

# Te Whanganui-a-Orotu Report 1995

## 11 Ngati Pahauwera's Claim

### 11.1 Introduction

We have found the assessment of Ngati Pahauwera's claim a difficult task. In reviewing the evidence and submissions presented by Ngati Pahauwera and the response of the Wai 55 claimants, the Tribunal has identified seven main issues relevant to the claim: whakapapa; whanaungatanga; rangatira rights; ahi kaa (continuing occupation); rohe (boundaries); ringakaha (defending the land in battle); and petitioning. While they will be dealt with separately in this chapter, they overlap considerably.

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*Waitangi Tribunal, Department of Justice, Wellington.*

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## 11 Ngati Pahauwera's Claim

### 11.2 The lodging of the claim

On 16 July 1993, three days prior to the first hearing of the Te Whanganui-a-Orotu claim, the Tribunal received a letter from George Hawkins, representing Ngati Pahauwera. In it, Mr Hawkins wrote:

I understand that there are seven hapu claimant groups already involved in this claim, but that Ngati Pahauwera has not been included at this stage.

I therefore hereby lodge a claim on behalf of Ngati Pahauwera to be included as one of the claimant groups regarding Te Whanganui a Orotu. (D42)

The letter also stated that Ngati Pahauwera would welcome the opportunity to give evidence in support of their claim to Te Whanganui-a-Orotu.

#### 11.2.1 The first hearing for Ngati Pahauwera

On 31 January 1994, Ngati Pahauwera commenced giving evidence of their claim to Te Whanganui-a-Orotu at the fourth hearing in Wellington. Wiki Hapeta was heard. Following his presentation, however, Crown counsel sought clarification on the status of his evidence, and the hearing was adjourned to enable Ngati Pahauwera to discuss the matter with their counsel (see para 1.7.4).

#### 11.2.2 Negotiations between Ngati Pahauwera and the Wai 55 claimants

A hui was held between the seven claimant hapu and the representatives of Ngati Pahauwera at Tangoio Marae on 19 February 1994. As a result of this hui, and a further hui-a-iwi of the seven hapu, Mr Hirschfeld submitted a memorandum to be read alongside the amended statement of claim. The memo's fifth point stated that:

it is now accepted by the seven hapu of Te Whanganui-a-Orotu that the position of Ngati Pahauwera is to support and encourage the seven hapu of Te Whanganui-a-Orotu in their Wai 55 claim without their need to participate within it . . . (2.101)

The memo further stated that the position of Ngati Pahauwera in relation to the seven claimant hapu was through whanaungatanga; that the seven hapu 'gratefully acknowledge the support of Ngati Pahauwera in pursuing their Wai 55 claim'; and that the seven hapu 'intend to implement, in accordance with the appropriate tikanga Maori, that whanaungatanga [with Ngati Pahauwera] at the completion of the Wai 55 claim' (2.101).

This memorandum was the subject of further discussions between the seven claimant hapu and Ngati Pahauwera. The parties tried to reach an accommodation but were not able to. From then on, Ngati Pahauwera proceeded with their own claim.

### **11.2.3 Further evidence**

In all, five witnesses gave evidence in support of Ngati Pahauwera's interest in Te Whanganui-a-Orotu at the fifth hearing in Napier, held from 2 to 5 May 1994. These witnesses included Toro Waaka and Te Aranui Boyce Puna (Spooner), who had already given evidence for the seven claimant hapu. Later, Te Aranui Boyce Puna's evidence for Ngati Pahauwera was withdrawn from the record.

The issues arising from the evidence of Ngati Pahauwera witnesses were examined by Heitia Hiha, on behalf of the Wai 55 claimants,<sup>1</sup> and Toro Waaka responded.

At the sixth hearing, held in Napier from 18 to 21 July, further evidence in response to Heitia Hiha and the Wai 55 claimants was supplied by Toro Waaka and Charles Hirini.

### **11.2.4 Ngati Pahauwera's statement of claim**

Throughout these hearings, the Ngati Pahauwera evidence was presented within the Wai 55 claim. A statement of claim dated 25 May 1994 was later entered on the Wai 55/201 record of proceeding as 1.28 and given the reference Wai 432 (see app 1).

The statement of claim asked the Tribunal to find that Ngati Pahauwera have 'rangatira' and 'tangata whenua' rights to a portion of Te Whanganui-a-Orotu, and that Te Whanganui-a-Orotu was a 'taonga' of Ngati Pahauwera's. The claim stated that their 'rangatira status' over portions of Te Whanganui-a-Orotu arose from their occupation and use of Te Whanganui-a-Orotu prior to and subsequent to 1840 (1.28:1-2).

Most importantly, the claim asked the Tribunal to acknowledge that Ngati Pahauwera 'are rightfully included or joined as claimants' to the seven hapu already having their claims to Te Whanganui-a-Orotu heard. The claim asked for findings similar to those sought by the Wai 55 claimants.

