous peoples have the right to determine their own identity or membership
  in accordance with their customs and traditions. This does not impair the right of
  indigenous individuals to obtain citizenship of the States in which they live.
- 2. Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

#### Article 34

Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.

# Article 35

Indigenous peoples have the right to determine the responsibilities of individuals to their communities.

- Indigenous peoples, in particular those divided by international borders, have
  the right to maintain and develop contacts, relations and cooperation, including
  activities for spiritual, cultural, political, economic and social purposes, with their
  own members as well as other peoples across borders.
- States, in consultation and cooperation with indigenous peoples, shall take effective measures to facilitate the exercise and ensure the implementation of this right.

#### Article 37

- Indigenous peoples have the right to the recognition, observance and enforcement
  of treaties, agreements and other constructive arrangements concluded with States
  or their successors and to have States honour and respect such treaties, agreements
  and other constructive arrangements.
- Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and other constructive arrangements.

#### Article 38

States in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

# Article 39

Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.

# Article 40

Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.

#### Article 41

The organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this Declaration through the mobilization, inter alia, of financial cooperation and technical assistance. Ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established.

The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration.

#### Article 43

The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.

#### Article 44

All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals.

#### Article 45

Nothing in this Declaration may be construed as diminishing or extinguishing the rights indigenous peoples have now or may acquire in the future.

- Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations or construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States.
- 2. In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected. The exercise of the rights set forth in this Declaration shall be subject only to such limitations as are determined by law, and in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting the just and most compelling requirements of a democratic society.
- The provisions set forth in this Declaration shall be interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith.

# Te Whakapuakitanga o te Runanga Whakakotahi i ngā Iwi o te Ao mo ngā Tika o ngā Iwi Taketake¹

# Hei Tāpiri

Ko tā Te Huihuinga Whānui

# Te Whakapuakitanga ā te Runanga Whakakotahi i ngā lwi o te Ao mo ngā Tika o ngā lwi Taketake

*Nā runga i ngā ārahitanga* o ngā putake me ngā tikanga o te Kawenata ā Te Runanga Whakakotahi i ngā lwi o te Ao, me te whakapono ā ngā rohe pōtae ka tutuki pai ona nei oati katoa i raro i taua Kawenata.

*Me te āmine mai* he ōrite te mana o ngā lwi Taketake ki etahi atu lwi, kia aronui ano hoki ki te mana o enei iwi ki te noho rerekē, ki tā rātou e hiahia ana, me tautokohia.

Tera ano te āminetia ko ngā rourou ā ngā Iwi katoa ka hāpai i te whānuitanga me te hōhonutanga o te ao tangata me ona tikanga, na konei te kitea o te hononga o te ira tangata,

Tera ano te āminetia ko ngā kawa, ngā ture me ngā tikanga whakahaere e whakamanamana ana i tetahi lwi, tetahi tangata kotahi rānei na tona kāinga tipu te take, na te tae ranei o tona kiri, tona haahi, whakapapa me ona tikanga ā iwi he whakahāwea, kei te hē i raro i ngā āhuatanga pūtaiao, kei te hē i raro i te ture, he patu wairua, he hapa ā iwi hoki.

Pumau tonu ki te kõrero, ina tū motuhake nga lwi Taketake ki te whakamahi i a ratou nei tika, me noho wātea tonu ratou mai nga momo whakahāwea katoa,

Na te māharahara mea pēhia te lwi Taketake mai ngā urupatu o mua na te whakawehewehe, te urutomohia e tauiwi me te raupatuhia o a ratou whenua, rohe pōtae, a ratou nei rawa, ā na konei i tangohia ai to ratou mana ki te whakamahi i ā ratou nei tika, arā ki te whakatipu i a ratou ano i raro i o ratou ano hiahia,

E aro atu ana ki te whakanui me te hāpai i ngā tikanga tūturu a ngā lwi Taketake i ahu mai nei i a ratou hanga tōrangapu, hanga ohaoha me te whanaungatanga o ia iwi, o ratou wairuatanga, hītori me ngā poropiti, tūturu tonu te mana ki o ratou nei whenua, rohe pōtae me o ratou nei rawa,

<sup>1</sup> I te mārama o Māhuru 2007, kia whakapumautia, me te panui hoki, a, Te Whakapuakitanga o Te Runanga Whakakotahi I Ngā Iwi o Te Ao mo ngā Iwi Taketake, na Te Huihuinga Whanui.

