

BACKGROUND

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Ngāi Tahu

A Model for Indigenous Success?

By Andrew Falloon

Executive Summary

Māori find themselves below non-Māori New Zealanders in almost every social well-being indicator.

- The century Treaty of Waitangi covers all of New Zealand. It involved representatives of the British Crown and Māori chiefs. Although there are conflicts over interpretation, the treaty protected Māori ownership over their lands and recognized British sovereignty over New Zealand, but political opposition to the treaties has hardened.
- Since the signing, there have been conflicts over the interpretations of the meaning of the text, as well as literal wars pitting indigenous peoples against the Crown.
- Today, the results of this campaign of confiscation are plain to see. Māori find themselves below non-Māori New Zealanders in almost every social well-being indicator.
- Investigations into the grievances of iwi began in the 1920s. Māori, however, regarded payments as wholly inadequate and began agitating in the 1960s and 1970s. This pressure resulted in the establishment of the Waitangi Tribunal, a permanent commission of inquiry to investigate and make recommendations, which, if agreed upon, are carried out by the Office of Treaty Settlements.
- A key shift was the extension of the power of the Waitangi Tribunal to investigate alleged grievances back to 1840 (the year the Treaty of Waitangi was signed). For many iwi disenfranchised of their land in the early colonial years of New Zealand, this was to be a landmark decision to seek recompense and redress past wrongs.
- Ngāi Tahu, New Zealand's fourth most-populous iwi, signed a deed of settlement with the Crown in 1996 in a deal notable primarily for the dignified and solemn process in which it was conducted.
- Through a series of wise investments and good governance, Ngāi Tahu is New Zealand's wealthiest iwi and the largest employer in the South Island. Iwi from other parts of New Zealand seek to replicate both the size of the Crown compensation package and the processes that led to their success following settlement.

New Zealand's Treaty Settlement Process and the Success of Ngāi Tahu

The Treaty of Waitangi is the 19th century treaty covering all of New Zealand. It involved representatives of the British Crown and various Māori chiefs. Although there are conflicts over interpretation, the treaty protected Māori ownership over their lands and recognized British sovereignty over New Zealand. In discussing Treaty of Waitangi settlements, the default position for many New Zealand politicians is outright opposition. Backed in recent times by the populism of a so-called silent majority, rhetoric against the treaty grievance industry has hardened.

When considering the history of the 1970s and 1980s, the formative years for many of New Zealand's current politicians, this comes as no surprise. In order to understand the current treaty settlement process and debate, we need to understand the history of race relations between indigenous New Zealanders (Māori), white New Zealanders, and other immigrants.

New Zealand's primary conflict during the latter half of the 19th century was over land. Steady British colonization in the early part of the 19th century was intense and by 1830 had put further pressure on local iwi (Māori tribal groups) to sell their land. British settlement also fuelled inter-tribal warfare over this land with the unregulated supply of muskets. As British acquisition grew, iwi were pushed onto less land in less fertile areas. Parcels of Māori land were obtained, often fraudulently, by Europeans and Māori who acted as intermediaries, selling the land to new settlers.

In 1831, out of desperation at the loss of land and people during the devastating inter-tribal musket wars, thirteen rangatira (Māori chiefs) wrote to King William IV seeking his protection.¹ The response of the Crown was to despatch an official British Resident, James Busby, the following year. Two years later, a further British envoy, William Hobson, arrived and was to act as British Consul to New Zealand. Hobson's objective, set down for him by the Colonial Office, was a simple one — negotiate a transfer of sovereignty from Māori to the Crown.²

As the Colonial Office did not provide treaty text, Hobson, assisted by James Busby, wrote his own. A meeting with northern chiefs at Waitangi

“...to understand the current treaty settlement process and debate, we need to understand the history of race relations between indigenous New Zealanders (Māori), white New Zealanders, and other immigrants.”

1. Michael King, *History of New Zealand* (Auckland, New Zealand: Penguin Books New Zealand, 2003).

2. Ibid.

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was called, and with time running out, the English text was hastily translated overnight into Māori on February 4, 1840. Historians have since debated to what extent the inconsistencies between the two texts have contributed to the confusion and anger in the decades since. What is clear is that many signatories were not fully aware on February 6, 1840, and in coming days and weeks, of the level of sovereignty they were signing over to the Crown.