In closing, Ms Ertel asked the Tribunal to find that the 'Native Land Court acted inconsistently with the Treaty by not recognising and giving effect to the estate of Ngati Pahauwera of Mohaka' and that the Crown 'acted inconsistently with the Treaty by not rectifying the operation of the Native Land Court'. (I11:27)

As has been demonstrated above, we have afforded the Ngati Pahauwera claimants every opportunity to be heard. The Wai 55 claimants were obliging in this, despite it lengthening the hearing and delaying the reporting of their own claim.

### **11.2.5 The scope of the claim**

It was claimed for Ngati Pahauwera that there were two groups with substantial interests in Te Whanganui-a-Orotu.

Ngati Pahauwera resident at Te Whanganui-a-Orotu claimed 'occupation' rights through whakapapa, the location of Ngati Pahauwera pa and kainga at the northern end, and the presence of the graves of Ngati Pahauwera ancestors on islands in Te Whanganui-a-Orotu.

In addition, a 'use' right for Ngati Pahauwera at Mohaka was claimed on the basis of regular hapu movement down to Te Whanganui-a-Orotu and the exercise of kaitiakitanga over it.

Both sets of rights were said to be supported by Ngati Pahauwera's defence of Te Whanganui-a-Orotu in past battles, by their objections to Crown ownership and control, and by reference to their standing in the area in tribal whakatauki, karanga, and waiata. The boundary of their tipuna Te Kahu o Te Rangi was said to be significant in support of their claim that they had tangata whenua status in Te Whanganui-a-Orotu.

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# Te Whanganui-a-Orotu Report 1995

## 11 Ngati Pahauwera's Claim

### 11.3 Whakapapa

#### 11.3.1 Ngati Pahauwera evidence

Whakapapa charts provided by Ngati Pahauwera outline the Ngati Pahauwera descent from the different lineages (I2(a)). A brief summary follows, showing that Ngati Pahauwera and the Wai 55 hapu have common ancestors.

Kahutapere, one of Taraia I's generals, married Hine Te Rangi (of the Te Koaupari line). Their child Hinekimihanga married Tureia. Hinekimihanga and Tureia had a son, Te Huki, who married Rangitohumare. One of their children was Purua Aute, whose son Te Kahu o Te Rangi is identified by Ngati Pahauwera as their founding tipuna.

Wiki Hapeta stated that, as well as being of Ngati Hinepare, Ngai Te Ruruku, Ngai Tawhao, and Ngati Tu (four of the seven hapu groups), he was of Ngati Pahauwera. It was 'not right', he said, 'that Ngati Pahauwera is left out. They are from the same tipuna' (G1:1).

Toro Waaka presented detailed whakapapa evidence to back up Wiki Hapeta's claim that Ngati Pahauwera were of the same tipuna as some of the seven hapu, although he admitted that the 'relationship between Ngati Pahauwera and the other hapu who are the tangata whenua of the Ahuriri lagoon is complex' (H4:7).

Toro Waaka stated that Kahutapere was associated with the pa Otiere, that Kahutapere's wife, Hine Te Rangi, came from and lived at Te Ihu o Te Rei, and that Rangitohumare was associated with the pa Otatara and Oueroa. He claimed that the descendants of Kahutapere and Hine Te Rangi lived in these pa until invading musket-bearing tribes forced them into evacuating to Nukutaurua, situated near the Mahia Peninsula (H4:4).

Toro Waaka also submitted that Te Kahu o Te Rangi, the great-grandson of Kahutapere and Hine Te Rangi, was the uncle of Te Ruruku o Te Rangi, from whom one of the claimant hapu, Ngai Te Ruruku, take their name. Both Thomas Wainohu and Charles Hirini supported Toro Waaka's explanation of Ngati Pahauwera's whakapapa links with some of the Wai 55 hapu (H5; H6).

#### 11.3.2 Wai 55 claimant evidence

Figure 18: Lands of the Ngai Tataru, and subtribes by whom they were surrounded. Based on the map in H Guthrie-Smith's *Tutira: The Story of a New Zealand Sheep Station* (3rd ed, Edinburgh, 1953, facing p 66).

In a submission prepared by a number of the Wai 55 witnesses, the authors (B Taylor, F Reti, H Hiha, M Puna, N Taylor, and P Parsons) agreed that some of the seven hapu (Ngati Tu, Ngati Matepu, and Ngai Te Ruruku) have ancestral links with Ngati Pahauwera, especially through Hine Te Rangi, Hinekimihanga, and Rangitohumare. However, they claimed that when Hinekimihanga and Rangitohumare married Taraia's generals Tureia and Te Hiku, respectively, they moved away from Te Whanganui-a-Orotu and never returned to occupy it (H14:28, 35).

### **11.3.3 Toro Waaka's response**

Toro Waaka disagreed, arguing that Hinekimihanga and Rangitohumare did not stay away permanently, and that they retained their rights to Te Whanganui-a-Orotu. Indeed, he argued that Te Hiku, who married Rangitohumare, did not take his wives away but visited them at their pa (H16).