Kei te mihi atu te mahi whakamāori, ko Bobby Newson, ko Whaea Merimeri Penfold me Te Taurawhiri i Te Reo Māori, mai Te Kahui Tika Tangata.

I tāria te mārama a Kohitātea 2008, na Te Kahui Tika Tangata.

Me te aro atu ano kia ohorere tonu te whakanui me te hāpai i ngā tikanga tūturu a ngā lwi Taketake i mokohia nei ki ngā tiriti, ngā momo kawenata me era atu momo whakaritenga i te taha o ngā Kāwana,

Me mihi ki ngā iwi Taketake e whakatikatika nei ki te whakapakari i a ratou kaupapa tōrangapu, ohaoha, me nga take ā iwi kia mutu ai ngā momo whakahāwea ahakoa pehea, ahakoa kei hea,

Tūturu tonu mā ngā lwi Taketake ano te mana whakahaere o ā ratou nei whenua, rohe pōtae me ā ratou rawa, kā āheia te whakapakari, ki te hiki ake ia ratou ano wānanga, tikanga ā lwi, kia hāngai ki o ratou ano wawata o ratou tumanako hoki,

Me matua mohio ano ma te whakanui i te mātauranga o ngā lwi Taketake e pā ana ki a ratou tikanga tūtuturu e kitea ai ngā hua pai hei tiaki, hei manaaki tika i te taiao,

Me te whakapono ano nā te hora o te marino ki ngā whenua me ngā rohe pōtae o te pakanga, ka kitea te tipu o te taha ohaoha me ngā kaupapa ā lwi, te humarie me te whanaungatanga, te mōhiotanga me te whakaaro pai i waenga i ngā lwi me ngā tāngata o te ao.

Me tino mohio rawa ki te tikanga o ngā whānau taketake me o ratou nei iwi kāinga kia mahitahi ki te whakatipu, ki te tohutohu, te ako me te poipoi i a ratou tamariki i raro i te mana o te tamaiti.

Me te aro atu ki ngā tikanga kua whakaetia i roto i nga tīriti, nga tuhinga whakarite me etahi atu kaupapa āwhina i waenga i ngā Kāwana me ngā lwi Taketake na te mea i etahi wā ko enei take he take me ona nei kūrakuraku katoa ka taka mai ki ngā whenua katoa o te ao.

Me matua mohio ano, ko te kaha hono a ngā tīriti, ngā tuhinga whakarite me etahi atu kaupapa āwhina, koia nei te puna hei whakakaha i te hononga o ngā lwi Taketake me ngā kāwanatanga,

E whakaae ana ma te tutohinga a te Runanga Whakakotahi i ngā lwi o te Ao, ma te Kawenata tāwāhi ohaoha, ā lwi, tikanga tuku iho, me te Kawenata tāwāhi tikanga tangata, tikanga torangapu, tāpiri atu ki te whakapuakitanga o Vienna me te hōtaka mahi hei whakatutuki i te tino rangatiratanga o nga tāngata katoa, ka hoatu ai mā ratou ano e tohu o ratou turanga tōrangapu, mā ratou ano hei whai, o ratau kaupapa ohaoha, kaupapa ā iwi, whakapakari tikanga hoki.

Me aro atu ano kahore he tuhinga i roto i tenei whakapuakitanga, e āhei te aukati i te tangata ahakoa ko wai, ki te whai i to ratau tino rangatiratanga e hāngai ana ki ngā ture tāwāhi.

Me mohio tuturu, mā te aro atu ki ngā tikanga ā te iwi taketake kua tāhia ki tenei whakapuakitanga ka hāpaitia te nohotahi me te mahitahi i waenga i ngā Kāwana me ngā iwi taketake, ā, ko ona putakenga o te ture, kāwanatanga ā iwi, whakanui i te tikanga tangata, whakahāwea kore me te whakaaro pai, tetahi ki tetahi.

Te tohutohu i te kāwanatanga kia hāngai tonu, kia whakamahia ngā oati e pā ana ki ngā iwi taketake i raro i ngā taputapu tāwāhi e pa ana ki te tika tangata kia kōrerotahitia i te taha o ngō tāngata nei.

*Me te whakatauki* he mahinga nui tā te Runanga Whakakotahi i ngā lwi o te Ao mo ake tonu atu ki te manaaki i ngā tika o ngā iwi taketake.

Me te whakapono o tenei whakapuakitanga te anga whakamua kia mōhiotia, kia hōpaitia, kia manākitia nga tika me te noho wātea o ngā iwi taketake me te whakamahi ano ā te Runanga Whakakotahi i ngā iwi o te Ao i ngā rauemi katoa hei tutuki i tenei take.