The Māori Land Wars, or New Zealand Wars,³ arrived soon after the signing of the Treaty of Waitangi with the Wairau incident in 1843. This was the first of many 19th century battles over land. All told, approximately 3,000 Europeans and Māori were killed, many of the latter fighting with the Crown. Kūpapa, or Māori,⁴ fought alongside the Crown for a variety of reasons — to curry favour with the British, to settle an old score with a neighbouring iwi or simply on the promise of monetary gain.

The New Zealand Wars were dominated by the invasion of the Waikato. In this conflict, a total of 18,000 imperial and colonial troops faced approximately 4,000 lesser-armed Māori. There is the Northern War and the first and second Taranaki Wars, which led to the confiscation of some 16,000 km² of Māori land.⁵ This confiscation of land was ratified by New Zealand’s young Parliament in 1863 with the *New Zealand Settlements Act*, with only one Member of Parliament speaking against the Bill.

Today, the results of this campaign of confiscation are plain to see. Māori find themselves below non-Māori New Zealanders in almost every social well-being indicator.⁶ Male Māori life expectancy is 8.6 years less than that of non-Māori New Zealanders,⁷ and Māori unemployment is currently double the rate of non-Māori unemployment.⁸

Investigations into the grievances of iwi began in the 1920s, with limited redress payments beginning in the 1940s. Māori, however, regarded these payments as wholly inadequate and began agitating in the 1960s and 1970s, particularly through the four Māori MPs. This pressure resulted in the establishment in 1975 of the Waitangi Tribunal, a permanent commission of inquiry to investigate and make recommendations, which, if agreed upon, are carried out by the Office of Treaty Settlements. This body negotiates the final form of settlements.

3. James Belich, *The New Zealand Wars and the Victorian Interpretation of Racial Conflict* (Auckland, New Zealand: Auckland University Press, 1986).

4. Ibid.

5. Michael King, *History of New Zealand* (Auckland, New Zealand: Penguin Books New Zealand, 2003).

6. Social Report 2007, *Indicators of social well-being in New Zealand* (Te Puni Kōkiri/Ministry of Maori Development, 2007).

7. Social Report 2009, *Te Pūrongo Oranga Tangata* (Ministry of Social Development, 2009).

8. Labour Market Report, *Māori in the New Zealand Labour Market* (Department of Labour, 2009).

Often though, set against this bureaucratic and sedate sounding process, has been an atmosphere of activism. For many New Zealanders in the 1970s, previously unaware of the level of anger amongst iwi, the tactics of a new generation of Māori leaders came as a shock. Their view of New Zealand, a sedate, “better Britain” suburbia⁹ with race relations the envy of the world, was shattered by images of hundreds of Māori facing off against army and police in full riot gear. The first of these televised cross-cultural clashes came with the occupation in January 1977 of Bastion Point, a contentious piece of land in Waitemata Harbour that the National government proposed developing. The occupation by Ngāti Whātua, the local iwi, lasted 506 days before 800 police officers backed by the New Zealand army forcibly removed them.¹⁰

Māori activism continued to flourish throughout the late 1970s and into the 1980s. Greater numbers of younger Māori, disenfranchised from their iwi and marae (ancestral homes) through urbanization, struggled for a sense of belonging. New groups formed to take advantage of this, and the relative deprivation many Māori were discovering in the state house dominated fringes of the main centres. Meanwhile, an organization called the Ngā Tamatoa, which was a young warriors protest group styled after the American Black Panthers group, saw their numbers swell. Many young Māori began to achieve a sense of racial identity through radical struggle.

Demands grew beyond just the return of land. Recognition, guaranteed under the terms of the Treaty of Waitangi, came to be an issue. Māori began to test claims on the ownership of forests and fisheries. Ngā Tamatoa presented Parliament with a 30,000-signature petition requesting that the Māori language be taught in schools.¹¹ However, the issue that, to this day, has been the most divisive in the nation’s history would dwarf these disagreements. The 1981 South African Springbok tour divided communities and families and brought New Zealand closer to civil war than anyone believed was possible.¹²

South Africa’s policy of apartheid had led to South Africa being treated as a pariah in the sporting world, as only whites were permitted to compete. For many New Zealand sports fans, any concerns over human rights were secondary to rugby, with a wish that politics be kept out of sports. When the South African Rugby Union requested a tour for 1981, the New Zealand Rugby Union agreed. Despite massive protests around the country, mindful of the fact that a majority of New Zealanders remained in favour of a tour, the prime minister at the time, Rob Muldoon, refused to buckle.¹³

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9. James Belich, *The New Zealand Wars and the Victorian Interpretation of Racial Conflict* (Auckland, New Zealand: Auckland University Press, 1986).