### **11.3.4 The Tribunal's comment**

We note the conflict in the evidence concerning the continued occupation by Hinekimihanga and Rangitohumare but draw no conclusion from it, as it does not appear to impact on the claim by Ngati Pahauwera to have whakapapa links and tipuna in common with the Wai 55 claimant hapu. The evidence clearly shows that they do.

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*Waitangi Tribunal, Department of Justice, Wellington.*

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## 11 Ngati Pahauwera's Claim

### 11.4 Whanaungatanga

#### 11.4.1 Introduction

In rejecting Ngati Pahauwera's claim to tangata whenua status on the basis of occupation and use rights, the Wai 55 claimants argued instead that Ngati Pahauwera have whanaungatanga rights in Te Whanganui-a-Orotu.

#### 11.4.2 The evidence of the Wai 55 claimants

The Wai 55 claimants argued that Ngati Pahauwera's base is Mohaka, which lies 70 kilometres north of Te Whanganui-a-Orotu, and that other hapu have rights to the coastal land between the two places (H14:35). They contended that Ngati Tu are the principal hapu of Tangoio, that Ngati Moe have occupational rights at Waikare, and that Ngai Tataara (or Ngati Kurumokihi) have mana rangatira over lands between Tangoio and Mohaka (H14:35-42).

Evidence already given to the Tribunal indicated that the tangata whenua of Te Whanganui-a-Orotu had a well-established practice of whanaungatanga. Frederick Reti related how many hapu, such as Ngati Hineuru, Ngati Whatuiapiti, and Ngati Hawea, used the resources of Te Whanganui-a-Orotu (D27:10). Selina Sullivan and Monty Murton both provided evidence to emphasise the practice of whanaungatanga (D14; A12:185) (see para 2.5.6).

They further argued that evidence from the Native Land Court hearings into the Petane and Te Pahou blocks showed that the 10 owners awarded title were of Ngati Matepu, Ngati Tu, and Ngai Te Ruruku (see para 5.5.3). This, they submitted, confirmed these three hapu 'as having Maori customary title to the northern end of Te Whanganui-a-Orotu'. No Ngati Pahauwera names appeared in the memorial of ownership at all, thus negating Ngati Pahauwera's claim to occupation rights (H14:32-34).

#### 11.4.3 Ngati Pahauwera's response

Ms Ertel responded to the Wai 55 claimants' argument that Ngati Tu, Ngati Moe, and Ngai Tataara (or Ngati Kurumokihi) were the tangata whenua of the land between northern Te Whanganui-a-Orotu and Mohaka by stating that 'Pahauwera do not seek to oust the rights of others, it is the exclusion of their interest that is at issue' (I11:12-7). Exclusion would be inconsistent with the use right asserted by Ngati Pahauwera, their capacity to move over a large area, and the boundary of Te Kahu Te Rangi.

In response to the Native Land Court evidence led by the Wai 55 claimants, Ms Ertel argued that the limitations of the court structure and processes resulted in the

'inadequate or in fact total abrogation of the rights and interests of Ngati Pahauwera' in Te Whanganui-a-Orotu, the Maori Land Court being incapable of giving effect to Maori customary title (I11:12-17).

#### **11.4.4 The Tribunal's comments**

It seems clear to us that Mohaka Ngati Pahauwera had rights of use such as those that Charles Hirini spoke of when he said that he was born in Mohaka but travelled to Te Whanganui-a-Orotu to get kaimoana and remembered camping at Westshore and staying at Tangoio and Petane (H6). Similarly, on a different matter, Wiki Hapeta spoke of Ngati Pahauwera joining the local people 'to assist their whanaunga' when Te Whatanui of Ngati Raukawa was ousted from the area (G1:2). Both these examples would tend to support the Wai 55 claimants' view that the rights enjoyed by Ngati Pahauwera were whanaungatanga rights, rather than tangata whenua rights, as argued by Ms Ertel.

On the issue of Native Land Court titles, we accept that the listed owners of the Te Pahou and Petane blocks may give some indication of the rights of Ngati Matepu, Ngati Tu, and Ngai Te Ruruku. But we also accept the argument that these awards may not have recognised the rights of all Maori to these areas.

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## 11 Ngati Pahauwera's Claim

### 11.5 Rangatira Rights

#### 11.5.1 Ngati Pahauwera evidence

The Ngati Pahauwera evidence made much of Paora Rerepu, the 'paramount' chief of Ngati Pahauwera, signing the Ahuriri deed. As Ms Ertel told the Tribunal in her opening submissions, '[his] authority to sign the deed was unchallenged and is recognition that Ngati Pahauwera had rangatira rights as tangata whenua along with the current claimant hapu' (H11:5). Close whakapapa links with Paora Rerepu and other Wai 55 claimant hapu were referred to by the Ngati Pahauwera witnesses.

As well as being of Ngati Hinepare, Ngai Te Ruruku, Ngai Tawhao, and Ngati Tu, Wiki Hapeta claimed descent from Paora Rerepu (see para 11.3.1). He said that Paora Rerepu signed the Ahuriri deed of sale as 'Rangatira of Ngati Pahauwera' (G1:1).