Me mohio tuturu, me whakatinana hoki i te mana o te tangata taketake ki nga tikanga tangata katoa i roto i ngā ture tāwāhi me te mea ano, ka whai mana ngā iwi taketake ki etahi kohinga tikanga ka āhei te whakamahi mo to ratou oranga tonutanga me te whakapakari i a ratou ano.

Me mohio tuturu ano, he āhuatanga rerekē to ngā iwi taketake mai ia rohe, mai ia whenua, na reira, me āta whakaaro tonu te mana ā rohe, me te mana ā whenua, tae noa ki ngā tikanga hītori, tikanga tuku iho, o tena iwi, o tena iwi.

Ko tenei te whakahau, e whai ake nei ko Te Whakapuakitanga o nga tika o ngā lwi Taketake na Te Runanga Whakakotahi i Ngā lwi o Te Ao, kua eke ki nga taumata tenei tutukitanga nā reira me whai i runga i te wairua kotahitanga, me te mana ōrite.

Ka āhei ngā Iwi Taketake, ahakoa takitini, takitahi ranei, ki te whakamahi i ngā tikanga tangata katoa me te noho kore here i raro i ngā ture o te tūtohinga a Te Runanga Whakakotahi I Ngā Iwi O Te Ao, Te Whakapuakitanga Tika Tangata Whānui me nga ture Tika Tangata o Tāwāhi.

# Upoko 2

Ka āhei te Iwi Taketake, ahakoa takitini, takitahi ranei ki te noho kore here, te pupuri i te mana ōrite ki etahi atu iwi, kei a ratou ano te tikanga ki te noho ārai, mai te whakahāwea, i raro i a ratou tikanga me kī, ko tera e pā ana ki to ratou whakapapa, tuākiri ranei.

# Upoko 3

Ka mau tonu i te Iwi Taketake to ratou Tino Rangatiratanga, na tera ratou, te āhei ki te whakatau kore here i to ratau tūnga tōrangapu, me te whai kore here i nga taumata ohaoha, me te whakapakari kaupapa ā iwi, taonga tuku iho hoki.

#### Upoko 4

I raro i te whakamahi ā nga iwi taketake i to ratou Tino Rangatiratanga, ka āhei ratou ki te tū motuhake, ki te hanga Kāwanatanga Motuhake, hei whakahaere i nga kaupapa i waenga i a ratou ano, me te hanga pūtea hei utu i aua whakahaere motuhake.

#### Upoko 5

Ka āhei ngā iwi taketake ki te whakatū, ki te hāpai i a ratou ano kaupapa tōrangapu, ture, ohaoha, kaupapa ā iwi, taonga tuku iho me te mea ano, ka āhei ratou ki te uru atu mena ratou e hiahia ana, ki nga kaupapa tōrangapu, ohaoha, kaupapa ā iwi, taonga tuku iho a te Kāwanatanga.

#### Upoko 6

Kei ia tangata taketake ano te mana ki te kī, he iwi tuturu tona.

# Upoko 7

- 1. Kei ia tangata taketake te mana whai oranga, oranga mana tinana, oranga mana hinengaro, te noho kore here tonu, me te haumaru tinana.
- 2. He mana-ā-roopu to nga lwi Taketake, kia noho kore here, kia noho i runga i te rangimarie, me te haumaru, ano nei he iwi Motuhake ā, me kore rawa e pā ki a ratou te kohuru, te tūkino, me te kāhaki tamariki, mai tetahi roopu ki tetahi atu.

# Upoko 8

1. Ko te tikanga, kia kaua ngā lwi Taketake, takitini, takitahi ranei, e urutomohia, ka pēhia kia huri hei tauiwi, kia kaua ano e turakihia o ratou tikanga tuku iho.

- 2. Me hanga e ngā Kāwanatanga he huarahi hei ārai atu, hei whakaea ranei:
  - a) I ngā mahi whakaiti i te mana tangata, i nga tikanga tuku iho, whakapapa hoki;
  - b) I ngā mahi raupatu whenua, rohe pōtae, taonga hoki;
  - c) I ngā mahi kāhaki tāngata e tūkino ai i a ratou, e takahi ai i o ratou tika;
  - d) I ngā mahi peehi ia ratou kia ōrite ki a tauiwi;
  - e) I ngā mahi whakapāho kino hei whakatō i te riri me te whakahāwea i te tangata, nā te tae o tona kiri te take.

