

# End treaty partnership myth for Maori children's sake

Here is a paragraph from an official Ministry of Education document dated March 1, 1999, under the heading, "The Treaty of Waitangi and the Ministry of Education". It reads:

"The Treaty is of particular significance to the Ministry of Education in deciding and implementing education policy. The Treaty of Waitangi defines the special and unique relationship between the Crown and Maori, firstly as the indigenous people of New Zealand and secondly as individual citizens of New Zealand.

"Maori are guaranteed the right to participate as partners and exercise autonomy in decision making at both a national and local level. The Crown has an obligation to uphold/protect the rights and interests of Maori, as defined by Maori

"In addition, the Crown is obliged to ensure that Maori receive (outcomes not opportunities) all of the same protections and privileges as non-Maori citizens.

"These implications of the Treaty of Waitangi and the tension between the Crown's right to govern and Maori autonomy are at the forefront of contemporary discussions about education outcome disparities between Maori and non-Maori."

This is either meaningless pap or pernicious twaddle. But it is the sort of thing routinely pumped out by the ministry, by the teacher unions and by the teacher training system.

They get away with this sort of thing for a number of reasons. It is all part of the phenomenon that I have remarked on before that what goes on in the education world is so crazy that when you tell parents, whom one might expect to be concerned, they simply do not believe you.

And, of course, in Wellington saying this sort of thing without thinking too carefully about it indicates that one is a compassionate and caring person whereas asking what exactly it means indicates that one is a rather horrible person that we don't want to invite to dinner parties.

So let's refuse to play the game and actually subject this to some rational analysis.

First, we have the special and unique

relationship. This tautological phrase tells us nothing. The question is, what is the nature of this relationship and what are its consequences?

Note that in this context we have constant usage of the expression "the Crown" by leftists who don't believe in any such thing.

This is to cause the reader to forget that by "the Crown" we mean the whole country because otherwise one would start to ask, "How can one have a special relationship between the people as a whole and one section of it?"

So we get on to the content of this relationship.

How can one have a special relationship between the people as a whole and one section of it?  
The essence of partnership is that partners are liable for each others' failings ... and so are entitled to joint control

It is asserted Maori are guaranteed the right to participate as partners in processes. This has been debunked over and over again, but as usual no one pays any attention. In particular, this phrase is trotted thoughtlessly out by academic public lawyers who thereby display that they have no idea what a partnership is.

Then we are told Maori have the right to exercise autonomy in decision-making. This is odd. A moment ago they were in partnership. The essence of partnership is that partners are liable for each others' failings, and so are entitled to some control over each other and joint control over the enterprise.

So what does this sentence mean? Does it mean Maori are entitled to autonomous decision making about education for Maori and to participate as partners in decisions about the education of the rest of us? If not, what does it mean?

Then we are told the Crown has an obligation to uphold the rights and interests of Maori as defined by Maori. Does this mean the Crown must give Maori whatever they want?

If not, what does it mean? Having done that the Crown must in addition ensure

Maori receive all the same protections and privileges as non-Maori citizens, presumably whether they want that or not.

Would it be picky to point out a privilege is a private benefit available to one person but not to others? The concept of a privilege enjoyed by everyone is therefore meaningless.

Perhaps the author means "rights". So these two sentences, put together, seem to mean that Maori are not to be faced with opportunity costs (a concept the authors probably wouldn't understand anyway). They are to have whatever they want of their traditional way of life provided at our expense and also have access to all the benefits of European civilisation.

And the Crown must guarantee certain outcomes, not just opportunities.

What outcomes does the Crown guarantee me? In the course of my daily life and barring accidents, damned few. I am not guaranteed any particular level of educational

achievement, remuneration or anything else.

Does this mean if 10% of the non-Maori population get degrees, then degrees must be dished out to 10% of the Maori population as well? If so, our universities are already moving in that direction. If not, what does it mean?

But the questions I really want answers to are: Can the attorney-general tell us whether the ideas the Crown must uphold Maori rights and interests as defined by Maori, and something called "Maori autonomy" that conflicts with the Crown's right to govern, reflects advice from the Crown Law Office about the Crown's treaty obligations?

If not, can the minister of education tell us whose advice it does reflect and whether he shares these views?

And can the minister for treaty negotiations answer that last question as well?

All those people know, as well as I do, the quoted paragraph is rubbish.

But among those who have the future care of our children in their hands it is taken as gospel.

Bernard Robertson is editor of the *New Zealand Law Journal*