

# Te Wiki o Te Reo Māori - 1<sup>st</sup> Week

## Page 6 – Waitangi Tribunal claim

# (MCH, 2022)

### Protecting a taonga: the Māori language claim

'The language is the core of our Māori culture and mana. Ko te reo te mauri o te mana Māori. (The language is the life force of the mana Māori.) If the language dies, as some predict, what do we have left to us? Then, I ask our own people, who are we?' The Māori Battalion veteran and Ngāpuhi leader Sir James Hēnare posed these questions in 1985 when he spoke to the Waitangi Tribunal as it heard the Māori language claim.

The claim asserted that te reo Māori (the Māori language) was a taonga (treasure) that should be nurtured. The tribunal's recommendations, released in 1986, were far-reaching. They led to legislative and policy changes that assisted in the resurgence of te reo Māori.

### Staking a claim

The Māori language claim to the Waitangi Tribunal grew out of mounting concern among Māori about the state of the language. Despite major initiatives to strengthen the language, such as the establishment of kōhanga reo (Māori-language pre-schools) in 1982, only about 50,000 fluent Māori speakers remained, most of them elderly. Action was needed, and soon. 'Ka ngaro te reo, ka ngaro tāua, pērā i te ngaro o te moa.' (If the language be lost, man will be lost, as dead as the moa.) If it was worthwhile saving endangered birds such as the takahē, was it not also worthwhile to save a language and the culture it supported, Māori asked. **This effort would not only be for Māori, as Minister of Māori Affairs Koro Wētere told Parliament in 1987, but 'for the whole nation'.**

The claimants asserted that the Treaty of Waitangi, signed between Māori chiefs and the Crown in 1840, obliged the Crown to protect te reo Māori; the Crown had failed to do this and was therefore in breach of the Treaty. The claimants asked that the Crown officially recognise te reo Māori, particularly in broadcasting, education, health and the public service.

During the tribunal hearings in 1985 many Māori spoke of the demise of the language. Some recalled being punished for speaking te reo at school. Others argued that a culture could scarcely survive, let alone flourish, without its language. Kōhanga reo had grown rapidly in number – more than 400 had been set up in just three years – but youngsters soon lost their fluency when they entered English-only primary schools.

### Speak no Māori

The tribunal noted that 'no Māori may use his language in the Courts of New Zealand if he can speak English'. This was the result of a 1979 case involving Te Ringa Mangu (Dun) Mihaka, who had appealed to the High Court and then the Court of Appeal when the District Court refused to let him address it in te reo Māori. Acting for himself, Mihaka relied on the Treaty of Waitangi. While the Court of Appeal agreed that 'the use of the Māori language in New Zealand is a matter of public importance', it ruled that the treaty had no legal bearing on the matter. The court based its decision on the English common law that applied in New Zealand from 1840.

The statute governing the use of English in the courts dated back to 1362. Māori claimants noted that it was 'ironical that over six centuries later the same statute should be invoked to protect the language of government (English) against the indigenous language of New Zealand (Māori)'.

The secretary for justice, Stanley Callaghan, acknowledged that denying Māori the right to use te reo Māori in the courts 'may give rise to such a deep-seated sense of injustice as to prejudice the standing of the courts in some Māori eyes'. The legal situation was, he concluded, 'at odds with our bicultural foundation at Waitangi in 1840'.

### One land, two languages?

The Waitangi Tribunal agreed. It found that the Treaty of Waitangi was 'directed to ensuring a place for two peoples in this country'. It questioned whether the promise embodied in the treaty could be achieved 'if there is not a recognised place for the language of one of the partners to the Treaty. In the Māori perspective, the place of the language in the life of the nation is indicative of the place of the people'.

While noting that 'no fair-minded New Zealander would deny them what they ask for', the tribunal also considered various arguments against the claim: that official recognition would be an empty gesture; that te reo could not adapt to the modern world; that it was not an international language; and that minority languages should not be imposed on the majority.

The tribunal saw te reo Māori as an adaptable language that included new words, and pointed out that minority languages had flourished elsewhere after receiving

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official recognition. Equality of status for both languages and cultures would also encourage respect for their differences.

#### Paths into the future

The tribunal released its report on the claim in 1986. It recommended five ways for the government to remedy the breaches of the treaty in relation to te reo: pass laws allowing the language to be used in courts and in dealings with local and central government; establish a statutory body to 'supervise and foster the use of the Māori language'; examine the teaching of te reo Māori and 'ensure that all children who wish to learn Māori should be able to do so'; recognise and protect te reo in broadcasting; and ensure that fluency in both Māori and English became a necessary or desirable requirement for some public service positions.

The Maori Language Act 1987 declared te reo Māori to be an official language of New Zealand and set up Te Taura Whiri i te Reo Māori (the Māori Language Commission) to promote the Māori language. The Education Amendment Act 1989 recognised and promoted kura kaupapa and whare wānanga.

The sale of some state-owned broadcasting assets from 1990 onwards led to Māori legal action and further treaty claims seeking a greater role for te reo Māori in the electronic media. As a result, there were further developments in Māori broadcasting, such as the reservation of radio frequencies for Māori. In 1993, Te Māngai Pāho was established as a Crown entity. Its primary function is to promote Māori language and culture by making funds available for radio and television broadcasting, and the production of programmes.

Changes in television have been slower. In 1996 the government piloted a Māori television service in the Auckland region. Māori broadcasters saw this as a chance to make Māori television a reality, but the channel ceased operation in early 1997. Two years later, the government approved funding and spectrum for the establishment of a nationwide Māori television channel which was eventually launched in 2004.

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