Ka whai mana ngā iwi taketake takitini, takitahi ranei, ki te noho ā iwi, ā rohe ranei i raro i o ratou ano tikanga tuku iho, me kaua rawa he whakahāwea e pupū ake i te whakamahinga o taua tikanga.

# Upoko 10

Me kaua rawa ngā lwi Taketake e panaia mai i o ratou whenua, o ratou rohe pōtae, papakāinga. Me kaua ratou e nekehia ki waahi kē mehemea kāhore ratou i whai wā ki te whiriwhiri, ki te whakae ranei ki tetahi whakaetanga tōtika, mena ka taea, me rapua he huarahi e āhei ai ratou te hoki mai ano ki te papakāinga.

#### Upoko 11

- 1. Me āhei nga Iwi Taketake ki te whakamahi ki te whakaora i o ratou tikanga tūturu me a ratou taonga tuku iho. Kei i a ratou te mana ki te poipoi, ki te tiaki, ki te whakapakari i ngā taonga o nehe, o inaianei, o ngā rā kei mua, pera tonu i ngā waahi tapu, ngā taonga toi, whakairo, ngā kawa, ngā mātauranga, ngā mahi ā rehia me ngā kōrero tuku iho
- Me aro te Kāwanatanga ki te hanga huarahi hei whakaea i ngā nawe, ā ko enei huarahi me hangatahi i waenga i ngā lwi Taketake, hei whakaea i te tango pokanoa i o ratou taonga tuku iho, taonga tūturu, taonga wairua hoki, me te takatakahia o ngā ture, tikanga, me ngā kawa.

- 1. He mana to te lwi Taketake ki te whakarārangi, ki te whakamahi, ki te whakapakari me te ako i a ratou tikanga wairua, whakapono, ngā āhuatanga whakahaere, ngā kawa; te mana hei poipoi, hei tiaki, te mana motuhake ki o ratou waahi tapu, te mana whakamahi i a ratou nei taonga tapu, me te mana ki te whakahoki mai i a ratou nei mokomokai, koiwi ranei ki te wā kāinga.
- 2. Me taikaha ngā Kāwanatanga ki te whakawātea i ngā huarahi e taea ai e ngā lwi Taketake ki te toro atu/ ki te whakahoki mai ranei i a ratou taonga tapu, koiwi tangata kei a tauiwi e pupuri ana, a me hoki mai i raro i te tika, i raro ano i nga huarahi i hangatahi ai i waenga i ngā lwi Taketake nei.

- Kei ngā Iwi Taketake te mana ki te whakaara ake, ki te whakamahi, te whakapakari me te whāngai ki ngā uri whakaheke, o ratou nei hitori, reo me ona tikanga, whakaaro, tuhituhi, me te mana kia mau tonu a ratou ingoa mo nga kāinga ā Iwi me ngā tāngata hoki.
- 2. Me whai huarahi tōtika ngā Kāwanatanga ki te tiaki i tenei tikanga, me te whai ano kia āta mārama ngā lwi Taketake ki ngā kaupapa tōrangapu, ki ngā whakahaerenga ā te ture, mai tetahi kaiwhakamārama, ma tetahi atu huarahi ranei.

# Upoko 14

- Kei ngā lwi Taketake ano te mana ki te whakatū me te whakahaere i a ratou huarahi whai mātauranga, o ratou kura, e ako ai i roto ano i to ratou ake reo, e hāngai ana ki a ratou tikanga tohutohu, tikanga whakaako.
- Ko nga Tāngata Whenua, me kī ra ko nga tamariki, e tika ana kia whiwhi i ngā taumata katoa o ngā momo mātauranga a ngā kura Kāwanatanga a me kaua rawa e whakahāweatia.
- 3. Ma te mahitahi a ngā Kāwanatanga me ngā Iwi Taketake, ka hangaia he huarahi e taea ai te toro atu ki ngā tohutohu mātauranga i raro i a ratou ake tikanga, i roto i o ratou ake reo, mo ngā tāngata Taketake, me ki ra mo ngā tamariki, me era atu kei waho i o ratou rohe pōtae e noho ana.

#### Upoko 15

- He tikanga kia mau tonu te mana me te motuhaketanga o ngā lwi Taketake ki o ratou ano taonga tuku iho, hitori, moemoea, wawata, a me kitea tonu i roto i ngā akoranga, i waenganui ano hoki i ngā pānui ā lwi.
- 2. Me āta mahitahi, me āta korerotahi ngā Kāwanatanga me ngā lwi Taketake, ki te whakarite he huarahi totika, hei takatakahi i te whakahāwea, hei whakamutu i ngā mahi peehi tangata, a me whakanui ke ko te ngakau mahaki, te rapunga mātauranga me te whakaaro pai tetahi ki tetahi, mai ngā moka o ngā rohe katoa.

