

REVIEW (Adapted from Te Hākapūmautanga o Ngā Hapū o Ngāti Kahu)

As they prepare to return to the Waitangi Tribunal, it is timely to review the Tribunal and its work, as well as that of the Crown, with regard to Ngāti Kahu.

The Waitangi Tribunal is a Crown appointed Commission of Inquiry established in 1975 to inquire into and make recommendations on breaches of the Treaty of Waitangi by the Crown. It is made up of people who have specialist knowledge and expertise in British culture and law as well as in aspects of tikanga Māori. It relies on claimants appearing before it to advise on the tikanga of each hapū and iwi making claims. From 1990 to 1994 Ngāti Kahu, led by McCully Matiu, sent many kaumātua to explain their tikanga to the Tribunal.

The Tribunal inquired into the actions of the British Crown, settlers and settler governments to find out whether they had complied with British law when they made claims to or took over control of Ngāti Kahu lands. The Tribunal found that they had not. Instead they had deliberately ignored and violated Ngāti Kahu tikanga in respect of their lands, repeatedly breached the Treaty of Waitangi, and stolen most of that land. As a result, the Tribunal recommended the Crown transfer substantial property back to Ngāti Kahu.

The fact that the Tribunal made the findings it did is extremely important. This is one part of the Crown telling another part of the Crown that it has acted illegally and that it now has very large and serious liabilities as a result. In terms of both Te Tiriti o Waitangi and the United Nations Declaration of the Rights of Indigenous Peoples, and in terms of its own laws, the Crown has little choice but to return what it stole.

All of Ngāti Kahu's rohe has historical and cultural significance. Many of those places and their associated wāhi tapu have suffered severe degradation physically and/or spiritually when the Crown and its supporters have falsely claimed them, and when Ngāti Kahu have been unable to maintain full association as mana whenua.

Before European contact, Ngāti Kahu exercised its own laws and customs based on values rather than a rigid set of rules. Despite superficial changes after contact with Europeans, the essential nature of Ngāti Kahu social organisation, authority, leadership, tikanga, law, and protocols, has remained unchanged.

In 1840, Te Tiriti o Waitangi set out the conditions under which the Queen of England could exercise authority over her own British people and guaranteed that the rangatira of Ngāti Kahu would continue to exercise the same rangatiratanga that they had always exercised and that had been previously acknowledged in the 1835 Te Hākaputanga o te Rangatiratanga o Nu Tireni. It also guaranteed that Ngāti Kahu would enjoy all the rights, privileges and responsibilities of British citizens.

As the Tribunal has already found, the Crown has failed to honour these guarantees to Ngāti Kahu.