Toro Waaka emphasised that Paora Rerepu signed the deed as paramount chief of Ngati Pahauwera and that he received a blanket and some tobacco from McLean as payment for the Ahuriri block (H4:3). He submitted a short whakapapa chart of Paora Rerepu to emphasise the closeness of the 'blood relationship' between him and the chiefs of the current claimants (H4:5).

#### 11.5.2 Wai 55 claimant evidence

Heitia Hiha's submission took exception to the assertion made by Wiki Hapeta that Paora Rerepu's signing of the Ahuriri deed gave Ngati Pahauwera rights to Te Whanganui-a-Orotu. Instead, he described Paora Rerepu's action as lending his support (tautoko) to the sale (H13:2). Paora Rerepu, he explained, was there because he was waiting to escort McLean to Mohaka as soon as the Ahuriri deed negotiations had ended (H13:1). As to Toro Waaka's claim that McLean paid Paora Rerepu for the Ahuriri block, Heitia Hiha pointed out that an entry in McLean's journal showed that Paora Rerepu was given these items on 22 April 1851, months before the deed was signed (H13:2).

#### 11.5.3 The Tribunal's comment

It appears that there may have been several reasons why Paora Rerepu signed the Ahuriri deed. The eastern boundary of the block lay in the catchment of the Mohaka and Waiohinga Rivers. As we stated in our *Mohaka River Report* (Wai 119), above the Te Hoe confluence, the Mohaka River involves the complex rights of many hapu (2.10). Ngati Pahauwera claimed that the boundary of their rohe ran from Te Haroto into Puketitiri bush and down through the Waiohinga River to the sea (2.4). Paora Rerepu, therefore, could have been representing Ngati Pahauwera's interests in other parts of the Ahuriri block.

Many of the signatories to the Ahuriri deed included Ngati Kahungunu-ki-Heretaunga hapu other than the hapu of the principal sellers and, in addition, Ngati Hawea, Ngati Kurukuru, and Ngati Whatuiapiti, and others, yet these hapu are not included in the claim. It therefore seems likely that it was becoming a common practice for many leading figures to participate in such signings, whether or not they were tangata whenua (see para 3.6). Such participation may have been as much an assertion of personal mana to lend support and strength to the transaction as an assertion of mana over the land itself.

Figure 19: Iwi and hapu of the Mohaka River area. Based on map 2.1 in the *Mohaka River Report 1992* (Wellington, Brooker and Friend Ltd, 1992, p 16).

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## 11 Ngati Pahauwera's Claim

### 11.6 Ahi Kaa and Rohe

#### 11.6.1 Introduction

The Wai 55 claimants say that they were guided by Maori custom when they assessed what hapu had tangata whenua status at Te Whanganui-a-Orotu. Ancestry and permanent occupation were deemed the necessary criteria (H14:1). Ngati Pahauwera cited these criteria, but in addition stressed the importance of the boundary of their rohe, as marked out by Te Kahu o Te Rangi, arguing that it extended to Te Whanganui-a-Orotu.

#### 11.6.2 Te Kahu o Te Rangi's rohe

James Wainohu provided the Tribunal with a transcript and translation of Te Kahu o Te Rangi's rohe, as told to the Native Land Court by Wepiha Te Wainohu in 1879:

Te rohe o Te Kahu-o-te-Rangi, takutaai moana ki Pukekaraka ka rere ki uta Puketitoti, ka taka ki te Waiau. I konei ka tutaki raua ko Te Kapua . . . ? rito, he Rangatira no te Urewera kaati koe ki konei. Katahi a Te kahu-o-te-rangi ka moki tona toki ka ripiripi i nga papakiri o te tawai ka rere ano ki Te Haroto, taka atu ki Puketitiri ka haere atu i roto o te awa (Te Wai-a-Hingaanga) puta noa ki te takutai moana. Kei konei te toka, ne taniwha ko Moremore no nga rangatira o roto Heretaunga ara no Tareha ma, Karaitiana, Tomoana me etahi atu . . . (H5:41)2

The boundaries of Te Kahu o te Rangi extend from the sea at Pukekaraka to Puketitoti down to the Waiau river. It is here that he met Te Kapua a chief from the Urewera who said, 'This is as far as you go' (This is your boundary).

Te Kahu o te Rangi took up his axe and began to make his mark on the bark of the tawai trees and up onto Te Haroto and down into Puketitiri and down through the Te wai o Hingaanga stream to the sea. There is a rock here, a taniwha, its name is Moremore and it belongs to chiefs of Heretaunga, Tareha, Karaitiana, Tomoana and others . . . (H5:(4))

James Wainohu told the Tribunal that, at the time when the Waiohinga River entered Te Whanganui-a-Orotu near Kaiarero, the southern extremity of Te Kahu o Te Rangi's rohe was the island Urewiri. A pou, Mataitai, was placed there to mark the rohe. The rohe, however, was not exclusive and that other hapu also used the resources within it (H5:1). As James Wainohu described it:

Kahu o te Rangi walked his boundaries and bespoke the land. With the aid of his brothers and their families he imposed his will on all hapu in that rohe. (H5:2)

Charles Hirini described the rohe as going into Te Whanganui-a-Orotu (H6:4).