- Me whai tika ngā Iwi Taketake ki te whakatū i o ratou ake huarahi pāpāho i roto i o ratou ake reo, a me tuwhera ano hoki ngā tatau katoa a nga kaipāpāho tauiwi ki a ratou.
- 2. Me whai huarahi totika ngā kāwanatanga kia pumau tonu ngā kaipāpāho Kāwanatanga ki te whakaatu mai i te whānuitanga o ngā tikanga taketake. Mā ngā Kāwanatanga ano e whai kia wātea te whakātu mai i ngā kaupapa, me aukati hoki te whakahāwea, me tautokohia ano ngā pāpāho motuhake ki te whakātu totika mai i te whānuitanga o ngā taonga tuku iho a ngā iwi taketake.

- 1. Ka whai mana ngā iwi taketake, takitini, takitahi ranei, ki ngā ritenga o, nga ture whai mahi o tona ake whenua, me ngā ture whai mahi o te Ao.
- 2. Me mahitahi ngā Kāwanatanga me ngā lwi Taketake, ki te whakatū ritenga whakamaru i nga tamariki o nga iwi taketake, mai i nga mahi kino whakahāwini, nga mahi e tūkino ana ia ratou, e whakararu ana i nga mahi mātauranga, a ka tau hoki te kino, ki te tinana, te wairua, te hinengaro, me te noho ano o te tangata.
- E whai tika ana te iwi taketake, ki te noho watea mai i nga mahi whakahawea i roto i nga ritenga a mahi, me etahi atu ano o nga ritenga (inter - alia) penei me nga tikanga utu mahi.

# Upoko 18

Kei te whai mana ngā lwi Taketake ki te whakauru atu ki nga huihuinga whakataunga take e pā ana kia ratou, e pā ana hoki ki o ratou tikanga. Mā ratou ano e tohu nga kaikorero mai i o ratou ake tikanga huihuinga ā iwi, me te mau tonu i nga kaupapa whakatau take i tukua iho e o ratou mātua tupuna.

# Upoko 19

Me kõrero tahi te käwanatanga me nga iwi taketake, i runga i te kaupapa o te whakapono, ki te whakatau whakaetanga, kahore nei he here, a kia mārama tonu hoki tenei ki te iwi Taketake, i mua atu i te whakatūnga ture, ritenga mahi e pā ana ki nga iwi taketake.

# Upoko 20

- E whai mana ana nga iwi taketake ki te whakatū i o ratou ake kaupapa tōrangapu, kaupapa oranga, nohonga ā iwi, me te noho pūmau i raro i o ratou tikanga oranga, me te wātea hoki ki te whai i nga tikanga a o ratou mātua tupuna hei oranga motuhake mo ratou.
- E whai mana ana nga iwi taketake kua wetewetehia mai i o ratou tikanga oranga, ki te whakatū kaupapa utu mo te whakatika i enei.

- 1. E whai mana ana ngā iwi taketake, kia kaua hoki ratou e whakahāweatia, mo te whakatu tikanga whakapai, whakakaha ake i to ratou oranga, me nga āhua nohonga ā iwi. E pā atu ana hoki enei ki nga ritenga mātauranga, ritenga whai mahi me nga ritenga akoranga mahi, ritenga whai whare nohonga mo te whanau, ritenga hauora, me nga ritenga whai penihana.
- 2. Me mahi kaupapa ngā Kāwana, kaupapa motuhake hoki mena ka hiahiatia, hei whakapai ake i ngā āhuatanga oranga nohonga ā iwi o nga Iwi Taketake. Me āta whakaritea ngā tika me ngā kaupapa oranga mo ngā kuia ngā kaumatua ngā wāhine, taiohi rangatahi, taitamariki me te hunga hauā o ngā iwi taketake o te whenua.

- Ka whakamahia tenei Whakapuakitanga, kia whai whakaaro tonu ki nga tika me nga uaratanga motuhake o nga kuia, kaumatua, wāhine, taiohi rangatahi, taitamariki me te hunga hauā o ngā iwi taketake.
- 2. Me mahi tahi te Kāwana me ngā iwi taketake,i etahi kaupapa, whakamaru, mo te tiaki i nga wāhine me nga taitamariki, mai i ngā mahi tūkino mahi patu me nga mahi whakahāwea hoki.

