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MĀORI ISSUES

While political tension increased for Māori during the year, there was also great sadness. Like our Tongan and Samoan relations we lost significant leaders. In August 2006 the Tainui confederation of tribes lost their arikinui (paramount chief) of forty years, Dame Te Atairangikāhu. As the hereditary leader of Tainui's Kingitanga movement, she was their queen. Tainui established the Kingitanga in the 1850s in an attempt to stop the confiscation of their territories by European immigrants. They are the only tribal confederation in New Zealand to have established a British-style monarchy, and although the Kingitanga does not include most iwi (tribal groupings), it nevertheless enjoys widespread support and respect within Maoridom. Thus despite the fact that Dame Te Ata held no constitutional position in New Zealand law, she was often referred to as "the Māori Queen." She was a strong figure in Māori politics and a staunch supporter of Māori sports and culture (Bennion 2006 [Aug], 1; [Oct], 1; *Mana*, Oct–Nov 2006).

In September 2006, Ngāti Whātua lost their paramount chief, Emeritus Professor Sir Hugh Kāwharu. He was the chair of the Ngāti Whātua o Ōrākei Māori Trust Board for more

than twenty years and was the major force behind the Ngāti Whātua Treaty of Waitangi claims to the Auckland area. His determination to break through government mean-spiritedness and intransigence in order to settle the claims saw him taking on a hugely punishing workload after he retired as professor and head of the Department of Māori Studies at the University of Auckland in 1993. He signed an agreement in principle toward settlement of those claims shortly before his death (Bennion 2006 [Oct], 2).

In April 2007, veteran Māori actor and filmmaker Don Selwyn, one of New Zealand's most outstanding television and film producers and directors, passed away. He was Ngāti Kurī, Te Aupōuri, and Ngāti Kahu of the Far North. His greatest masterpiece was *Te Tangata Whai Rawa o Wēniti: The Māori Merchant of Venice*, the film version of Shakespeare's famous play, which had been translated into Māori by Pei Te Hurinui Jones in 1945 (Māori Party 2007a).

On the political scene over the past year, the racist attitudes toward Māori that continue to dominate the New Zealand Parliament resulted in ongoing and increasing tension between Māori and the government on many issues. Māori have once again had to resort to protest actions, as the government repeatedly denied us our legal rights. This time, however, coordinated protests across the country in response to refusals to return stolen lands resulted in the government's backing down and calling a temporary truce on that particular issue. For apart from strong judicial backing, particularly from the Waitangi Tribunal, and international condemnation from the United Nations (Stavenhagen

2006), the presence of the small but very effective independent Māori voice in Parliament, the Māori Party, is ensuring that Māori issues are no longer determined solely according to the racist whim of the major parties in the House.

The area that continued to be the major source of the tension was the settlement of Treaty of Waitangi claims. British immigrants, who settled New Zealand in large numbers beginning in the 1850s, have long sought to get rid of the Treaty of Waitangi. For over a century they simply ignored the treaty, and the courts sanctioned their behavior. But in the aftermath of World War II, international agreements outlawing racial discrimination, along with highly visible and embarrassing Māori protests, forced the New Zealand government to establish the Waitangi Tribunal in 1975. The brief of the tribunal is to inquire into Māori claims of breaches of the treaty. Initially, the government of the day did not expect the tribunal to hear many claims, meet often, or cost much (Oliver 1991, 9–10). But by the 1990s the tribunal was building an extremely bleak and ever-expanding record of extensive and serious atrocities committed against Māori. In an effort to limit its liabilities in the area, the national government announced in 1994 that it wanted to settle the claims. It accepted responsibility for the atrocities and was prepared to compensate Māori—but the money set aside for the settlements would be restricted to an arbitrarily set NZ\$1 billion, and the government would avoid returning any land if it could get away with it.

Since 1994 Māori have fought against this policy, which was drawn

up unilaterally by the government with no Māori input, and is deeply racist in intent. Even in the face of ongoing and strident Māori, judicial, and international criticism, no National or Labour government has been prepared either to amend the policy or to withdraw it and start again. As more and more claimants are being bullied into accepting pitiful settlements, it is now becoming clear that the primary aim of the policy is to get Māori around the country to agree that they should extinguish rather than settle their Treaty of Waitangi claims. Furthermore, in doing so, they are also effectively agreeing to a systematic extinguishment of the Treaty of Waitangi itself.