The issue of Ngati Pahauwera's boundary in relation to the northern end of Te Whanganui-a-Orotu was examined in a joint statement read by Heitia Hiha on behalf of the Wai 55 claimants. At a meeting with Ngati Pahauwera representatives on 6 March 1991, the late Te Otane Reti, a kaumatua of Tangoio Marae and a Wai 55 claimant, had rejected the claim that the boundary came down as far as the Esk River mouth, stating that to his knowledge the southern boundary of Ngati Pahauwera's rohe was the Waikare River (H14:24).

The Wai 55 authors countered the importance placed on Te Kahu o Te Rangi's rohe by presenting further background evidence of the Napier minute book references from which they were recorded. Their research suggested that it was 'after Ngati Tu, Ngai Tataara and Ngati Moe invited Te Ruruku down to be their warlord that it was considered advantageous to place the people under Te Kahu o Te Rangi's mana as a "stabilising measure" '. These boundaries, however, 'only affected people, not land' (H14:26). Te Kahu o Te Rangi's mana, the Wai 55 claimants continued, 'dissolved' after his death and after attacks and reprisals in the Tarawera area. These incidents resulted in the Tuwharetoa chief, Te Heuheu, assuming the mana of the territory west of the Maungaharuru summit and erecting new boundary posts 'on the Titiokura saddle' between the Hawke's Bay tribes and those of the interior. After a further attack, Te Heuheu extended this boundary. His actions 'affected the whole Waitara block which had previously been under the mana of Te Kahu o Te Rangi'. By the time Te Kahu o Te Rangi's grandson Takirau inherited his mana, his influence was mainly confined to the hapu occupying the lands bordering the Waikare River. Subsequently, an incident of treachery caused Ngati Moe to abandon Takirau's protection. Soon after, Ngati Tauhere also abandoned Takirau. These instances demonstrated that 'the sub-tribes of the Waikare area were not permanently bound by the mana of Te Kahu o Te Rangi and could change leadership if dissatisfied' (H14:17-21) (see figs 18, 19).

Toro Waaka attempted to rectify what he saw as errors and omissions in the Wai 55 joint statement. In support of the claim that Tangoio was a Ngati Pahauwera community, he pointed to an entry dated 12 December 1851 in Colenso's journal showing that the Tangoio people had received payment for the sale of the Mohaka block (H16:1). He produced whakapapa evidence to show that Te Kahu o Te Rangi 'would have been very comfortable moving in and out of the [Te Whanganui-a-Orotu] area'. Although Ngati Pahauwera referred strictly to his descendants, it became, he said, 'an umbrella name associated with hapu within the rohe . . . as [Te Kahu o Te Rangi] marked it out' (H16:3). 'Why would it be necessary to walk over the boundaries and mark trees,' as Te Kahu o Te Rangi did, 'if mana was only over people' (H16:4).

It was a known fact, Toro Waaka continued, that Takirau fell out not only with other hapu but with the people of Mohaka as well. The mana transferred to another son of Te Kahu o Te Rangi and to his cousin Te Ruruku. There had been a lot of intermarriage within hapu of the area, he concluded, and most of them now were

descendants of the ancestor hapu in the claim, and Ngati Pahauwera asked that Te Kahu o Te Rangi be rightfully included (H16:4).

Charles Hirini refuted the statement that Te Kahu o Te Rangi's mana had dissolved. Takirau may have lost mana, he argued, but his grandfather's mana continued through the lines of his numerous children. He also said that any boundary Te Heuheu set up lost its mana after a later incident (I2:1).

We note that neither Mr Prentice nor Dr Ballara provide any information that would support the claim that Te Kahu o Te Rangi's rohe extended into the northern end of Te Whanganui-a-Orotu. Mr Prentice referred to Te Kahu o Te Rangi as 'the Mohaka chief'.<sup>3</sup> Dr Ballara listed Ngati Matepu, Ngati Hinepare, Ngai Tamawahine, and others under the Ngati Kahungunu-ki-Heretaunga major hapu umbrella as dominating the Ahuriri area.<sup>4</sup>

### **11.6.3 Further evidence of a `seasonal use right`**

We have earlier discussed a seasonal use right claimed for Ngati Pahauwera at Mohaka. Further evidence of such a right given by both Wiki Hapeta and Toro Waaka was a mihi, whakatauki, or karanga that they said was used to greet Ngati Pahauwera at Tangoio Marae. Toro Waaka submitted that:

To this day when people from Mohaka go to Tangoio Marae they are greeted with the mihi `Haere mai Ngati Pahauwera ki runga. Ki Ngati Pahauwera ki raro'. This translates as `Ngati Pahauwera from up the way, welcome from Ngati Pahauwera down here'. This illustrates that we are one people living in different places. (H4:4)

Wiki Hapeta said that this karanga was used at Tangoio Marae and at Petane Marae (G1:4).