# Upoko 23

E whai mana ana ngā iwi taketake ki te whakatū kaupapa oranga mo ratou ano. Kei te iwi taketake tonu te mana ki te whakatū kaupapa hauora, kaupapa whare noho mo te whānau, me etahi atu kaupapa oranga whainga rawa, oranga ā iwi, me te whakamahi i enei kaupapa mai i o ratou roopu whakahaere, i raro hoki i o ratou ake tikanga.

# Upoko 24

- 1. E whai mana ana ngā lwi taketake ki o ratou rongoa, me ngā kaupapa mahi hauora i raro ano i o ratou tikanga, me ngā mahi tiaki hoki i o ratou, rākau rongoa, kararehe rongoa, me ngā taonga ōpapa. Kei te whai mana me te wātea tonu hoki ratou, ki te kōkiri i ngā rātonga hauora, a kia kaua hoki ratou e whakahāweatia mo tenei.
- Kei te hunga taketake te mana örite ki te whai i ngā kaupapa hauora ā tinana, hauora ā hinengaro hoki. Me āta whakatūria e te Kāwanatanga he ritenga hei whakarangatira i tenei.

# Upoko 25

E whai mana ana ngā lwi Taketake ki te pupuri, ki te whakakaha i te hononga wairua, te whanaungatanga ki o ratou whenua tuku iho, whenua noho, me ngā whenua kei te whakamahia, nga wai, nga awawa, te takutai moana me o ratou taonga katoa, kei roto i o ratou rohe potae, me te tiaki hoki i enei taonga katoa mo nga uri kei te heke mai.

- E whai mana ana ngā lwi Taketake ki ngā whenua ngā rohe pōtae, ngā rauemi, i tukua iho kia ratou, ā me nga whenua kei te whakamahia nei e ratou.
- E whai mana ana ngā lwi taketake ki te pupuri ki te whakamahi me te whakatū ritenga mo ngā whenua, ngā rohe pōtae, me ngā rauemi tuku iho, ā me nga whenua hoki kua riro mai nei i a ratou.
- Me whakatūria e te Kāwanatanga he ture kaitiaki mo enei whenua, rohe pōtae me ngā rauemi o ngā iwi taketake. Me whakatūria hoki enei ture i raro ano i ngā tikanga o ngā iwi taketake.

Me mahi tahi te Kāwanatanga me ngā lwi Taketake ki te whakatū kaupapa, e mārama ana, e pai ana ki te katoa, me te aro atu ki ngā tikanga o ngā lwi taketake. He kaupapa enei hei whakatau i nga take e pā ana ki nga tika o ngā lwi Taketake ara nga tika ki o ratou whenua, o ratou rohe potae, me o ratou taonga katoa.

# Upoko 28

- E whai mana ana ngā Iwi Taketake, ki nga tikanga whakawā, tikanga utu, mō ō ratou whenua, ō ratou rohe potae me ō ratou taonga rauemi tuku iho. Ko enei nga whenua me nga rauemi tuku iho, kua raupatuhia, tāhaetia, kahore hoki ratou i mārama no hea kē tenei āhuatanga.
- Ko nga kaupapa utu, kia tau i te tuatahi ma te tangata whenua ano e whakae, ko te riro whenua me whakahoki whenua mai, he whenua ke ano ranei te utu, me te pera ano nga whakatau mo nga rohe potae me nga taonga rauemi, kia orite tonu te utu whakatau.

# Upoko 29

- E whai mana ana ngā lwi Taketake ki te tiaki, ki te whakatū tikanga whakamaru i te taiao me te tiaki i nga ritenga oranga mo te whenua, mo nga rohe potae, me ngā rauemi. Me whakatūria e te Kāwana etahi kaupapa hei āwhina i te lwi Taketake mo nga mahi tiaki manaaki hoki i te taiao, kia kaua hoki enei kaupapa e tū whakahāwea ki te iwi taketake.
- Me whai tikanga tonu te Kāwana ki te whakatū kaupapa kia kore nga paru kino, morearea e puritia e whiua ki runga ki te whenua, ki nga rohe potae o ngā lwi Taketake.
- Me whakatū kaupapa ano hoki ngā Kāwana mo te āta tirotiro, me te whakapai, whakatika i te hauora o ngā lwi Taketake i pāngia i te mate nā enei taonga morearea, paru kino kua whiua nei ki runga ki o ratou whenua ki o ratou rohe potae hoki.