Legislation is currently before Parliament to remove all references to the principles of the Treaty of Waitangi from all legislation, and to date this has had the support of the present coalition government. To try to minimize international backlash, the New Zealand government joined Australia, Canada, and the United States in November 2006 in opposing the adoption of the United Nations Declaration on the Rights of Indigenous Peoples. Māori have supported and worked on the declaration for twenty years.

The Treaty of Waitangi Claims Settlement policy is designed to legislatively absolve the Crown of any and all liability and responsibility for its innumerable historical breaches of the Treaty of Waitangi and the theft of more than 90 percent of the country's lands and resources from Māori. The government does this by bullying select groups of Māori, purportedly representing "large natural groupings" of many thousands of other Māori, into agreements that are legally

binding and unchallengeable. The primary aim of the agreements is to provide (1) full and legally unchallengeable removal of legal liability for all breaches of the Treaty of Waitangi, both identified and unidentified, committed in a particular geographic area prior to 1992; (2) full and legally unchallengeable acceptance by the iwi of all discriminatory legislation, including the Foreshore and Seabed Act 2004, along with all assertions of Crown authority, dominance, and sovereignty over Māori; and (3) full and legally unchallengeable acceptance that the iwi has relinquished all their sovereign rights and authority over the identified geographic area to the Crown.

In exchange for that agreement the Crown is prepared to make an apology for the breaches committed prior to 1992 (but not to stop committing further breaches) and to transfer a few acres of land. And while money is always mentioned as being part of settlements, if claimants want land returned they must use the money offered (and often borrow more as well) to buy the land from the Crown. As one would expect, the policy has caused huge divisions and strife within iwi. The Crown actively and openly fosters and exploits such divisions as it moves on relentlessly to achieve maximum implementation of its policy.

Of course, protection of Māori from all of these situations is presently guaranteed by the Treaty of Waitangi. The authoritative Māori version promises that the Crown shall have governance over its own subjects only, that Māori sovereignty is recognized and upheld, and that Māori have the rights of all British citizens. The

courts have repeatedly confirmed that the treaty is the country's founding document. Had the Crown been able to control the rapacious greed of British immigrants in the nineteenth and twentieth centuries, it would not now be faced with remedying the wrongs as well as addressing the racism that has been allowed to develop and become deeply entrenched in the Pākehā psyche. Māori have made it very clear that delaying remedies to the situation will not make it go away. And neither can legislative sleights of hand ever extinguish the Treaty of Waitangi.

Since mid-2006 the Crown has been dealing with twenty settlements. The Ngāti Mutunga Settlement Bill was enacted in November. It provides NZ\$14.9 million for Ngāti Mutunga to buy back some of the 150,000 acres the Crown had stolen from them. The land alone has an estimated monetary value of NZ\$5.19 billion (based on the NZ\$34,545 per acre paid to a Pākehā who had his land confiscated for Te Rōroa's treaty claims)—making the settlement payment equivalent to less than 0.3 percent of the value of the land stolen. The Settlement Act acknowledges that the settlement does not compensate Ngāti Mutunga for the atrocities committed against them. These include the rape, murder, and illegal incarceration of large numbers of the iwi; the government's waging war on them when they refused to give their lands to British settlers; the government's confiscating all of their lands; and many other breaches of the Treaty of Waitangi that they have suffered and continue to suffer. But the act then says that Ngāti Mutunga has foregone full compensation, as its contribution to the "development of

New Zealand,” and thus the settlement is full and final (Bennion 2007 [Feb], 6). During the House debate on the bill, the Māori Party was scathing of the government’s mean-spiritedness, referring repeatedly to the Crown as “the thief.” Party members advised Ngāti Mutunga to revisit the settlement in generations to come with a view to being properly compensated, and not to accept the “full and final” stipulation of the Crown (Māori Party 2007b).

