

Maori Development Corporation Report

Chapter 1 - The Nature of the Claim

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This claim is the first of its kind to come before the Waitangi Tribunal. Unlike most previous claims there is no obvious taonga the subject of the grievance.

The claim is not about recovery of land or the desecration of something Maori but about the Crown, having put in place at a cost of \$25 million a trust and a development bank for Maori, now wishing to sell its shares in the bank.

There are two claimant groups. The first claim against the proposed action of the Crown is led by Hohepa Waiti for and on behalf of himself and Te Runanganui o Te Ika Whenua Incorporated (Te Ika Whenua), which body represents the hapu Ngati Whare, Ngati Manawa, Ngati Patuheuheu and Ngati Te Huinga Waka. Te Ika Whenua urge us to recognise that the rights guaranteed them by the second and third articles of the Treaty of Waitangi are being breached by the proposed Crown sale.

The claim of Whatarangi Winiata of Ngati Raukawa, Te Aho o Te Rangi Ratema Te Awe Kotuku of Te Arawa and others is based on the second article of the Treaty of Waitangi. They urge us to recognise that the rangatiratanga of certain Maori is not being protected.

Successive New Zealand governments have over the past decade pursued an economic strategy resulting, inter alia, in sales of Crown assets. As well as land and forests, commercial businesses have been disposed of. Some of these properties were solely owned by the Crown while in others the Crown has held a participating share. The Maori Development Corporation falls into the latter category.

We have been told, and the claimants are aware, that the sale process employed by the Crown is proceeding and this has added the element of urgency to our deliberations. Against the background of the past asset sales and transfers whose timetables have been severely disrupted by the intervention of the courts because of disregard for Maori grievances¹, we wonder at the determination of successive governments in ploughing ahead with asset divestment in the face of tribunal claims and, potentially, court action.

The kaupapa of this claim is the government's role in modern times in creating a bank. Our inquiry has required us to scrutinise recent actions, correspondence, and reports of

Ministers of the Crown and senior government officials. This has not been an easy task. Eliciting the threads of recent Crown actions seems to test the parties' objectivity to a greater degree than when the actions complained of are far removed in time from our inquiry. We too have to be aware that the immediacy of the matter tests our collective objectivity.

We are also faced with the Crown's determination not to recognise the divisive effect that can be caused by its creation of an environment which pitches Maori against Maori. In this claim we see the seeds of such dissent setting back the real progress of Treaty jurisprudence and claim settlements. We cannot say that such a result is intended. Indeed we believe the Crown is honestly seeking equitable solutions but that some of the methodology employed to that end may well be creating further grievances.

A superficial examination of the situation before us could find that it is merely an argument about money and the power emanating therefrom. We believe there is much more at issue than money as we trust the following pages will demonstrate.

References

1. See *New Zealand Maori Council v Attorney-General* [1987] 1 NZLR 641; *New Zealand Maori Council v Attorney-General* [1989] 2 NZLR 142 and *Tainui Maori Trust Board v Attorney-General* [1989] 2 NZLR 513

Waitangi Tribunal, Department of Justice, Wellington.