Heitia Hiha disputed the use of the karanga to greet Ngati Pahauwera at Tangoio Marae. He told the Tribunal that his great aunt Keera Koko had lived there all her life and had never heard it, and it was not used at his marae at Petane (H13:2).

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## 11 Ngati Pahauwera's Claim

### 11.7 Ringakaha

#### 11.7.1 Introduction

This section concerns the defence of Te Whanganui-a-Orotu against invaders, and its significance in the assessment of Ngati Pahauwera's claim. The evidence shows that there was extensive fighting in the Ahuriri/Te Whanganui-a-Orotu area in the 1820s, as taua armed with muskets invaded Ngati Kahungunu territory (see fig 5). Particular reference was made by Ngati Pahauwera to the invasion by Te Whatanui of Ngati Raukawa. Accounts of these battles can be found elsewhere; their importance to this section is whether they help establish Ngati Pahauwera as tangata whenua (see para 3.2.2)(H1:1-12).

#### 11.7.2 Ngati Pahauwera evidence

Wiki Hapeta stated that Ngati Pahauwera 'always defended' Te Whanganui-a-Orotu, 'even when the other hapu had fled to other areas, or when no one else would help' (G1:2). The example Wiki Hapeta provided was that of Te Whatanui, who invaded Heretaunga and reformed Te Puketapu, leaving the 'local people' in refuge on Te Pakake. He continued:

That summer, Te Hau-Waho chief of Te Pa-kake called on the people of Te Heretaunga to fight Whatanui. Ngati Whatuiapiti and Ngai Te Upoko-Iri declined to join battle.

Ngati Pahauwera of Mohaka and Ngati Kurukuru of Waimarama joined together to fight Te Whatanui. The mother of Tiakitai, the Chief of Waimarama was Ngati Pahauwera. Hauwaho was a descendent of Purua Aute. Our hapu joined to assist their whanaunga.

... Ngati Raukawa were defeated. Te Whatanui escaped and Whanganui A Orotu was again Ngati Kahungunu territory. (G1:2-3)

Wiki Hapeta, it would appear, considered that Ngati Pahauwera were helping the 'local people' to defend their land.

Toro Waaka claimed that the descendants of Kahutapere and his wife Hine Te Rangi occupied Otiere (on Roro o Kuri) and Te Ihu o Te Rei until the defeats suffered there forced a withdrawal to Nukutaurua. As recorded above, Toro Waaka believed that some Ngati Pahauwera, through the descendants of Kahutapere and Hine Te Rangi, lived at the northern end of Te Whanganui-a-Orotu and helped to defend it. He said:

Assistance in battle brought with it obligations. The blood shed by Ngati Pahauwera in the various battles was a paanga in itself to the land. It is said to be as strong as ahi pitau (bunging your navel) . . . (H4:2)

He also said that some Ngati Pahauwera stayed at Te Pakake Pa 'with their whanaunga, Hauwaho in times of trouble' (H4:5).

### **11.7.3 The Wai 55 claimants' response**

The Wai 55 claimants submitted that the battles of Parapara and Te Ihu o Te Rei, when Ngati Raukawa, Tuwharetoa, and Waikato attacked armed with muskets, resulted in the naming of Ngati Matepu (people killed by guns). They therefore concluded that it was Ngati Matepu, and the closely related Ngati Tu and Ngai Te Ruruku, who were in occupation of these island pa and whose blood was spilt there (H14:29-32).

Heitia Hiha agreed that Ngati Pahauwera were asked to help drive Ngati Raukawa from Puketapu. However, as he explained it:

Ringakaha is your strength in defending your land . . . The tangata whenua (Ngati Hinepare, Ngati Tuku O Te Rangi, Ngati Matepu, and Ngati Parau) called on Ngati Whatuiapiti, Ngai Te Upokoiri, Ngati Kurukuru and Ngati Pahauwera for the purpose of driving him out. (H13:3)

### **11.7.4 Other research**

Mr Prentice records the raids by outsiders and the defence of Heretaunga in the 1820s in some detail. He does not list Ngati Pahauwera among the defenders of Parapara and Te Ihu o Te Rei or among the 'doomed refugees' without guns on Te Pakake. He writes that the killing of Te Ohomaori of Ngati Raukawa by Te Kahu o Te Rangi was one of the incidents that led to the 1820 taua in the first place.

