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Māori Issues

Over the past year we lost a number of leaders who spent their lives fighting for justice for Māori. In September 2015, Lady Emily Latimer of Whakatōhea passed away. She was a staunch supporter of Māori in her work with the Māori Women's Welfare League and Māori Wardens and was a tireless supporter of her husband, Sir Graham Latimer, who died nine months after his wife in June 2016; he had chaired the New Zealand Māori Council for many years. September 2015 was a particularly sad month. Two of our best-known clay artists, Manos Nathan and Colleen Waata Urlich, passed away within a fortnight of each other. Of Te Rōroa, Ngāpuhi, and Ngāti Whātua, Manos had an extensive background in woodcarving and sculpture, having carved the meeting house of his Matatina Marae in Waipoua Forest (Tamati-Quennell 2015). Colleen, of Te Popoto o Ngāpuhi ki Kaipara and Te Rarawa, was world renowned for her clay work, which has been exhibited throughout New Zealand and in the United States, the United Kingdom, Australia, and Canada (Tamati-Quennell 2015; Creative New Zealand 2015). Te Rarawa lost a greatly loved leader, Gloria Herbert. She was the chair of their iwi authority, served on the Waitangi Tribunal, and was well known as being caring and gentle but also very determined. Ngāreta Mete Jones of Te Rarawa was a lifelong worker for change for Māori. She was one of the founders of Kawariki, the movement that brought out a new generation of northern youth in the 1980s to protest the Crown's failure to honor Te Tiriti o Waitangi, the Māori-language treaty between Māori and the queen of England (Waatea News 2015b). Waereti Pōpata (Walters) of Te Paatu, Ngāti Kahu, was a fearless Māori rights advocate and one of the first Māori community health workers.

In November 2015, we lost Dr Bruce Gregory of Ngāti Te Ao, Te Rarawa. He was the member of Parliament (MP) for Northern Māori from 1980 until 1993. He dedicated his life to Māori health and the sovereignty of his hapū (group of extended families) (Collins 2015b). In January 2016, it was Andy Sarich of Ngāpuhi. He was dedicated to the retention of the Māori language in Te Taitokerau (the

North) and served on a wide range of community committees, councils, and the Lotteries Commission (Waatea News 2016a). In February, it was Emeritus Professor Ranginui Walker of Te Whakatōhea. He fought for almost five decades to lift the burden of colonialism and marginalization off Māori. He was one of Maoridom's most influential academic leaders and advocates for Māori rights and social justice. He used his columns in the weekly *Listener* magazine and his six books to educate New Zealanders about the history of this country and the abrogation of the human and treaty rights of Māori that continues to this day (Mutu 2016a).

Whai Ngata of Ngāti Porou left us in April 2016. He was the journalist and broadcaster who established the Māori news program *Te Karere* on TVNZ, leading a small group in the successful battle to maintain a Māori presence on national television. He was also a lexicographer who helped complete his father's English-Māori dictionary (Harawira 2016). In May, it was Mānuera Tohu of Ngāti Kahu and Te Rarawa, another lifelong advocate for the retention of the Māori language. He served on the Kōhanga Reo (Māori language immersion preschools) National Trust for many years and was a greatly esteemed orator and expert in tikanga (Māori law) and whakapapa (genealogy) and a kaumātua (respected elder) for the New Zealand Police. In June, it was Rob Cooper of Ngāti Hine. He made huge contributions to Māori health and education, with a long record on treaty education and social justice issues. Thousands of mourners traveled to pay their respects to each of these great leaders, celebrating their lives and achievements, and bidding them farewell as they joined their ancestors.