10. Michael King, *History of New Zealand* (Auckland, New Zealand: Penguin Books New Zealand, 2003).

11. Aroha Harris, *Hīkoi: Forty Years of Māori Protest* (Wellington, New Zealand: Huia Publishers, 2004).

12. Trevor Richards, *Dancing on our Bones* (Wellington, New Zealand: Bridget Williams Books, 1999).

13. Michael King, *History of New Zealand* (Auckland, New Zealand: Penguin Books New Zealand, 2003).

“New Zealanders came to realize that the actions of a small country at the bottom of the South Pacific could and did have international ramifications.”

As it happened, Muldoon’s National Party went on to win a third consecutive term at the 1981 election later in the year, sweeping the votes of provincial and rural New Zealand — the very people in favour of the tour. With the tour going ahead, both sides, pro-tour and anti-tour, prepared for the ensuing battle.

The unrest began in Hamilton, the heart of the provincial Waikato. Some 350 rioting demonstrators invaded the pitch, refusing to move. Unable to shift all of them, and surrounded by thousands of angry spectators, authorities quickly called off the match. The police arrested 50 demonstrators but were then called upon to protect the protestors from enraged rugby fans intent on making their views known to the protestors. Many were assaulted, both at the grounds and when released from Hamilton police station.¹⁴

The tour continued. In all, sixteen matches were completed successfully, with just two being called off. Bloody clashes were occurring at these matches and in other protests in cities across New Zealand. At the final test match in Auckland, tensions exploded and turned the game into a farce. A plane dropping flour bombs flew over the grounds. The game continued, with players diving from the projectiles; but the damage was done. It would be the last official match between South Africa and New Zealand until the fall of apartheid thirteen years later.

Although only a sporting series, the tour was a defining moment for New Zealand. It challenged and changed many aspects of New Zealand society. Families were divided; children questioned and challenged the wisdom of their parents. New Zealanders came to realize that the actions of a small country at the bottom of the South Pacific could and did have international ramifications. But most important for race relations, it was a further awakening of Māori activism. Māori joined HART (Halt All Racist Tours) in the thousands, proclaiming, “No Māoris [sic] — No Tour,” a campaign slogan for the movement since 1959.¹⁵ By 1981, many Māori were in leadership positions at HART and other protest groups, and again thousands more joined in what can be seen as a de facto racial struggle.

When the fourth Labour government was elected in 1984, two groundbreaking policy changes had a major and permanent impact on race relations in New Zealand. In contrast to Muldoon’s welcome for visiting South African teams, the new government, led by David Lange, advocated a flat “no tour” policy for any team selected on the basis of race.¹⁶ The protestors, with a large number of increasingly radicalized Māori in senior roles, had won out over a majority of New Zealanders.

14. Trevor Richards, *Dancing on our Bones* (Wellington, New Zealand: Bridget Williams Books, 1999).

15. Poster, “Protest Meeting: No Māori – No Tour” (Held by Alexander Turnbull Library).

Available online: at <http://www.nzhistory.net.nz/media/photo/no-maoris-no-tour-poster>.

16. Michael King, *History of New Zealand* (Auckland, New Zealand: Penguin Books New Zealand, 2003).

The second key shift under the new Labour government was the extension of the scope and power of the Waitangi Tribunal to investigate alleged grievances back to 1840 (the year the Treaty of Waitangi was signed). For many iwi, disenfranchised of their land in the early colonial years of New Zealand, this was to be a landmark decision to seek recompense and redress past wrongs. For many Māori, having connected with a new racial identity through recent decades of protest, this decision would open up a new front for conflict where one had closed.

Despite the clashes that became a characteristic of settlement proceedings over the ensuing years, one settlement with a near absence of radicalism was the largest. Ngāi Tahu, New Zealand's fourth most-populous iwi (with tribal lands covering most of the South Island), signed a deed of settlement with the Crown in 1996 in a deal notable primarily for the dignified and solemn process in which it was conducted. A feature common in treaty settlements, subsequent claims, has also been absent. Many iwi, often feeling their settlements were not large enough, or have become jealous of other settlements, or are angry over that the fact they have lost their settlement compensation in failed investments, have returned repeatedly to the Crown to seek further redress. This practice in particular has led to the concern many New Zealanders hold about a treaty grievance industry. The fact that no further claims have occurred may be due to the nature and size of Ngāi Tahu settlement coupled with good governance."