When the call went out to all Heretaunga people to expel Ngati Raukawa from the pa that they had built at Puketapu, messengers went as far as Ruahine, Roto a Tara, Waimarama, and Mohaka. After Puketapu was captured, the respective hapu who formed the war alliance left for their own homes.<sup>5</sup>

Dr Ballara writes that it was chiefs such as Tareha, Oneone, Te Waka Kawatini, Tareahi, and Kaiwhata (who described themselves as Ngati Kahungunu-ki-Heretaunga) who fought at Puketapu. They also defended the island pa of Te Ihu o Te Rei and Parapara. It was, she notes, Ngati Matepu who, with Ngati Kurukuru and other Ngati Kahungunu-ki-Heretaunga, opposed Ngati Raukawa.<sup>6</sup>

### **11.7.5 The Tribunal's comments**

We accept that Ngati Pahauwera assisted in driving Ngati Raukawa from Heretaunga and that some of their tipuna lie buried on the islands of Te Whanganui-a-Orotu as a result of earlier battles. We understand, however, that there are a number of reasons

why ancestors might be buried in places other than their own. While warfare was a significant factor, marriage to cement alliances was also important. The result was that many Maori have been buried far from their tribal rohe, but as we understand it this is not necessarily an indication of tangata whenua status to the land on which they rest.

Raids and counter-raids were made throughout the Heretaunga area. All the hapu of this area were threatened and were required to evacuate or defend themselves. We therefore see the wars of the 1820s as involving an alliance of invaders being met by an alliance of Ngati Kahungunu-ki-Heretaunga (consisting of different hapu at different times) and others. Once peace was established, the alliances were no longer necessary. After the return from Nukutaurua, the seven claimant hapu resettled around Te Whanganui-a-Orotu, and Ngati Pahauwera resettled at Mohaka (see [para 3.2.5](#)).

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# Te Whanganui-a-Orotu Report 1995

## 11 Ngati Pahauwera's Claim

### 11.8 Petitioning

#### 11.8.1 Introduction

As chapter 10 detailed, from 1875 there was a succession of petitions to Parliament seeking an investigation of title to the lagoon islands and Te Whanganui-a-Orotu, culminating in the present claim. Ngati Pahauwera did not present evidence on their involvement in this petitioning and, consequently, the Wai 55 claimants did not give any evidence to identify the specific hapu affiliations of the petitioners. None the less, we consider such evidence significant in respect of the present claim. Indeed, we see these petitions and the applications to the Native Land Court to investigate title to the islands and Te Whanganui-a-Orotu as essentially a continuation of the tangata whenua role as kaitiaki of their taonga. For the purposes of the Ngati Pahauwera claim, we now summarise the information on the hapu affiliations of the petitioners.

#### 11.8.2 The nineteenth century petitioners

Many of the chiefs who had signed the Ahuriri deed were later involved in discussions with, and forwarding petitions to, the Crown concerning Te Whanganui-a-Orotu. Tareha (later Tareha Te Moananui) is the first person known to have questioned the authority by which reclamations of Te Whanganui-a-Orotu were being carried out by provincial officials (see [para 5.6.5](#)). His principal hapu was Ngati Parau, but he was also Ngai Te Ruruku and Ngati Matepu.<sup>7</sup>

Te Waka Kawatini and Paora Torotoro gave evidence concerning Te Whanganui-a-Orotu to the Hawke's Bay Native Land Alienation Commission in 1873 (see [para 3.5.5](#)). They were uncle and nephew and both were Ngati Matepu. Paora Torotoro, who was Te Waka Kawatini's successor, was also Ngati Hinepare and Ngai Te Ruruku.<sup>8</sup>

In 1875 Karaitiana Takamoana gave evidence to the Native Affairs Committee that examined a petition sent by Henare Tomoana and others (see [para 3.5.5](#)). The two men were half-brothers and chiefs of Ngati Whatuiapiti, their principal hapu being Ngati Hawea.<sup>9</sup> As they were influential Ngati Kahungunu-ki-Heretaunga leaders and successive members of the House of Representatives for Eastern Maori, it appears that they were exercising political leadership in giving evidence regarding Te Whanganui-a-Orotu.

Marara Nukai, who headed the 1894 petition, was Paora Torotoro's sister (see [para 10.4](#)).

#### 11.8.3 The early twentieth century petitioners

Rahania Kahui, who signed the 1894 petition and sent in his own petition to Parliament in 1907, was Marara Nukai's son-in-law.<sup>10</sup>

Hiha Ngarangioue, who requested a hearing into the title to Te Whanganui-a-Orotu by the Native Land Court in 1916, belonged to Ngati Hinepare (see [para 10.6.1](#)).

Mohi Te Atahikoia, who headed the 1919 petition, was a well-known and experienced leader of Ngati Kahungunu-ki-Heretaunga. His hapu affiliations were Ngati Whakaiti and Ngati Kautere of Waimarama (see [para 10.7.1](#)).

One of the signatories to the 1919 petition was Te Wahapango, a Ngai Te Ruruku chief who headed a further petition in 1925 (see [para 10.9](#)).

#### **11.8.4 Post-earthquake petitioners**

Hori Tupaea, who headed the 1932 petition, was Ngati Parau, Ngati Hinepare, and Ngati Whatuiapiti.<sup>11</sup>

Before Judge Harvey's report on this petition was released, two further petitions were presented to Parliament: one in 1945 from Paneta Maniapoto Otene (Ngati Hawea with Ngati Hinepare affiliations) and one in 1948 from Ahere Hohepa (Ngati Hinepare, Ngati Mahu, and Ngai Tawhao).<sup>12</sup> As well, Taira Tareha, a descendant of Tareha Te Moananui, sent a letter to the Government in 1940 and another in 1951.

