

# Treaty of Waitangi claims have lost 'all connection with reality'

Over the ages, the wise have offered many different opinions on the matter of justice. The assumptions by the Minister in Charge of Treaty Negotiations, Doug Graham — that justice requires different laws for difference races — is not automatically obvious.

The Treaty of Waitangi has three articles. Mr Graham in recent statements mentions only one — that which guaranteed Maori their property. It is incredible that a Minister of the Crown should fail to mention the articles — which bind Maori just as much — that gave the Crown the right to rule and the Maori the status of British subjects.

It is not just incredible, it is misleading. Mr Graham knows well that many claims being made under the treaty have very little to do with property rights contemplated in 1840.

Most New Zealanders are reasonable, and quite prepared to offer some compensation for righting genuine, if ancient, substantial injustices.

But we now see such absurdities as attempts to claim for Kaimanawa horses, trout and salmon, coal, radio waves, and exemptions from dog licences and parking laws. A claim exists, before the Waitangi Tribunal, to all native plants and animals. There may soon be claims for deer, and even a claim to change New Zealand's name.

Claims have lost all connection with reality. The Treaty is now merely the disguise of any and every wish, however preposterous, of any and every Maori. If Maori want law changes in their favour, they should ask Parliament like anyone else, not hide behind the increasingly frail excuse of the Treaty.

Moreover, not all the claims are to any sort of property. Some Maori deny that the Crown ever validly acquired sovereignty. Even a member of Parliament who, presumably, has sworn allegiance to the Crown, has labelled non-Maori New Zealanders as "visitors".

The more we offer to Maori, it seems, the greedier some become. Our reasonableness is mistaken for weakness; and, to judge by the craven attitude of our rulers, it is correctly judged.

Yielding to increasingly outrageous demands does not produce racial harmony. It creates

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**David Round is a Christchurch conservationist, and a lecturer in the School of Law at the University of Canterbury. In this, the first of two articles on the Treaty of Waitangi claims, he argues that the more we offer to Maori, the greedier some become, our reasonableness being mistaken for weakness. The second half of the article will appear tomorrow.**

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resentment in other New Zealanders and, in Maori, expectations that must eventually be disappointed, with consequent (unjustified) fresh feelings of grievance.

It leads ultimately to violence, if not civil war. Such occupations of public property as Moutua Gardens in Wanganui are a sign of things to come. In the long run, it would be better for racial harmony if we were to stop now; to draw a firm line and, where appropriate, prosecute for sedition those who deny the Crown's sovereignty.

Many treaty exploiters ignore some basic principles of law and logic. Some argue Maori did not yield sovereignty because the Maori version of the treaty, unlike the English version, yielded only a lesser right. Even if true, however (which is dubious) that would have the effect of rendering the agreement void; for where parties to an agreement mean completely different things there is simply no agreement at all.

And if, then, Europeans are here as conquerors — why, Maori law itself recognised title to land arising from conquest or occupation — it is surely illogical not to recognise European title arising from the same source.

Sensing the strength of this argument, the existence of warfare among Maori is sometimes virtually denied. It is even sometimes claimed that Ngai Tahu gained ascendancy in the south simply through "inter-marriage". History will only be rewritten, however, if we do not protest. Fortunately, we are not at the mercy of an easily and conveniently reshaped oral tradition.

The Treaty, like the law of the Medes and the Persians, is considered unalterable. Yet the clause in it allowing only the Crown to purchase Maori land disappeared long

ago, and no-one has argued that alteration was invalid.

Few today realise that some major tribes refused to sign what they contemptuously dismissed as a private arrangement of northern tribes. Mr Graham has stated that this does not matter. What sort of treaty can it be whose very parties are irrelevant?

Treaty supporters claim that the Treaty gives Maori a "special relationship" with the Crown. I have never heard an explanation of what this relationship might be. The Treaty does not mention it. It merely made Maori into British subjects. Any special relationships Maori might have with the Crown automatically places other New Zealanders in an inferior position. This is hardly tolerable.

We hear voices, too, claiming it is not "the Maori way" to bind future generations. This prepares the way, a generation hence, for another round of treaty claims. There have of course been amicable final settlements in the past of some present claims, including the Ngai Tahu one.

But if Maori cannot bind future generations, then a treaty signed by a past generation cannot bind us now. Why should this European generation be held to account? Is the Treaty an agreement which binds only one party?

Many treaty activists claim that we all have duties under the Treaty. Yet on other occasions Maori insist that European New Zealanders are not party to the Treaty.

That is the excuse for excluding conservation groups, representing important aspects of the public interest, from Crown-Maori negotiations about using the conservation estate in settling claims.

But since we, ordinary citizens, have no treaty duties, our conservation lands cannot, by simple logic, be available.

Indeed, by simple logic the Treaty has little moral legitimacy today. Any agreement lasts only as long as the parties to it remain, and neither of the 1840 parties does so.

The Crown has changed. It acts now through its ministers, and they, chosen from a parliamentary majority, are ultimately (in theory, anyway) the manifestations of the people's will — the same people who are not a treaty party.

More significantly, Maori tribes, the 1840 signatories, are now entirely different in character. Many Maoris have no tribal affiliation. Many more, although having

affiliation in principle, have no participation in tribal life.

Tribes are the past. Settlements with them do very little for many essentially non-tribal urban Maori. They will receive no benefit from the creation of a privileged tribal elite of brown capitalists. The taxpayer will still be expected to fork out for the non-tribal urban poor.

Most certainly there is Maori poverty and disadvantage. There are also many European New Zealanders in want. They are the real forgotten people. If only some of our concern about social justice extended to them.

Since racism and treaty injustice cannot be blamed for their situation, possibly Maori poverty also has other causes, not automatically to be cured by sudden large gifts.

Indeed, as inter-marriage continues, the Maori race itself is gradually disappearing. What absurdity to compensate people for what their European ancestors did to their Maori ancestors. Eventually, most New Zealanders will have some Maori blood, and Maori will not be "a distinct people".

It is surely reasonable to insist that anyone alleging ancestral injustices should have enough Maori ancestry to make injustice to him or her a real possibility.

People with only 1/8 Maori blood, let alone 1/16 or 1/32, are, as far as any possible "injustice" done to their ancestors goes, not Maori at all. To treat them as a distinct wronged race is nonsense, pure and simple.

Certain pro-treaty advocates seem to realise this. The claim is surfacing now that Maoriness is not a matter of race at all, but culture. There is even a claim that anyone, of any race, can be Maori, and can therefore claim any accompanying privileges, if they want to. Counting fractions of ancestry is said to be demeaning.

The argument need only be stated for its absurdity, and its possibilities for abuse, to be recognised. It is also surely not an argument that will find much favour among genuine racial Maori.

Parallel legal systems have been tried before. They can only work when races are distinct and law is simple. Neither condition applies here. They inevitably cause ill-feeling. To attempt to create a new bi-legal system is an insanity which will benefit only lawyers.