

IN THE WAITANGI TRIBUNAL

WAI 100

IN THE MATTER OF The Treaty of
Waitangi Act 1975

AND

IN THE MATTER OF Claims by
HUHURERE
TUKUKINO and
OTHERS known
as the HAURAKI
CLAIMS

**STATEMENT OF EVIDENCE OF JAMES PONUI NICHOLLS ON
BEHALF OF NGATI MARU**

My name is Jim Nicholls. I belong to most of the Hauraki tribes by virtue of intermarriage between them but my primary affiliation is to Ngati Maru. I speak as a descendant of Marutuahu and Te Ngako today I have an MA (Hons) degree in Maori Studies from Auckland University. I teach Maori language and Maori Business Management at AIT where I work as a senior lecturer. I am Chairman of the Hauraki District Maori Council and have been since its inception in 1985.

I grew up with my grandmother and my sister in Parawai, sometimes referred to as the Kauaeranga Valley which is about one and a half miles south of

Thames on the main highway. My grandmother spoke predominantly Maori. She read the Maori bible to us under candlelight each night after our regular tablespoon of either Lanes Emulation, malt or cod liver oil. The latter was good for our bowels she said. We caught eels in a hinaki, an eel weir that was set where the offal from the local abattoirs ran into the river. We netted herrings when they were running. (Some times we dropped gelignite into the river to encourage the herrings to come to the surface) We learnt about bird snaring, spinning tops, gathering sea food and planting, cultivating and harvesting kai. We learnt to ride horses, draw a plough, a disc and a wagon, but we did not learn how to speak Maori.

3. It was a small Maori community of some eight whanau or families and in former times we would have been known as a hapu, a collection of families. We played football with the pigs bladder that came from the abattoirs where our fathers worked. We made darts out of ti tree and used flax to project these missiles through the air. We had very little contact with pakeha. When they came to our house they were usually as a doctor or a lawyer or the district nurse and we had to wash especially behind our ears and put on our best clothes. Why we had to do this I never knew. But it was part of a ritual.

4. At school I learnt about European history and the Maori wars and about how we were beaten and how the pakeha always won. Through primary school, secondary school and even university there was the constant portrayal of the happy-go-lucky Maori who could sing and play a guitar. Sadly those wonderful genes of tune and rhythm skipped my lineage. It frustrated me that nothing of my world was deemed to be valid and although my people had survived for over a thousand years before the arrival of the pakeha nothing in my school books reflected the world in which I was raised. There was no validation of the world in which I was part. I had to wait almost half a century to find answers to the dilemma of being Maori in a pakeha world. I have no doubt that many Maori have shared the same experience.

5. I could relate to Elizabeth Ramsden when she expressed her disappointment about the school curriculum.

'there was nothing in my school experience that said it was good to be Maori. There was nothing to hint of great deeds, of the heroes, the nationalists, the great woman who could be a role model for me. Instead stories of Harold in the Pakeha chronology of 1066 who may have impaled himself on an arrow'

6. I was able to make sense of Dr Graham Smith's (1990) comments that Maori fail in the school system because the environment that the school system reflects is non Maori. The school environment mirrors the Pakeha home. He attributes the success of the Kohanga Reo and Kura Kaupapa Maori to the fact that these schools reflect the homes of the Maori, that Maori are readily able to identify with.
7. What made even more sense was the concept of cultural reproduction which is about the effect schools have on shaping the minds of children and the nation. Control of the school curriculum is fundamental to controlling the minds of the people.
8. Bourdieu (1977) developed the thesis of cultural reproduction and the subtle ways in which culture works in schools to produce dominant forms of power relations. State funded schools ensured that the schools support and maintain the aims and beliefs of the State. The State has no interest in promoting a philosophy which subverts its purposes, values and ideals. The school system advances and sustains the status quo.
9. It is clear from the Educational Ordinance of 1847 the State wanted to rid schools of speaking Maori by providing support to schools that conducted classes in English.

Ramsden, 1993,p.239.

