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‘THE PAERANGI LECTURES’
MĀORI HORIZONS 2020 AND BEYOND.

PAE MANA

WAITANGI AND THE
EVOLVING STATE

Mason Durie

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The Paerangi Lectures

Pae Mana: Waitangi and the Evolving State is the third and last of the Paerangi Lectures. It considers the position of Māori beyond 2020 and has a particular emphasis on the relevance and applicability of the Treaty of Waitangi to the future. Although economic, political and global uncertainties make it difficult to predict the years ahead, it is highly probable that Māori will be a proportionately stronger force within New Zealand, and at the same time will be exposed to greater internal competitiveness as well as competition from neighbouring states and economies. The status of the Treaty, and perhaps of greater relevance, the status of Māori will become part of a wide public debate, linked to New Zealand's own status as a democracy in the South Pacific with strong trade and diplomatic relationships with Asian economies.

In the first lecture, *Pae Matatū Sustaining the Māori Estate*, the rapid growth of the Māori asset base was seen as a positive development but one that would demand expert governance and management to ensure that future generations could enjoy the full benefits of their entitlements. Concerns about the transfer of assets from one generation to another were raised and the importance of 'future proofing' as a way of protecting the interests of future generations was explored. The major conclusion, however, was that the Māori estate will grow in both size and diversity; it will include customary resources such as land, tradable assets including real estate and shares in international companies, as well as cultural heritage typified by marae and te reo Māori.

The second lecture *Pae Ora: Māori Health Horizons* considered the broad approaches to Māori health over the past two decades and the resulting gains. But it was primarily positioned in the future and contemplated the consequences of global, local, environmental, and family determinants on Māori health. The impacts of technological innovation, demographic transitions, unexpected catastrophes and epidemics, indigenous aspirations and strengthened Māori capability were canvassed and a number of directional shifts were proposed so that the gains made in recent decades could be extended into the future. Environmental sustainability, quality social relationships, balanced lifestyles, wise leadership, and access to knowledge and technology would be important drivers of health and wellbeing and, as agents for the promotion of health, whānau could make the most significant difference to Māori health and wellbeing.

Meanwhile the third lecture explores consequences for Māori of a nation that will be more populous, more diverse and more globally connected. *Pae Mana* will address questions about the significance of the Treaty of Waitangi as a platform for forward development rather than as a vehicle for redress, and it will scope the implications for Māori if New Zealand were to become a republic.

The lecture has three main conclusions. First, the constitutional position of Māori in the future will depend as much on global forces as domestic agreements in Aotearoa. Second, the promise of the Treaty will not be realised by a schedule of property rights or legislative amendments, but by the ways in which Māori and the Crown can jointly advance New Zealand's economy and

standards of living. Third, as New Zealand's ties with the northern hemisphere weaken while its interests in Asia and the Pacific expand, notions of sovereignty will take on new meanings. The relationship of Māori with the Crown may not be the most important articulation of the constitutional position of Māori; instead alliances with other parties in New Zealand and beyond New Zealand may confer a significant level of dominion that does not depend solely on the Crown for validation.

1840 and Future Opportunities

In that respect the Treaty was an international agreement that offered the prospect of fresh opportunities for both parties. The stated intention of the British Crown was to use the Treaty to pave the way for annexation, the institution of British laws, and large-scale immigration from Britain without causing undue harm to Māori. Tribes were to benefit as much as the Crown. Lord Normanby's Instructions made it clear that colonisation in the past had wreaked havoc on indigenous peoples. Here was a chance to act with new honour by ensuring that indigenous rights would be respected, especially property rights, and individual Māori would profit from British understandings of citizenship. The principled approach inherent in the Treaty of Waitangi marked a shift in the Crown's earlier colonisation policies which had scant regard for native populations. However, the noble sentiment may also have been prompted by the earlier recognition of Māori sovereignty when the Declaration of Independence was endorsed by the British Parliament. Having acknowledged tribal leaders as the rightful sovereigns of Aotearoa in 1835, by 1840 Britain was faced with the challenge of acquiring sovereignty. The Treaty provided the necessary instrument of annexation. Regardless, it seemed that the Treaty would provide Māori and the Crown with joint resolve to embark on a journey that would take both into new territory.