Te Rōroa’s Claims Settlement Bill came before the House in March 2007. Te Rōroa is a hapū of Ngāti Whatua who were left virtually landless. (A hapū is a grouping of a large number of extended families.) They first complained to the Crown about breaches of the treaty one hundred sixty-five years ago, yet for several generations they have been under relentless attack from Crown officials who denied them their legal and human rights. The Waitangi Tribunal upheld all their claims in 1992, detailing countless atrocities perpetrated against them by the Crown (Waitangi Tribunal 1992). Te Rōroa has been in negotiations for more than fifteen years. The settlement is for NZ\$9.5 million to be used to buy back from the Crown a small portion of Te Rōroa’s land, now being used commercially. Extensive wāhi tapu (sacred sites) were stolen from them, and two thousand acres of these are returned in the settlement (Office of Treaty Settlements 2005).

In the House, the Māori Party protested that Te Rōroa had been subjected to “a negotiations process drafted by the Crown, and the Crown alone, based on false faith and dou-

ble-talk. It is a negotiations process that masquerades as being fair and reasonable in the circumstances but which, in fact, is anything but, and an empty insistence by the Crown that all settlements be full and final—an insistence that will haunt this Chamber long after it is cleared.” They warned that unfair settlements such as the one imposed in 2007 would be revisited by future generations. They also noted that considerably less land than what the Waitangi Tribunal had recommended was being returned to Te Rōroa. They informed the House “that an apology and a return of less than 3 percent of the claim value pepper-potted throughout the tribal homeland of Te Rōroa will simply not suffice” (Bennion 2007 [March], 6, 7).

In June 2006, Ngāti Whātua ki Ōrākei hapū signed an agreement in principle to settle their claims to the Auckland isthmus. It agreed to vest three volcanic cones and land around Pūrewa Creek in the hapū, but the lands are to be managed jointly by the hapū and the Auckland City Council with the council controlling the funds. The settlement is for NZ\$8 million, to be used as partial payment for up to NZ\$80 million of Ministry of Defence lands at Devonport—which they can buy from the Crown, provided they lease them back to the Crown and the Crown pays no rent for thirty years (Bennion 2006 [June], 8). The agreement came under serious threat when six other hapū with claims over the same area took the matter to the Waitangi Tribunal for an urgent hearing to prevent their claims being extinguished by such a settlement. The hearings took place in March 2007. The Office of Treaty Settlements,

which manages negotiations for the Crown, came under severe criticism from the tribunal when it was revealed that, in addition to wrongfully treating claimants and fomenting divisions among the iwi of Auckland, they had withheld crucial evidence from the tribunal during the inquiry and misled the tribunal (Waitangi Tribunal 2007, 101).

In September 2006, the Te Arawa Lakes Settlement Bill was enacted. The lakes in the central North Island include Lake Rotorua and have been severely polluted by farm runoff and sewage disposal. The NZ\$10 million settlement returns the lakebeds to Te Arawa, leaving them to consider a cleanup that is estimated to cost NZ\$200 million, even though Te Arawa is specifically not liable for the pollution. The settlement extends Crown theft of Māori assets in that it claims ownership not only of the water in the lakes but also the air-space above them. (The term “Crown stratum” is currently being used to describe the redefined space above the lakebed.) In the House during the debate on this bill, the Māori Party tabled a report on Māori experiences of the Treaty of Waitangi Settlement negotiations that demonstrates strong and universal condemnation of the process by claimants. Once again the Māori Party warned that these settlements cannot be full and final and will be revisited.

Attempts by the government to force a settlement of a portion of the huge central North Island forestry claims relating to the Kaingaroa forest and other lands around Rotorua triggered a series of court actions. Of direct relevance to these claims is the

Crown Forestry Rental Trust, which was set up in 1990 to hold forestry rental money in trust pending successful claims to forestry lands. The trust now holds well over NZ\$400 million, of which almost NZ\$190 million is for the Kaingaroa forest. On top of that the Crown Forest Assets Act 1989 provides for the transfer of Crown forest land, plus compensation to Māori once their claims to the land have been upheld by the Waitangi Tribunal. Claims to the central North Island, including the Kaingaroa forest, have been before the tribunal for some time and the tribunal issued its report upholding the claims in June 2007.