To speed up the replacement of Maori by the English language, the Inspector of Native schools urged teachers in 1905 to speak English only in the playgrounds 2

10. My father never spoke Maori to us as children but in preceding weeks before he died he spoke only Maori. He spoke of being strapped at school for not speaking Maori.
11. The issue of non-Maori speakers is peculiar to Ngati Maru. There are many people in this room from Ngati Maru who are nearing 60 who can not speak Maori. Many in this age group can understand Maori when spoken but they can not communicate fluently in Te Reo. This is not the case for our kaumatua who are in their 70's. They grew up with Te Reo even though they may not have spoken it at school.
12. Unlike other areas of Hauraki, colonisation had a significant impact on *tikanga* Maori in Ngati Maru. The first *tupapaku* that I can recall seeing was in 1949 in a house in Thames. We, as kids, filed through the front door and there she was lying in the centre of the lounge in her coffin with all the whanau around her. There was no wharenui or marae in the Thames area for a number of years. The nearest marae was in Manaia to the North (34 miles) or Paeroa to the south (20 miles) Even my father, when he died in 1972 some 23 years later, lay in state on our lounge floor. The lack of a 'wharenui' meant that the tribal interaction of debate, story telling, and tikanga which is an integrated part of Maori society was missing. This lack of a forum for Maori interaction effected significantly the attitude of Ngati Maru to their traditional tribal past. The schools in Thames where we went were Pakeha schools and Maori was not a consideration. (I was sent to St Stephens School in Bombay to learn Te Reo me nga Tikanga). Today Ngati Maru are trying to recapture those cultural templates that are now recognised as being culturally valuable to 'ones whole being'. This has not been easy as the number of people from whom this information is available are diminishing In place of depth and real

Walker, 1996:p. 5.

5 understanding, is supplanted

modifications of *tikanga* that lack a traditional base.

13. The loss of land also saw the erosion of the economic potential of Ngati Maru which relegated us in less than four generations to a state of dependency and a substandard existence. Some families in Parawai that lived on dirt floors. There was no electric power no inside toilets or hot and cold running water. Jobs were not easy to get. Many of my whanau did not or could not get work. Having a job in a irrespective of how menial that job was gave a person status.

"Blacky Abraham did not feel the need to speak Maori. He was a good sportsman and he had a job at Price's foundry in Thames. It was a menial job sweeping the floors. But he had a job. And because of this he was a king. Most of the jobs that Maori were involved in were, as they still are, of a semi skilled and unskilled nature. In rural areas there were few if any jobs for Maori"

14. Ngati Maru women found work in hotels as cleaners, but more and more began to seek careers in hospitals. They identified with the Public and Plunket nurses who became part of rural New Zealand in the 1950's.

Many Maori women were involved in nursing; first as nurse aids and then some went on to become qualified nurses. Some Maori parents frowned on their daughters working in the hospitals because they could not get used to the idea of their daughter's carrying bedpans and urine bottles.⁴

15. The attitude towards jobs for our people in the work place did not change until urbanisation occurred in the mid 1950's when the economy of New Zealand moved into planned industrialisation. This period saw the need for a large unskilled labour force, which attracted Ngati Maru Maori into the cities.

By the end of the 1950 's the Department of Labour was concerned with the evidence of unemployment and considerable underemployment among Maori in rural areas. It was argued that in order to achieve a satisfactory employment pattern, it was necessary to move from rural districts to the cities. ...

16. If Ngati Maru had retained its lands it is probable that they would have developed their own economic base. They exhibited entrepreneurial skills in the early 1840's as traders in the Auckland province. Whilst the above illustrates the impact of colonisation on cultural and economic development,

3 Personal Communication Tai Turoa , Thames 1996.

4 *ibid.*

5 Schwimmer 1968: 197-198

but it all comes back to land. We had no wharenuī because we had no land. Our communities were broken up because we had no land. Our language, our tikanga, even our whanaungatanga were damaged as a result. The alienation of land in Hauraki particularly the methods used by the Crown to acquire land was nothing short of shameful. The deception, the lies and the abuses of power, all contributed to the stealing of the land by Crown via its representatives whose responsibility should have been to protect the tino rangatiratanga of the Ngāti Maru under Article 11 of the Treaty of Waitangi. The lawyers and the historians will use the right words and in the right context to illustrate these issues but I would like to refer to specific instances that identify for me as a descendant of Marutuahu the wrong doings of the Crown.