The Ngāi Tahu settlement was a long time coming for the South Island iwi. Seven of their highest-ranking chiefs were among those who signed the Treaty of Waitangi in 1840.¹⁷ Ngāi Tahu, having been dominant on the South Island for so long, and unencumbered by long-standing petty scores to settle with neighbouring iwi, were not subject to the heavy bombardment of the New Zealand Wars that many of their northern counterparts endured in the years after the signing. In a number of battles, members of the iwi even fought with the Crown as Kūpapa.

Even for Ngāi Tahu though, as happened around the country, the Crown began defaulting on the terms of a sale of land agreement. First was the government's pledge to set aside 3.5 million acres of reserve¹⁸ for the iwi, a promise never fulfilled, whilst boundary disputes on the areas of land kept by Māori were commonplace. Particularly upsetting for Ngāi Tahu was the loss of access to customary food-gathering areas and other historically significant areas. These grievances led Ngāi Tahu to make their first claim for breach of terms in 1849, just nine years after the Treaty was signed.¹⁹

“Even for Ngāi Tahu though... the Crown began defaulting on the terms of a sale of land agreement.”

17. James Belich, *The New Zealand Wars and the Victorian Interpretation of Racial Conflict* (Auckland, New Zealand: Auckland University Press, 1986).

18. Ibid.

19. Michael King, *History of New Zealand* (Auckland, New Zealand: Penguin Books New Zealand, 2003).

Such early forays into legal proceedings, however, were not as successful as the iwi hoped. In 1868, when Ngāi Tahu first took its case to the Courts, the government simply passed a law to prevent the Courts from hearing the case. Two further reviews occurred over the next 20 years, the latter, in 1887, finding that only a substantial endowment of land to Ngāi Tahu would right so many years of neglect. Again, government inaction, followed by an election, ensured that such endowment or compensation was never delivered.

In 1921, it was recommended that Ngāi Tahu be awarded £350,000 (about \$20,254,956.99 CDN now) — an amount the iwi considered insufficient and the government too generous.²⁰ Two decades later, compensation from the Crown was finally forthcoming — in the form of £10,000 (about \$578,713.24 CDN now), a figure determined solely by the government without any consultation with the iwi. Sir Eruera Tirikatene, MP for Southern Māori at the time the Bill granting the compensation was passed, made it clear “there had not been acceptance of the settlement by the Ngāi Tahu people.”²¹ Despite this, the iwi accepted the compensation while investigating what more could be done to further their claim for adequate recognition.

In all, some twelve commissions, inquiries and court findings were found in favour of Ngāi Tahu prior to 1991, when the Waitangi Tribunal findings were announced.

The Tribunal cannot avoid the conclusion that in acquiring from Ngāi Tahu 34.5 million acres, more than half the land mass of New Zealand, for £14,750 (\$1,307,235.02 CDN now), and leaving them with only 35,757 acres, the Crown acted unconscionably and in repeated breach of the Treaty of Waitangi ... as a consequence, Ngāi Tahu has suffered grave injustices over more than 140 years. The tribe is clearly entitled to very substantial redress from the Crown.²²

Negotiations followed, but these were suspended by the government in 1994 and not resumed until the iwi sought and won an injunction preventing the Crown from selling land or assets in the South Island. Faced with this court order, then Prime Minister Jim Bolger had no choice but to allow negotiations to resume. Final deliberations of the Ngāi Tahu negotiating team and Crown representatives continued throughout the year, culminating in the signings of the non-binding Heads of Agreement on October 5, 1996, and the official Deed of Settlement on November 21, 1997. This historic process concluded on September 29, 1998, with the passage of the *Ngāi Tahu Claim Settlement Act* by 98 votes to 21.²³

20. Waitangi Tribunal Report, *Ngāi Tahu Land Report* (Wellington, New Zealand: Waitangi Tribunal, Department of Justice, 1991).

21. Ibid.

22. Ibid.

23. Parliamentary Debate, *Ngāi Tahu Claims Settlement Act* (Wellington, New Zealand: Hansard, Parliamentary Services, 1998).