In a truly staggering example of arrogance and deceit the Crown managed to persuade part of the Te Arawa confederation of iwi, who are one of a very large number of claimants to the Kaingaroa forest, to settle Te Arawa's historical claims by giving over to the Crown NZ\$40.985 million in forestry rentals set aside for the Māori owners of the lands. In addition, the Crown persuaded them to use the remainder of their rental money plus another NZ\$8 million (which they have to borrow from elsewhere) to buy from the Crown the land that is rightfully theirs under the Crown Forest Assets Act 1989. The Crown stands to make a NZ\$90 million profit if they pass legislation to settle the claims along these lines. It will be able to do so after having convinced the claimants to enter into an agreement that allows the Crown to become a beneficiary of the Crown Forestry Rental Trust (at present only those with successful claims to the land can be beneficiaries of the trust). The claimants also have to agree to the Crown's selling the land

in question to Māori (land that the tribunal is likely to find belongs to the claimants and other Māori anyway). The Federation of Māori Authorities and the New Zealand Māori Council are currently pursuing the matter through the courts. The Waitangi Tribunal has issued a strongly worded report saying that it cannot endorse the settlement and that it has grave concerns over the potential negative impacts on the interests of other iwi with claims on the same land.

However, in the Far North, one iwi, Ngāti Kahu, took a very different approach. They withdrew from negotiations after the Crown started to sell off part of Ngāti Kahu's Rangiputa block, currently being used by the government's farming enterprise, Landcorp. In 1997, the tribunal had indicated that it would make binding recommendations in order to return Rangiputa to Ngāti Kahu if negotiations with the government failed. Since 1997, successive governments have threatened Ngāti Kahu that if they do seek binding recommendations under the State Owned Enterprises Act 1986, the government will repeal the act. Once negotiations with the Crown had ceased, Ngāti Kahu moved on to the land, repossessing it. Their stance started a chain reaction as other iwi, whose lands were also being sold by Landcorp, took similar action. A protest march in the Far North town of Kaitiāia in support of the repossession was the biggest the town has ever seen. In the House the Māori Party relentlessly pursued the government over the issue, calling on all iwi to follow suit and repossess their lands. After two weeks the government backed down and temporarily withdrew the lands

from sale. Each of the iwi concerned is now pursuing binding recommendations through the Waitangi Tribunal, a mechanism that allows the tribunal to order the Crown to return State Owned Enterprise land, Crown Forest lands, and certain other Crown lands to their Māori owners.

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RAPA NUI

The year under review marked the beginning of great political change on Rapa Nui. In a long process initiated by the Chilean president, a draft bill for an organic law providing a special political status for the island was elaborated, while the Chilean constitution was finally amended to create the administrative category of a special territory. On the local political land-

scape, there was a shift away from the local elite at the election for the local Development Commission, with two opposition and pro-independence candidates receiving the highest numbers of votes.

The period under review started with the loss of one of the most important political figures of the island's recent history. In mid-August 2006, veteran opposition and pro-independence leader Juan Chávez passed away at age eighty-two (Rapa Nui resident Stephanie Pauly, pers comm, 13 March 2007). One of the cofounders of the Rapanui Council of Elders in the 1980s, Chávez had led various initiatives of resistance against the Chilean government, and since 2001 he had been the president of the pro-independence Rapanui Parliament. He was also renowned as one of the island's most culturally knowledgeable koro (elders). At the time of this writing, no successor has been named to head the Rapanui Parliament, but within the months following Chávez's death, the pro-independence forces consolidated themselves once more under its umbrella.

At the same time, the controversy about a planned casino on the island was resolved in September 2006, when the Chilean authorities once again refused to grant permission, thus stopping the project indefinitely. The reason for the refusal was the incompatibility of the juridical status of the island with Chilean gambling legislation. Also the nonexistence of income taxes on the island would have made it impossible for the Chilean fiscal authorities to track the earnings of the casino (*Noticias de Rapa Nui*, Sept 2006). The casino project,