17. Between 1840 and 1860 when the Pakeha lacked the numbers to impose their will by force, they tended to negotiate with Maori over the use and access to Maori land which was critical when it came to mining for gold. The people of Hauraki gave the Crown access to the gold but only on the basis that the land remained in the hands of our people.

"The gold should be given to the Governor but the land is to be held for our children.'... [His mother reaffirmed his position]... 'The gold only will be given up - but the land is for myself.'

18. The Crown agreed

The property of the land was to remain with the Native owners, and their villages and cultivations to be protected as much as possible.' Under clause 9, the Crown promised that 'if any other tribes of the peninsular declined this proposal, their land should not be included until they consent.'

19. However it wasn't long before the Crown became impatient and their message soon changed.

'...though of course their land was their own, [he] did not recognise their right to retain the land which they did not... cultivate and part of which

⁶ New Zealander, 27, November, 1852. cited, Anderson, p.61.

⁷ List of resident land owners , 27 November 1852, IA 1852/2701. cited in Anderson 1997, p.62.

was debatable land He stressed the right of individual tribal members over those of the wider entity absolutely to deny the right of any other entity than the occupying hapu to vote the alienation of the land

20. The changing attitude saw a shift from negotiation and conciliation, to impatient intolerance. The injustices of the Crown against Hauraki iwi generally and Ngaati Maru specifically are encapsulated in the statements made by different people concerning different events.

Concerning the Right of Pre-emption

21. The Crown decided that it would investigate land sales that occurred before the signing of the Treaty with the purpose of returning the land to the Maori owners if the sales exceeded 2,560 acres or if the sale were challenged by Maori owners. Dr S. M. Martin who had a series of letters published in London in 1845 said of the above Declaration,

' to crown the infamy of the whole concern of the surplus lands, instead of going back to the natives, the parties alleged to be injured, strangely enough [it] declares the land to be the property of the Crown. Because we are said to have stolen the natives property ... when our crime is proved, the property is taken from us, but instead of being restored from whom we stole it, it is kept by the Judge himself.

'Bribery and every species of deception was practised with the view of inducing the poor natives to part with their birthright.'

Concerning the Right to the Gold

' the Council is unanimously of the opinion that it would be inexpedient to attempt freely to enforce Her Majesty's Prerogative Rights in the case of gold found on native's land because it would be impossible to satisfy the owners of the particular land in question that such a proceeding or the part of the Government is consistent with the Treaty...

22. The Crown was concerned that Maori demands for working the gold might be exorbitant

⁸ Drummond Hay to Chief Commissioner, 4 July 1861. In Turton, Epitome, C p.338. Cited in Anderson, p.251.

⁹ Black Veronica, 1985. The Spirit of Coromandel, pp.39-40.

⁰ *ibid.* p.56.

23. *'and the gold, if left to the Maori would deny the administration a lucrative revenue source.'*

24. Grey, whilst supportive of Maori working on the fields, balked at the prospect of wealthy Maori. Condescendingly, he believed that

*'the sums of money paid to natives would be so large as to be useless to them and the money would be foolishly squandered.'*ⁿ

25. He

*'suggested that the benefits of the gold found on native land should benefit the whole of the natives not the tribal right ownership alone.'*ⁿ

26. Instead the Crown offered to pay a licence fee. One third 'shall be paid to a fund for the purposes of constructing hospitals and schools and for such like general purpose, in which the wish of the Maori race might have an interest.¹³ Wynyard, in a letter to Grey made the comments that,

*"... with the Natives, it will be necessary to make them understand any proceedings and convince them, I have their rights and their interests at heart."*¹⁴

Concerning the Confiscation

27. The Crown used the Waikato war as an excuse to confiscate large areas of Hauraki land. Although the majority of Hauraki had taken a neutral stance which they made known to the Crown,

*'the Crown had contemplated the confiscation of territory before the outbreak of fighting in June.'*¹⁵

¹ *ibid.*p.58.

² *Op cit.* p.58.

³ Wynyard dispatch rediscovery of gold, 30 October 1852, New Munster Gazette, 30 October 1852, cited, Anderson, 1997, p58

⁴ Wynyard to Grey, 25 October 1852. Despatches from Governor Grey, encl. 1 in no. 1. GBPP Australian 1852-3, vol. 16, p.166, cited in Anderson, 1997, p.55.