Among the women leaders who passed away, Gloria Herbert was a rare example of a chairperson of her iwi's representative body. Although women continue to play significant leadership roles in whānau (extended family), hapū, and iwi (groupings of hapū), English colonizers denied the role of women as leaders (Mikaere 2010) and trained and promoted men for roles of political leadership. Nowhere is that reflected more clearly than in the influential National Iwi Chairs Forum (Mutu 2016b, 230). Of the now 72 chairpersons of iwi who make up the forum, only 8 are women (National Iwi Chairs Forum 2016; Forum Secretariat, pers comm, 4 Aug 2016). There is a much better balance in Parliament, where 11 of the 26 MPs of Māori descent are women: 3 in the governing National Party, 3 in Labour, 2 each in the Greens and New Zealand First, and 1 in the Māori Party. Metiria Tūrei is a co-leader of the Greens; Mārama Fox a co-leader of the Māori Party (which currently has two seats in Parliament); while Paula Bennett and Hekia Parata are ministers in the National government. However, none of these MPs represent Māori, and for the two Māori women MPs who do—Nanaia Mahuta and Meka Whaitiri—their first loyalty is to their Labour Party rather than to their constituents.

In order to reclaim our mana motuhake (autonomy, power, authority, and control derived from the gods), which includes our sovereignty, and to put an end to the treaty and human

rights violations Māori continue to suffer, constitutional transformation is a necessity. Since 2010, a group of constitutional specialists, Matike Mai Aotearoa, have been drawing up models for a constitution for the country based on tikanga and the two founding documents of present-day New Zealand, He Whakaputanga o Te Rangatiratanga o Nu Tireni (the 1835 declaration of Māori sovereignty and independence) and Te Tiriti o Waitangi (Mutu 2015, 276). After extensive consultation with Māori throughout the country, Matike Mai Aotearoa published its report in February 2016 (Jackson and Mutu 2016). It sets out the very strong case for constitutional transformation that moves the country from a governance system that is defined by, controlled by, and serves the white majority to one that is inclusive of and respects all New Zealanders and recognizes that Māori can and will take back control of their lives and resources. It sets out six indicative constitutional models that have arisen from the discussions. Each provides for the "rangatiratanga sphere," that is, the sphere of influence of Māori; the "kāwanatanga sphere," the sphere of influence of the British Crown; and the "relational sphere," in which Māori and the Crown work together as equals as agreed in Te Tiriti o Waitangi (Jackson and Mutu 2016, 9).

There has been increasing acknowledgment of the need to transform New Zealand's constitutional arrangements, especially among the country's large Pacific Island, Chinese, and Indian communities, who continue to experience discrimination (United Nations General Assembly 2014). From within the Pākehā (European) community, Chief Justice Dame Sian Elias commented, "It is possible we will see increasing pluralism in New Zealand's domestic legal order in fulfillment of Treaty guarantees" (Elias 2015). Past Prime Minister Sir Geoffrey Palmer is now advocating for a written constitution, which has to recognize the Treaty of Waitangi because "it actually makes government here legitimate" (Moore 2016). A columnist in the Far North's *Northland Age* quoted extracts from the Matike Mai Aotearoa report in her column for several months (Herbert-Graves 2016), which drew a number of vitriolic and racist responses from one letter writer and letters of support from others.

Māori nevertheless continued to battle the government on many fronts. Perhaps the most sobering battle was that against homelessness. Soaring housing costs fueled by speculators and developers as well as the government's refusal to intervene have resulted in alarming numbers of families sleeping in cars because they cannot pay for housing. Many of the adults sleeping rough are employed, and most are Māori. Despite attempts to highlight the plight of these people (Harris 2015), government inaction has led to some Māori communities making their marae (traditional communal meeting places) available to families. Te Puea Marae in South Auckland was inundated with responses to its call on the public to donate food, clothing, bedding, and money (Clarke 2016a). But their persistence in helping and then finding housing for the homeless did not reflect well on the government. Staff in the minister of social housing's office retaliated by attacking the chairman

of the marae, a senior police inspector (TVNZ 2016). The minister subsequently apologized.

Māori were joined by large numbers of people in opposing the Trans-Pacific Partnership (TPP) Agreement. Despite the government's maintaining a tight veil of secrecy around negotiations between the twelve countries involved, information provided by Professor Jane Kelsey and a team of legal scholars indicated that the TPP agreement allowed international companies to override Māori rights and to sue the government if it intervened in a manner that lowered their planned profits. Key issues were the government's ceding the country's sovereignty to international companies and the threats those companies posed to natural resources, especially with respect to flora, fauna, minerals, and water; to the affordability of medicines; and to the country's Smokefree 2025 Strategy (Kelsey 2015). A complaint to the Waitangi Tribunal and huge protests throughout the country all fell on deaf ears. The government signed the TPP agreement on 4 February 2016.