It is unlikely that either Iwi or the settlers had any clear idea how their futures might be about to change. The settlers drew on their experiences in Britain though soon discovered that neither agriculture nor commerce could be conducted in exactly the same way as they had practiced at home. In order to flourish, adaptation to a different environment was necessary. Iwi also found that while the shift to a cash economy would substantially disrupt their ways of life, engagement with settlers would bring new technologies, education, and opportunities for trade on a larger scale than would have been possible in earlier years. A sense of urgency must have been keenly felt by Māori leaders as wave after wave of settlers arrived to take up land interests. Their concerns about the way the future was unfolding were soon galvanised into collective action. In 1856, at Pukawa on Lake Taupo, tribal leaders agreed on a two-part plan to curtail increasing encroachment and land alienation. The first part of the plan was to anoint a king as a symbol of collective Māori authority. The second part was to promote tribal accord. A united front would offer more effective opposition to land sales and avoid the 'divide and rule' tactics used by land purchasing agents. The Pukawa resolution was to set aside long standing Māori political divisions in favour of greater collective bargaining power with the colonial government and within the framework of the Treaty of Waitangi.

New Zealand was on the verge of a double transformation: a Māori nation within a nation was about to be born while pastoral farming was about to manifestly change the landscape. In the event, for reasons which are too complex for discussion in this paper, neither transformation planned out as well as expected. The important point, however, is not that that Māori ambitions

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were aborted or that bargaining power was to prove less effective than the rule of might, but that Iwi had recognised both opportunity and threat in the new environment. They had embarked on a process of futures planning to strengthen their position and establish a secure foothold for future generations. If the Treaty of Waitangi had been an instrument of annexation, then it was also to be a pathway to the future.

Beyond Settlements

However, after a promising start, the Treaty was soon to become a marker of the past rather than a signpost to the future. Not only was the parchment itself allowed to fall into tatters, but the promise of a joint Māori-Crown approach to transformation gave way to a one-sided declaration of colonial rule. The establishment of a Māori electorate and four Māori seats in Parliament in 1867 was overshadowed a decade later by Justice Prendergast in a Supreme Court decision that declared the Treaty to be 'a simple nullity;' it could be virtually disregarded. By the mid 1950s the Treaty of Waitangi was being recognised as a significant but essentially historic document largely irrelevant to modern times.

Māori, however, saw it differently. As land holdings dwindled and Māori decision-making became marginalised, there was growing disquiet and a groundswell of indignation. Recourse to the Courts had failed to reverse the Prendergast decision and by the 1970s a new generation was ready to take to the streets to protest land loss, loss of language, and loss of authority. The 1975 Māori land march startled most New Zealanders who had little idea how deeply embedded the sense of injustice was. In the same year, and largely due to the efforts of Matiu Rata, the Waitangi Tribunal was established.

In the Tribunal's first major publication, the 1983 *Motunui Report*, the relevance of the Treaty to contemporary New Zealand was articulated in terms that made sense to Māori, to jurists, and to local communities. Well before the emergence of a green philosophy, or warnings about global climate change, the Tribunal had highlighted the impact of industrial development on the environment, in particular on the Waitara River and the Taranaki reefs. A Treaty of Waitangi breach was levelled at the Government and, importantly, echoed by a wide section of the community. The Tribunal's findings could not be ignored with the same indifference that Prendergast had used to dismiss the Treaty itself. Claims against the Crown for historic breaches of the principles of the Treaty dating back to 1840 followed, slowly at first and then by the score. Māori energies were now spent delving into Government policies and practices in the nineteenth century.

While the claims process was eventually to bring a sense of closure if not justice for many Iwi, it was also to locate the Treaty debate in the past. A focus on the settlement of claims has tended to mask the fact that the whole purpose of the Treaty was to plan ahead. Instead for many New Zealanders the Treaty had become synonymous with past grievances and the corollary was that once settlements were concluded then the Treaty would have exhausted itself. But while an investigation into historic breaches drew on the principles of the Treaty, the claims process was more closely attuned to the delivery of justice rather than the ratification of the Treaty.

Although many settlements have yet to be concluded, most of the major historic claims have been resolved, including the central north island 'Tree Lords' claim lodged by eight Iwi. A new

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