⁵ Memorandum for the Governor , 24 June,1863, AJHR, E-7, p.6. cited Andeson, 1997, p.92.

28. Areas of confiscation occurred at Katikati - Te Aroha, Pukerokoro and east Wairoa, Mangatangi. When Hauraki Maori took their claims to the Compensation Court, concessions were made to individuals who were loyal and friendly towards the Crown. The compensation was in the form of money. The land was not returned. No Court hearings were held for the Pukerokoro Maramarua lands. In essence the Compensation Court upheld the earlier decisions in favour of the Crown.

Concerning the Foreshore

The Crown's view concerning ownership of the foreshore changed when it became evident that there might be gold under the seabed.

S.9 was interpreted as confirming the Government's sole power to deal with the foreshore, but also as recognising 'an interest' on the part of the Maori. 16

29. When Hauraki Maori tried to assert their authority over the foreshore, the Crown drew up the Thames Sea Beach Bill, aimed at

^asserting that the Crown owned prerogative rights over lands below the high water mark and over precious metals where ever they were found.¹⁷

30. Maori objected vociferously 'stating that the Government had no rights over the mud-flats,

'... [that] our hands and our feet, our bodies, are always on our places of the sea; the fish, the mussels, and the shell fish are there Our hands are holding on even to the gold beneath. 18

31. The Hauraki tribes were adamant that they owned the coast line and the sea beds that were adjacent to them. The Crown, however did not relent, and the control of the sea-beds passed to the Crown. Judge Fenton, in the Native Land Court, instead awarded

⁶ *ibid*, p.260.

⁷ ***ibid*, p.261.**

¹⁸ Report on Thames Sea Beach Bill, AJHR, 1896,F-7, p.8. cit. in Anderson, 1997, p.261.

lease agreements but worst of all by raihana or rations. The shop keepers would give credit to identified Maori for several thousands of pounds, 'which they would never have extended if they were not sure that the Government would repay the debts.

'It seems common practice to make payments for natives in want of money, and then to cast about for some block on which such payment could be charged. '21

36. As a child I walked with my father to the different Community halls as he my uncles and others talked about the goldfields claim. I did not understand the implications of the claim nor of the Crown's role in stripping us naked of our resources and moving us within a very short time from a people on whom the Government depended to a people now dependent on the State. This sitting has been a long time coming and the people before you represent four generations of suffering.
37. It is not possible to turn the clock back. Nor is it possible to return the land that has disappeared. What we can hope for is that the Crown will recognise and accept the role that it has played in disenfranchising the people of Ngati Maru as it has done in Tainui and Ngai Tahu and allow a team of negotiators to sit at the table to work through a settlement process.

²¹ AJHR., 1880: G5 15, cited in Waikaire, 1995.

'the exclusive right of fishing ... the surface of the soil of all that portion of the foreshore or parcel of land between high water and low water mark, which was generally interpreted at the time to constituting an exclusive right to fish, only. 19

32. It was very difficult for Ngati Maru Maori to withstand this onslaught of government intervention aimed purely and solely to gain access and ownership of Maori land.
33. The critical theorists would use such terms as hegemony to show how the Crown has controlled, shaped and manipulated Hauraki Maori society to gain control of the resources. They would talk the concept of ideology which is associated with the legitimisation of social domination. It conceals the relationship between the Crown and Pakeha as a ruling class and Maori as subordinates, by hiding and distorting the true relationship between the two groups.

Ideology ... [is a] form of false contentiousness or necessary deception which some how distorts men's understanding of social reality... [Ideology] hides the true relationship between classes by explaining away the relationship of domination and subordination ...By concealing these contradictions ideology allows the dominant class to continue to appear not as a class but as the representative of the whole society. '20

34. It is not surprising that our ancestors duped into thinking that they were dealing with honorable people, whose word could be believed and that the actions of the Crown would be to serve the best interest of Maori.
35. A personal villain for me is Mackay who was a fluent speaker of Maori and acted as Native land agent and the Crown purchaser of Maori land. He manipulated the ceding of Maori land by license fees, by personal and varied

¹⁹ Op cit. Anderson

²⁰ Larrain, J. The Concept of Ideology. 1990