The progress of Tiriti o Waitangi claims against the Crown continued to be plagued with problems. While the government flooded media outlets with press releases about progress being made in settling treaty claims, the reality in the courts and the Waitangi Tribunal, and for claimants, was very different. Ngāti Kahu of the Far North was successful in its application to the high court to quash the Waitangi Tribunal decision not to give them binding recommendations over the state-owned enterprises and Crown forestlands in their territory. The tribunal was ordered to rehear the application (Vertongen 2015; Feint 2015). The Crown has appealed that decision as well as the same decision with respect to the Mangatū Incorporation (see Mutu 2016b, 232) to the Court of Appeal, whose rulings are still awaited.

The Waitangi Tribunal received a number of applications for urgent hearings into the government's recognizing mandates to negotiate settlements. The government requirement that it deal only with "large natural groupings" is inconsistently applied and usually disenfranchises many claimant groups. It inevitably causes huge and bitter divisions within and among claimant communities as they fight over who is going to represent them. Claimants are painfully aware that they are fighting over mere crumbs that the government provides in exchange for extinguishing their claims and legal rights, but they are crumbs that impoverished communities desperately need. Despite that, the tribunal turns down almost all of these applications. It did, however, agree to urgent hearings for the Hauraki Collective with respect to the Tauranga Moana Governance Group (Coyle 2015) and for Ngātiwai with respect to the Ngātiwai Trust Board Deed of Mandate (UnRuh 2016). Those hearings have yet to take place.

The tribunal reported on its inquiry into the mandate for the largest iwi, Ngāpuhi (Mutu 2016b, 231), upholding claims that the Crown had breached the principles of the treaty by choosing to recognize the mandate of the negotiating group, Tūhoronuku. It concluded that the hapū should decide how and by whom

they are to be represented in settlement negotiations. It recommended that the Crown delay negotiations to give the hapū the opportunity to confirm whether they wished to be represented by Tūhoronuku (Jones 2015). Controversy and bitter infighting continued to beleaguer the iwi. When the chairperson of Tūhoronuku was arrested and charged and then eventually pleaded guilty to shooting and possessing a protected bird species and attempting to pervert the course of justice (*Northern Advocate* 2016), the group replaced him. They then set about working with the hapū to try to resolve their issues.

The government has worked hard to prevent the public from knowing how much claimants loathe the forced treaty claims settlements that are unilaterally designed and applied by the Crown (Sykes 2015, 34). However, one example of claimants who are prepared to stand their ground against the government and attract public attention is Ngāti Kahu of the Far North. Like others, they have refused to accept government offers to extinguish their claims. Instead of the political pathway of direct negotiations preferred by the government, they have chosen the legal route and are awaiting hearings for binding recommendations from the Waitangi Tribunal. In September 2015, several hapū of Ngāti Kahu repossessed the Kaitāia airport after the government decided to sell it to a neighboring iwi. The land had been taken under the Public Works Act during World War II. That legislation requires governments to offer the land back to those from whom it was taken, that is, the Ngāti Kahu hapū. New Zealand First's veteran politician, Winston Peters, went into battle in Parliament for Ngāti Kahu and forced an admission from Minister of Treaty of Waitangi Negotiations Christopher Finlayson that the land does belong to Ngāti Kahu (Mason 2015). The minister retaliated by attacking Ngāti Kahu's leadership. Elders and marae representatives responded by issuing a stinging attack on the minister (Collins 2015a). While that brought a measure of respite for Ngāti Kahu for several months as they awaited hearings with respect to their claims in the Court of Appeal and the Waitangi Tribunal, by June 2016 the minister was at it again, indicating that he would ignore the mandate Ngāti Kahu gave to its rūnanga (council of representatives, parliament) and find someone else to negotiate with (Finlayson and Flavell 2016).