#### Upoko 30

- Kaua e whakatūria he mahi tauā, mahi pakanga, ki runga ki ngā whenua o ngā lwi Taketake, ki roto ranei i o ratou rohe potae, engari ka aukatihia tenei mehemea he tono, na te iwi whānui, he painga hoki mo te katoa, na te whakae ranei o te lwi Taketake.
- Me korero tahi te Kawana me nga lwi Taketake, mai ano i o ratou tikanga huihuinga i mua atu i te whakamahinga o etahi kaupapa pakanga, taua, mahi hoia ranei ki runga ki o ratou whenua, i roto ranei i o ratou rohe potae.

# Upoko 31

 E whai mana ana ngā Iwi Taketake ki te pupuri me te whakakaha tonu, ki te mau i te mana whakahaere, ki te tiaki me te whakapakari i o ratou ake tikanga tuku iho o nga matua tupuna, ara o ratou tikanga mātauranga me o ratou tikanga whakapuakitanga me te whakahaere ano i o ratou ake tikanga putaiao, tikanga hangarau, ngā rauemi ira tangata, kākano, rongoa ā me te mātauranga ki nga taonga o te wao nui a Tane, ki nga korero tuku iho, nga pukapuka papatupu, nga mahi toi whakaari, nga mahi tākaro tuku iho me nga mahi toi, toi ā tinana hoki.

E whai mana ana hoki nga Iwi Taketake ki te pupuri me te mau i te mana whakahaere, ki te tiaki me te whakapakari i o ratou mātauranga ki nga tikanga tuku iho, ki nga tikanga o nga mātua tupuna me te mana ki te whakapuaki hoki i enei.

2. Kia mahi te Kāwana ki te whakatū ritenga ki te tiaki i te mana o nga lwi Taketake.

# Upoko 32

- E whai mana ana nga lwi Taketake ki te whakatau me te whakamahi tikanga whakanui, me nga tikanga whakatakoto kaupapa, mo te mahi i o ratou whenua, o ratou rohe potae me era atu rauemi tuku iho.
- 2. Me kõrero tahi te Kāwana me ngā Iwi Taketake, kanohi ki te kanohi, mai ano i o ratou whakaminenga, ki te whai whakaetanga, kahore nei he here i mua atu i te taunga o etahi kaupapa mahi, e pā ana ki o ratou whenua o ratou rohe potae, me o ratou taonga rauemi hoki arā nga kaupapa mahi whakahāwini nga ōpapa, nga wai, me era atu taonga rauemi.

#### Upoko 33

- E whai mana ana ngā lwi Taketake ki te whakatau i o ratou ake turangawaewae, te mematanga ranei i raro i o ratou tikanga tuku iho. Kāhore hoki tenei e aukati ana i te mana o nga lwi Taketake, ki te whai i te tangata whenuatanga o whenua kē atu e noho nei ratou.
- 2. Kei te lwi Taketake hoki te tika ki te whakatau tūranga ki te kōwhiri hoki i nga mema o to ratou whakaminenga i raro ano i o ratou tikanga.

#### Upoko 34

E whai mana ana ngā lwi Taketake ki te whakanui te whakatū i o ratou kaupapa whakaminenga me o ratou ake tikanga motuhake, te wairuatanga, nga tikanga tuku iho, nga ritenga whakahaere me nga mahi whakawā tikanga whakawa ranei I raro ano I te mana o nga Tika Tangata o te Ao.

#### Upoko 35

E whai mana ana nga lwi Taketake ki te whakarite i nga kawenga tikanga hāpori.

#### Upoko 36

 E whai mana ana ngā lwi Taketake, arā ratou kei te noho wehewehe i nga rohe, ki te mau me te whakanui i ngā mahi, whanaungatanga me ngā ritenga mahi tahi,

- nga tikanga taha wairua, taha tikanga tangata, torangapū, taha oranga tangata, i waenganui ano i a ratou, me nga lwi katoa e tau mai ana ki te rohe.
- 2. Kia mahi tahi te Kāwana me ngā lwi Taketake ki te whakatu ritenga ki te tiaki i enei tika o nga lwi Taketake.

- E whai mana ana ngā lwi Taketake ki te tū Rangatira, ki te mahi tikanga, me te whakaū Tiriti, whakaetanga me era atu honohonotanga kua whakaritea me te Kāwana, ki o ratou nei uri hoki, ā me te whakahau kia whakahonoretia kia whakanuia e ngā Kāwana enei Tiriti, whakaetanga me era atu ritenga katoa.
- Kāhore hoki he ritenga i roto i tenei Whakapuakitanga e aukati ana, e whakaiti ana ranei i nga tika, o ngā lwi Taketake i raro i nga Tiriti, nga Whakaetanga me era atu ritenga katoa.

