

The Treaty in brief

(Orange, C., 2012a)

Page 1 – Introduction

The Treaty of Waitangi is New Zealand's founding document. It takes its name from the place in the Bay of Islands where it was first signed, on 6 February 1840. This day is now a public holiday in New Zealand. The Treaty is an agreement, in Māori and English, that was made between the British Crown and about 540 Māori rangatira (chiefs).

Growing numbers of British migrants arrived in New Zealand in the late 1830s, and there were plans for extensive settlement. Around this time there were large-scale land transactions with Māori, unruly behaviour by some settlers and signs that the French were interested in annexing New Zealand. The British government was initially unwilling to act, but it eventually realised that annexing the country could protect Māori, regulate British subjects and secure commercial interests.

Lieutenant-Governor William Hobson had the task of securing British sovereignty over New Zealand. He relied on the advice and support of, among others, James Busby, the British Resident in New Zealand. **The Treaty was prepared in just a few days.** Missionary Henry Williams and his son Edward translated the English draft into Māori overnight on 4 February. About 500 Māori debated the document for a day and a night before it was signed on 6 February.

Hobson and others stressed the Treaty's benefits while playing down the effects of British sovereignty on rangatiratanga (chiefly authority). Reassured that their status would be strengthened, many chiefs supported the agreement. About 40 chiefs, starting with Hōne Heke, signed the Māori version of the Treaty on 6 February. By September, another 500 had signed the copies of the document that were sent around the country. Some signed while remaining uncertain; others refused or had no chance to sign. Almost all signed the Māori text. The Colonial Office in England later declared that the Treaty applied to Māori tribes whose chiefs had not signed. British sovereignty over the country was proclaimed on 21 May 1840.

The Treaty is a broad statement of principles on which the British and Māori made a political compact to found a nation state and build a government in New Zealand. The document has three articles. In the English version, Māori cede the sovereignty of New Zealand to Britain; Māori give the Crown an exclusive right to buy lands they wish to sell, and, in return, are guaranteed full rights of ownership of their lands, forests, fisheries and other possessions; and Māori are given the rights and privileges of British subjects.

The Treaty in Māori was deemed to convey the meaning of the English version, but there are important differences. Most significantly, the word 'sovereignty' was translated as 'kawanatanga' (governance). Some Māori believed they were giving up government over their lands but retaining the right to manage their own affairs. The English version guaranteed 'undisturbed possession' of all their 'properties', but the Māori version guaranteed 'tino rangatiratanga' (full authority) over 'taonga' (treasures, which may be intangible). Māori understanding was at odds with the understanding of those negotiating the Treaty for the Crown, and as Māori society valued the spoken word, explanations given at the time were probably as important as the wording of the document.

Different understandings of the Treaty have long been the subject of debate. From the 1970s especially, many Māori have called for the terms of the Treaty to be honoured. Some have protested – by marching on Parliament and by occupying land. There have been studies of the Treaty and a growing awareness of its meaning in modern New Zealand.

It is common now to refer to the intention, spirit or principles of the Treaty. The Treaty of Waitangi is not considered part of New Zealand domestic law, except where its principles are referred to in Acts of Parliament. The exclusive right to determine the meaning of the Treaty rests with the Waitangi Tribunal, a commission of inquiry created in 1975 to investigate alleged breaches of the Treaty by the Crown. More than 2000 claims have been lodged with the tribunal, and a number of major settlements have been reached.

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Story: Treaty of Waitangi

The Treaty of Waitangi, New Zealand's founding document, was meant to be a partnership between Māori and the British Crown. Although it was intended to create unity, different understandings of the treaty, and breaches of it, have caused conflict. From the 1970s the general public gradually came to know more about the treaty, and efforts to honour the treaty and its principles expanded.

Story by Claudia Orange

Main image: Signatures on the East Coast sheet of the Treaty of Waitangi

Story summary

What is the Treaty of Waitangi?

The Treaty of Waitangi was a written agreement made in 1840 between the British Crown (the monarch) and more than 500 Māori chiefs. After that, New Zealand became a colony of Britain and Māori became British subjects. However, Māori and Europeans had different understandings and expectations of the treaty.

Drafting and signing the treaty

The treaty was drafted in English and then translated into Māori by missionary Henry Williams and his son Edward. It was presented to around 500 Māori at Waitangi on 5 February 1840 and there was much debate. The next day, 6 February, more than 40 chiefs signed the treaty. Copies of the treaty were taken around the country, and many more chiefs signed. Most signed a Māori-language version.

Reasons why chiefs signed the treaty included wanting controls on sales of Māori land to Europeans, and on European settlers. They also wanted to trade with Europeans, and believed the new relationship with Britain would stop fighting between tribes.

Those who didn't sign the treaty were concerned they would lose their independence and power, and wanted to settle their own disputes. Some chiefs never had the opportunity to sign it, as it was not taken to all regions.

What did the treaty say?

The meaning of the English version was not exactly the same as the meaning of the Māori translation.

Article One: in Māori it gave Queen Victoria governance over the land, while in English it gave her sovereignty over the land, which is a stronger term.

Article Two: the Māori version guaranteed chiefs 'te tino rangatiratanga' – chieftainship over their lands, villages and treasured things. It also gave the Crown a right to deal with

Māori in buying land. The English version gave chiefs 'exclusive and undisturbed possession' of lands, forests, fisheries and other property. It also gave the Crown an *exclusive* right to deal with Māori over buying land.

Article Three: both versions gave Māori the queen's protection and the rights of British subjects.

The treaty in the 19th century

Even though not all chiefs signed the treaty, the British government decided it placed all Māori under British authority. It did not take long for conflicts to arise between Māori and European settlers who wanted more land. The government often ignored the protections the treaty was supposed to give Māori.

In 1858 some Māori tribes selected Waikato chief Te Wherowhero to become the first Māori king, with the aim of protecting Māori land. The government thought this was a direct challenge to British authority, and invaded Waikato. There were other wars between the government and Māori, and land was confiscated from several North Island tribes.

By the end of the 19th century most land was no longer in Māori ownership, and Māori had little political power. Pākehā settlement and government had expanded enormously.

Māori responses to the treaty

Many Māori doubted the government would keep its obligations under the treaty. In the late 19th century Māori held many meetings to debate treaty issues. Between 1882 and 1924 four groups of Māori travelled to England to petition the British monarch and government to ask for treaty rights to be observed. In the 1880s the King movement set up their own parliament, the Kauhanganui, and in 1892 a Kotahitanga (Māori unity) parliament was set up.

The treaty in the 20th century

In the 20th century Māori land continued to be sold, and was sometimes taken by the government for public works (as it had been from the 1860s). In the early 20th century leaders such as Apirana Ngata introduced schemes to develop Māori land and the government began to support Māori farming ventures. Some fishing rights were acknowledged by the government in the 1920s.

In 1932 the governor-general, Lord Bledisloe, and his wife gifted to the nation the house and land where the treaty had been signed in Waitangi. In 1940 the country celebrated 100 years since the treaty was signed. The occasion was intended as a demonstration of national pride and unity, but Māori were less enthusiastic as the treaty had not been honoured.

After the Second World War there were commemorations at Waitangi on 6 February each

year, and public awareness of the treaty grew. In the 1970s and 1980s protests about Māori treaty rights became more common.

The Treaty of Waitangi Act 1975 established the Waitangi Tribunal to consider claims that the government had breached the treaty, and make recommendations to the government. The principles of the treaty – a partnership between the government and Māori – began to be mentioned in other New Zealand law, and knowledge about the treaty became more widespread. However, resolution of grievances under the treaty remained an ongoing process.

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