In Taranaki, bitter divisions over the Pekapeka block being excluded from Te Ātiawa's settlement continued (Martin 2016; Pihama 2016). In Hawke's Bay, Ngāti Hinemanu and Ngāti Paki continued to protest against the government's rushing through the Heretaunga Tamatea settlement in order to prevent their seeking binding recommendations in the Waitangi Tribunal for their lands in the Kāweka and Gwavas forests (Waatea News 2015a). Objections to an ex-employee of the Office of Treaty Settlements heading the negotiations for Heretaunga Tamatea were ignored (Moana Jackson, pers comm, April 2015), although the Crown regularly ignores conflicts of interest to impose its own employees on claimants as their negotiators (Mutu 2016b, 229). Rangitāne of Wairarapa were still battling to stop their claims from

being subsumed and extinguished under another iwi's settlement (Crombie 2015). Āraukūkū hapū went to the high court after their claims were included for extinguishment in Ngāruahine's deed of settlement without the knowledge or permission of either Āraukūkū or Ngāruahine. Āraukūkū had not been included in any negotiations, and Ngāruahine had not negotiated on their behalf. A Ngāruahine negotiator reported that the minister could not say why he had arbitrarily included the claim, but he also refused to remove it (McLachlan 2015).

Meanwhile, those who have settled continue to run into problems with the government violating their settlements. Ngāti Whātua o Ōrākei filed in the high court to stop the government from selling lands for which they hold rights of first refusal as a result of their treaty claims settlement (Brown 2015). Waikato-Tainui did likewise to stop the sale of lands used by Solid Energy (a state-owned enterprise) at Huntly. They have rights of first refusal over those lands as a result of their settlement (Clarke 2016b). Taranaki ki Te Upoko o Te Ika found itself embattled with Port Nicholson Block Settlement Trust when the trust tried to sell lands the iwi had recovered through their settlement. After much turmoil, the people's wishes were adhered to (McLachlan 2016). However, the greatest outrage was expressed over the government's starting to unravel the 1992 fisheries settlement by banning fishing in its proposed Kermadec Ocean Sanctuary. The settlement guaranteed Māori the right to fish the area, but establishing the sanctuary removed those rights without consultation or compensation (McBeth 2016). Te Ohu Kaimoana, the iwi-controlled company that manages Māori commercial fisheries, took the government to the high court when it refused to negotiate a resolution. The government then applied to the court to adjourn the case until the proposal had been passed into law (Stuff 2016). While iwi are very angry that the meager settlements they fought so hard for can so easily be unraveled by unscrupulous politicians, it sends a clear signal that if the government can violate settlements with impunity then they are not durable and can all be revisited.

Despite the anger directed at them over treaty claims settlements, the government still managed to enact legislation extinguishing the claims of Te Aupōuri, Te Rarawa, Ngāi Takoto, and Ngāti Kurī in the Far North and Ngāti Hineuru in the central North Island. The government claims to have enacted legislation for 69 settlements and that 49 still remain (Office of Treaty Settlements 2016). In fact there are many more than that, but the government simply refuses to recognize them.

Another time-consuming battle has been that against the rewriting of Te Ture Whenua Māori (the Māori Land Act) of 1993. It took twenty years to pass that into legislation. It returned control of Māori land to its owners and made the sale of Māori land difficult. Greedy speculators and land grabbers could no longer target it. The rewriting was initiated in 2012 by Attorney General Christopher Finlayson (who is also the minister of Treaty of Waitangi negotiations and associate minister of Māori Affairs). While aim-

ing to free up Māori land for utilization, the bill also facilitates its sale, which Māori have fought so hard to stop. When Māori opposition to the rewriting became too intense, in 2014 the attorney general passed it over to Te Ururoa Flavell, the new minister of Māori development, with instructions that he have it passed into legislation. The National Iwi Chairs Forum consulted very widely on the bill, receiving instructions from throughout the country that if the 1993 act was to be rewritten, only Māori could do so because the land is theirs (National Iwi Chairs Forum 2014). Māori Land Court judges prepared a lengthy submission on the bill, severely criticizing it (Love 2015). The Waitangi Tribunal also severely criticized it, upholding the claims of landowners opposed to the bill (Love 2016a). The bill was introduced into the House in May. It ignores the Māori Land Court judges' advice, the Waitangi Tribunal's recommendations, and the overwhelming opposition of Māori landowners. It focuses on developing Māori land rather than retaining it in Māori control and portrays loss of Māori ownership as the fault of the Māori owners (Love 2016b). The bill has been characterized as yet another land confiscation, and the matter has been referred to the United Nations (Proctor 2016; Walsh 2016).