The 1965 petition was signed by whole families of the Ahuriri tangata whenua and was headed by a prominent Ngati Raukawa elder, Ihakara Rapana.

#### **11.8.5 The Tribunal's comment**

The continuity and consistency of the efforts of petitioners to have the Government and courts investigate the title to Te Whanganui-a-Orotu is obvious. Many of the petitioners belonged to the Wai 55 claimant hapu, whose tipuna had negotiated the sale of the Ahuriri block to McLean. Political leadership and support came from Ngati Kahungunu-ki-Heretaunga - most notably from Ngati Whatuiapiti. We have had no evidence that any of the principal signatories to the petitions had Ngati Pahauwera affiliations.

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# Te Whanganui-a-Orotu Report 1995

## 11 Ngati Pahauwera's Claim

### 11.9 Conclusions

Having inquired into the evidence, we conclude that the Ngati Pahauwera claim to tangata whenua status to Te Whanganui-a-Orotu cannot be substantiated and we record our conclusions as follows.

We accept that the whakapapa evidence led by Ngati Pahauwera to establish occupation and use rights clearly shows that they share common ancestors with the principal claimants to Te Whanganui-a-Orotu. It appears to us, however, that the issue around which contention arises is the continuing occupation of those tipuna who were involved in marriage alliances, alliances which, as might be expected, subsequently gave rise to descent from more than one hapu.

In later years, when interests are claimed through such ancestors as is the case here, the question is whether the interests arise from the Ngati Pahauwera connection or from one of the other hapu connections. While such whakapapa links would almost certainly give Ngati Pahauwera the ability to claim interests or rights in Te Whanganui-a-Orotu, the evidence presented to us is not sufficiently persuasive for us to say that those links enable them to claim tangata whenua status.

Given that those linkages exist, it would not be unexpected that Ngati Pahauwera today would trace interests back to certain pa and kainga at the northern end of Te Whanganui-a-Orotu where marriage alliances clearly occurred and where it was said that some of these tipuna lived. In addition, it would not be unexpected that Ngati Pahauwera tipuna might be buried in those places as well (see [para 11.7.5](#)).

In our view, it might also be expected that such links would give rise to the regular movement of Ngati Pahauwera from Mohaka down to Te Whanganui-a-Orotu to participate in the harvesting of the bounty of that area. We think that such interests might also have applied to other Ngati Kahungunu hapu, but this would not necessarily give them the right to claim as tangata whenua. Indeed, we understand this to be the position for a number of other hapu in the area.

While it could be argued that this kind of movement might indicate a 'use' right, as in fact has been argued here, we think that it could also be argued that the right to move in and out of the area and participate in the harvest could arise equally from the links between 'whanaunga' who share common ancestry. This is the position put by the Wai 55 claimants and we tend to share that view. It would at least help to explain the karanga submitted by Toro Waaka for Ngati Pahauwera:

. . . 'Haere mai Ngati Pahauwera ki runga. Ki Ngati Pahauwera ki raro'.  
This translates as 'Ngati Pahauwera from up the way, welcome from  
Ngati Pahauwera down here'. (H4:4)

We understand that in some tribal areas it would be regarded as unusual for those on the paepae to welcome their own in that way if they were in fact tangata whenua of the particular locality.

As for the issue of ringakaha, we think that the kinds of linkages described above would impose on related hapu a responsibility to help defend land in times of war, particularly in the case of a valued taonga like Te Whanganui-a-Orotu. This responsibility to come to its defence against invading tribes from outside the Ngati Kahungunu rohe would, we believe, extend to those hapu not residing there but linked through whakapapa. Indeed, this is what appears to have happened.

If in former times, tangata whenua status alone gave rise to the responsibility to become involved in the defence of land and water during wars, then in recent times the equivalent of that responsibility would, we think, be the defending of the title and rights against the Crown or its delegated agents. As we have already seen, there is no evidence that any of the principal signatories to the many petitions and court cases involving Te Whanganui-a-Orotu were first and foremost of Ngati Pahauwera descent (see [paras 11.8.1-5](#)).

We acknowledge that some assessment of the Maori Land Court determinations might well throw light on the rights and interests that Ngati Pahauwera claim as being more than those arising from whanaungatanga, through common ancestors. On the evidence as presented to us, we are unable to conclude that they have the rights contended for. In view of our comments in [paragraph 11.4.4](#), we make no findings relative to the Native Land Court.

Ngati Pahauwera asked that they be rightfully included or joined as principal claimants to Te Whanganui-a-Orotu. We cannot accede to that request. Indeed, it may well be that only those with tangata whenua status could have done that. In the event they chose not to. We do not doubt, however, that the Wai 55 claimants will honour their clearly stated intention to recognise, in accordance with tikanga Maori, the rights and interests of their whanaunga, Ngati Pahauwera.

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*Waitangi Tribunal, Department of Justice, Wellington.*