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The settlement is made up of four main parts: a formal apology to Ngāi Tahu by the Crown, financial and cultural redress and the return of Aoraki/Mount Cook, New Zealand's tallest mountain. In the apology, "the Crown expressed its profound regret and apologized unreservedly"²⁴ for the hardship suffered by Ngāi Tahu and acknowledged the past wrongs in turning down or ignoring previous commission and court findings. The Crown apologized for these injustices on behalf of the New Zealand people and acknowledged that it had acted...

...unconscionably and in repeated breach of the principles of the Treaty of Waitangi in its dealings with Ngāi Tahu in the purchase of Ngāi Tahu land. The Crown further acknowledges that in relation to the deeds of purchase it has failed in most material respects to honour its obligations to Ngāi Tahu as its Treaty partner, while it also failed to set aside adequate lands for Ngāi Tahu's use, and to provide adequate economic and social resources for Ngāi Tahu.²⁵

While the Ngāi Tahu regarded the apology as the primary feature of the settlement, more concerning for many New Zealanders is the financial component of settlements. Historically, a number of iwi received sizeable compensatory packages and went on to waste the funds through failed investments, unnecessary bureaucracy and largesse. The decision of the Waikato iwi Tainui to invest \$6-million in an Auckland rugby league team, the Auckland Warriors, was widely attacked and led to large losses for the iwi.²⁶ Other investments in hotels and casinos, while marginally more successful, have not resulted in any meaningful financial support for poorer members (flax-roots) of the iwi.

The financial compensation granted to Ngāi Tahu is one of the most generous in New Zealand's history.²⁷ While the settlement of \$170-million compensation was almost unprecedented (Tainui received a similar amount in 1995), this figure substantially underestimates the value of the assets transferred to Ngāi Tahu ownership. Large tracts of forests throughout the South Island, for instance, are thought to be worth over \$100-million, and the settlement also provided for additional land to be transferred to Ngāi Tahu ownership. In addition to the settlement, Ngāi Tahu is by far the largest recipient of fisheries assets under a deal between Māori and the Crown for ten per cent of the fisheries quota, share holdings in fishing companies and \$50-million in cash.²⁸

The financial compensation granted to Ngāi Tahu is one of the most generous in New Zealand's history.

24. *Tahu Treaty Settlement Act* (1998). Available online at <http://www.legislation.govt.nz/act/public/1998/0097/latest/whole.html#DLM430698>.

25. Ibid.

26. *New Zealand Herald*, "Rough tackles in Warriors' hardest game" (*New Zealand Herald* article, September 25, 2000). Available online at http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=152646.

27. Michael King, *History of New Zealand* (Auckland, New Zealand: Penguin Books New Zealand, 2003).

28. *Māori Fisheries Act* (2004), Available online at <http://www.legislation.govt.nz/act/public/2004/0078/latest/whole.html#dml311464>.

Through a series of wise investments and good governance, Ngāi Tahu is New Zealand's wealthiest iwi and the largest employer in the South Island. Iwi from other parts of New Zealand now seek to replicate both the size of the Crown compensation package and the processes that led to their success following settlement.

Nevertheless, the obstacles iwi face in caring for their people are not insignificant. In nearly all statistics showing societal outcomes across ethnicity, Māori are well behind non-Māori. Higher unemployment, lower incomes, poorer quality housing, education and health, along with a high rate of urbanization away from ancestral homelands, have contributed to poor diet, serious health problems and shorter life spans.

Yet Ngāi Tahu have shown that these obstacles are not insurmountable. They remain a beacon of hope that despite the hardship faced by Māori for nearly two centuries, despite the conflict, the disagreements and the disappointments, Māori are able to succeed and prosper. While there are iwi who abuse (or are perceived to abuse) the settlement processes, there will be resistance from non-Māori, particularly Pākehā (white New Zealanders), to settlement of any kind. It is important that this resistance, while valid, be tempered by an eye to the past, to the injustices suffered by iwi, and an eye to the future, to the potential of Māori to grow and succeed in a modern world. Only then can past wrongs be remembered and not relived.

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FURTHER READING

April 2010

Aboriginal Policy in Canada Australia: From Handout to Handup<http://www.fcpp.org/publication.php/3266>

January 2011

Defending Matrimonial Property Legislation<http://www.fcpp.org/publication.php/3572>

April 2008

Indigenous Peoples from an International Perspective<http://www.fcpp.org/publication.php/2143>

About the author

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