Battles to protect Māori natural resources persisted around the country throughout the year, although in some areas there was welcome relief. Both the New Zealand Māori Council and National Iwi Chairs Forum continued to fight to have the government recognize and acknowledge Māori ownership of water. The government has been refusing to discuss the matter despite having promised the Supreme Court in 2012 that it would do so (Mutu 2014, 211). The battle to force the owners to remove the ship *Rena*—which was wrecked on Ōtaiti (Astrolabe Reef) off the Motiti Island in the Bay of Plenty in 2011 (Mutu 2013, 168)—became more difficult with the Bay of Plenty Regional Council decision to leave the wreck on the reef. Ngāi Te Hapū of Motiti Island is appealing the decision (Waatea News 2016b). After fighting a designation placed on hapū land in 1963 to take it for the Rotorua Eastern Arterial road (Mutu 2014, 211), the hapū of Te Arawa were thrilled when the designation was finally lifted in April. And four Ngāi Tahu tribal entities welcomed the decision stopping Christchurch City Council from discharging treated wastewater into Akaroa Harbour. They opposed the council's appeal against the decision to the Environment Court, which resulted in the council's discussing and then proposing a series of options, almost all of which Ngāi Tahu supported (Law 2016).

Also on the good-news front, Māori filmmaker Taika Waititi has won no fewer than eight international film festival awards for his comedy *Hunt for the Wilderpeople* (IMDb 2016). And Lisa Carrington (Te Aitanga a Māhaki, Ngāti Porou), paddler extraordinaire, won the World Paddle Awards Sportswoman of the Year at the Annual World Paddle awards held in Barcelona, Spain. She has won her sixth World Cup gold medal in as many races in the K1 200 meter (Baalbergen 2016).

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Norfolk Island

The year under review was a fateful one for Norfolk Island, and indeed for the entire Pacific Islands region, as it marked the unprecedented recolonization of an island territory by its administrative power without the territory's consent, an anachronistic act going against the current of decolonization of the past six decades and comparable in modern history only to the reactionary French policies toward its Pacific possessions from the late 1950s to the mid-1980s. Australia's recolonizing policies sparked an outburst of Norfolk Island nationalism and a well-organized resistance movement struggling both locally and globally for the restoration of democracy to the island community.

A British colony settled in 1856 from Pitcairn Island by the descendants of the *Bounty* mutineers and their Tahitian partners (some of whom later returned to Pitcairn to become the ancestors of that island's current inhabitants), Norfolk Island became a dependent territory of Australia in 1914, and six decades later Australia initiated steps toward the island's decolonization by granting it a large degree of self-government in 1979, an arrangement similar to other autonomous dependent territories in the region.

However, the 2008–2009 global financial crisis hit the island's mainly tourism-based economy particularly hard (after earlier disruptions including miscalculated investments in a locally owned airline in 2006), and from 2010 onward, the local government's budget operated at a deficit. This necessitated annual subsidies from the Australian federal government ranging from A$3.2 million in 2011 (US$2.4 million) up to A$7.5 million (US$5.6 million) in the 2014–2015 financial year. Under the 1979 statutes, Norfolk Island was not allowed to borrow money in order to cover deficits without Canberra's permission, which was not forthcoming. In 2010, Australia first refused to provide the requested budgetary subsidy but then agreed to it on condition that Norfolk Island paid Australian federal taxes and accepted financial oversight by federal officials, which the local government agreed to under protest (C Nobbs 2016b).

The 2007–2013 Australian Labor Party government under Prime Ministers Julia Gillard and Kevin Rudd had agreed to further negotiations with the Norfolk Island territorial government over the issue, and the two governments had signed a "Norfolk Island Road Map" for that purpose in 2011. But the Liberal Party government under Tony Abbott that came to power in Australia in 2013 repudiated this compromise and instead advocated a hard-line, reactionary