# Upoko 38

Me mahi tahi ngā Kāwana me ngā Iwi Taketake o ngā Whenua ki te whakatū tikanga arā tikanga ture ki te whakatutuki i ngā wawata o tenei Whakapuakitanga.

# Upoko 39

He mana ano kei ngā lwi Taketake ki te whai āwhinatanga mo ngā mahi pūtea moni me nga mahi hangarau mai i nga Kāwanatanga o ngā Whenua me ngā hononga ki ngā whenua o tāwāhi kia tutuki pai ai te mana kua whakatakotohia nei i raro i tenei Whakapuakitanaga.

# Upoko 40

E whai mana ana ngā Iwi Taketake ki te whai huarahi whakatau take arā huarahi i raro i ngā kaupapa o te tika, mo te whakatau take i waenganui i nga Iwi Taketake me ngā Kāwana o te whenua, etahi atu roopu ranei, me te whai hoki i te haurahi utu mo nga takahitanga o a ratou tika arā ngā tika o te tangata me ngā tika o te hapu, Iwi hoki. Me aro atu hoki enei huarahi i raro i nga tikanga tonu o nga Iwi Taketake o ratou ake ture me o ratou ritenga tuku iho, me te haere tonu i raro i nga kaupapa o nga tika o te tangata puta noa te Ao.

# Upoko 41

Mā ngā roopu ano o te Runanga Whakakotahi i ngā lwi o te Ao e whakatū ritenga me te āpiti atu ki nga roopu kāwanatanga hoki, hei whakatutuki i ngā wawata katoa o tenei Whakapuakitanga mai i ngā mahi whakahaere, mahi pūtea rawa, me te hangarau hoki. Me whakaritea ano he ritenga hei whakauru mai i ngā lwi Taketake.

Ko te Runanga Whakakotahi i ngā lwi o te Ao, me te Taumata Runanga mo ngā lwi Taketake (ara Permanent Forum on Indigenous Peoples) me ngā roopu motuhake kua tohua mo enei mahi mai ano i ngā whenua me ngā Kāwanatanga, me whakanui i te whakamahinga o ngā wawata o tenei Whakapuakitanga me te whai i muri iho i pehea te pai te kino ranei o ngā mahi o tenei Whakapuakitanga.

# Upoko 43

Ko ngā tika kei te whakatakotohia atu i konei, ko nga tika motuhake mo te oranga, te mana me te whai i te oranga o ngā lwi Taketake.

#### Upoko 44

Ko ngā tika katoa kei te kitea i konei e õrite ana te tū mo te tāne me te wahine o ngā lwi Taketake.

### Upoko 45

Kahore he kõrero i raro i tenei Whakapuakitanga e aukati ana i ngā tika o ngā lwi Taketake arā ngā tika inaianei me nga tika kei te heke mai.

- 1. Kahore he kōrero whakamārama i roto i tenei Whakapuakitanga e mea ana he mana to te Kāwana, etahi roopu a lwi, etahi tangata ranei ki te mahi i etahi mahi ritenga e takahi ana i te Tutohinga o te Runanga Whakakotahi i ngā lwi o te Ao *Charter of the United Nations* e mea ana ranei ahakoa iti nei kei a ratou te mana mo te takahi,te whakawehewehe te katoa etahi waahi ranei o ngā Rohe Potae Mana Whenua te Rangatiratanga ranei o te Kāwanatanga o taua ake whenua.
- 2. Me whai tonu i ngā tika o te tangata, te rangatiratanga me te mana o te tangata, i roto i ngā kauapapa whakamahi i te Whakapuakitanga. Ko nga mahi katoa mo nga tika i raro i tenei Whakapuakitanga ka aro atu ki nga ritenga ā ture me ngā ture kua whakatakotohia mai e te Ao mo nga Tika o te Tangata. Kia kaua hoki enei ritenga e whakahāwea i te tangata me te whai motuhake mo te whakatū rangatiratanga me te whakanui i nga tika me te whakawātea i nga here o etahi atu, me te mau i te kaupapa o te nohonga kotahitanga.
- 3. Ko nga tikanga here kua whakatakotohia nei i roto i tenei Whakapuakitanga me aro atu ki nga kaupapa o te tika, te noho kotahitanga, te whakanui i nga Tika o te Tangata, te ōrite, te kore whakahāwea, te pono me te tika o nga mahi Kāwanatanga, me te whakapono hoki o tetahi ki tetahi.