

Treaty of Waitangi mystics foment phoney revolution

Our government, and Treaty Negotiations Minister Margaret Wilson in particular, seems intent on implementing its "closing the gaps" policy by inserting a Treaty of Waitangi clause into every new law.

Treaty clauses recently found their way into the Singapore-NZ free trade agreement and health legislation. A similar clause will, no doubt, pop up in legislation governing our education system.

Labour's logic runs thus: To close the gaps we must, on racial grounds, discriminate in favour of Maori because the Treaty of Waitangi, the document on which this nation was founded, obliges us to so.

Trouble with this logic is that the treaty was concluded in 1840 by the Crown and some, but not all, the Maori tribes.

This fragment of history was dubbed a "simple nullity" in 1877 by the Chief Justice of NZ. The treaty didn't cover the South Island. Three months after it was signed, Captain William Hobson extended the British dominion over that territory on the basis of discovery.

In any case, the treaty didn't bind Pakeha in perpetuity to giving Maori special treatment in education, health care, or foreign trade any more than it guaranteed Maori special rights to whale watching, bits of the electromagnetic spectrum, TransPower, or access to the radio waves.

That hocus pocus was conjured up by those involved in the Waitangi grievance industry - a bunch of fat cat lawyers and academics claiming a superior vision we ordinary folk lack - an ability to see through the black letter text to imbue the treaty with a spirit that only they can see.

So, if the government wants to give Maori a fair go, why justify it in Treaty of Waitangi terms? Why not just appeal to the average Kiwi's sense of fair play in a language he/she can understand? That's the democratic way to go about things.

Are Wilson and her colleagues afraid that the average Kiwi's generosity of spirit might not extend as far as the politicians' and power-seekers' generosity with other people's money, rights and liberties?

I suspect this treaty mumbo jumbo about a spirit of the treaty that must, like one's conscience, be obeyed is a cynical ruse - an attempt to con us into agreeing to something we'd never in our right minds agree to.

Either that or it's an attempt to by-pass the democratic process, granting unbridled power to those well-paid legal mystics able to perceive the spirit of the treaty.

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To the average Kiwi the treaty is just another muskets and blankets deal done by somebody else's forefathers - an excuse for a lazy weekend when the weather is balmy.

By inserting a treaty clause into every bit of legislation coming before the House, the government will, in effect, give the treaty constitutional status by stealth.

Enshrining the treaty in law would violate an elementary principle of natural justice. One party to this social contract - the vast majority of New Zealanders expected to make reparations for some past social injustice - has had no chance to be heard.

Few of the forebears of our present population were present when the treaty was signed. Yet we are expected to pay for the supposed sins of someone else's forefathers. Our forefathers had no opportunity to state their case when the treaty was signed - and, if they had, they would have been bound only by the black letter text of the treaty - not by some spirit of the treaty conjured up 160 years later.

Presumably the British signatories didn't feel guilty because they were white.

Constitutions come in handy when it comes to righting a social wrong but only insofar as they serve as reminders of what that particular society has already acknowledged to be just.

When American blacks were denied their fundamental rights, civil liberties crusaders appealed to the US Constitution and, eventually, won the hearts and minds of the American people.

Why?

Because, however much Americans might disagree, the vast majority would subscribe wholeheartedly to the Constitution and Bill of Rights. These documents are major ingredients in the moral glue holding that diverse society together. Tell an American something is unconstitutional and you've got a very powerful argument for ending it. The unconstitutional makes an American feel ashamed.

The Treaty of Waitangi has nothing like that status in this society. Tell a Kiwi something offends against the treaty and

he'll probably reply: "Says who? Some lawyer? And what's in it for him?"

If we're going to have a written constitution it should be like the US Constitution and Bill of Rights rolled into one, written in plain but passionate prose, easily understood, documents that make one proud of being part of something bigger than one's self.

Kiwis aren't going to embrace a constitution, or any part of one, written by lawyers, especially lawyers with their snouts in the grievance trough, simply because they neither trust their motives nor believe their cant.

That said, by elevating the treaty - and, more importantly, the legal mystics' spirit of the treaty - to a quasi constitutional status Wilson and her ilk are creating a climate that could well lead to serious civil disorder if not, eventually, civil war.

The shamans of the treaty are reading history backwards. They are blaming today's inequities on some past cause - an event seen today, but not then, as injustice.

MP Tariana Turia does this when she likens our colonial period to the Holocaust.

As they sang it in Rogers and Hammerstein's South Pacific: "You've got to be taught before it's too late, to hate all the people your relatives hate, people whose eyes are oddly made, people whose skin is a different shade. You've got to be carefully taught."

The Waitangi process is hate-building.

Worse, the process is slowly but surely de-legitimising the Crown and thus the government of New Zealand.

If the treaty is a fraud, as the placards say, and, as a result, my Maori mate is more susceptible to diabetes than I, smokes more, leaves school earlier, works harder, earns less, dies earlier and leaves his rellies less in his will, it's all the government's fault - this government's and all those governments since 1840.

So, if you're Maori you've got a right to steal, rape, murder, whatever. You've been done in the eye and you've got a right to get your own back.

Why shouldn't the most feckless of Maoridom believe it? It's official. It comes from the government. Conspiracy theories are easy to sell to those looking for any excuse. Blaming the system is so much easier than becoming captain of one's own destiny.

I hope Justice Minister Margaret Wilson has advised her colleagues the Police Minister and Defence Minister that she is brewing a cauldron of racial hatred and to prepare for the worst.

Warren Berryman