

IN THE WAITANGI TRIBUNAL

Wai 45

IN THE MATTER OF the Treaty of Waitangi Act 1975

AND an application for remedies on behalf
of Te Rūnanga-ā-Iwi o Ngāti Kahu
("Ngāti Kahu")

**BRIEF OF EVIDENCE OF MANUKA HENARE ON BEHALF OF
TE RUNANGA O TE RARAWA**

23 AUGUST 2012

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MAY IT PLEASE THE TRIBUNAL

- 1.** My name is **Manuka Arnold Henare** and I belong to Ngāti Hauā hapū of Te Aupōuri, Te Rarawa, Ngāti Kuri and Ngāti Kahu of Muriwhenua, North Auckland. I live at Haruru Falls, Paihia, Bay of Islands. My marae is Whāngāpe Marae, Whāngāpe. My whare tupuna is Te Kotahitanga. My tupuna is Te Kaha. My maunga is Rangiputa.
- 2.** I am an Associate Professor, Director of Mira Szászy Research Centre for Māori and Pacific Economic Development, and Associate Dean Māori and Pacific Development and member of the Senior Management Team, at the University of Auckland Business School.

QUALIFICATIONS AND EXPERIENCE

- 3.** My formal tertiary education qualifications include an undergraduate B.A. degree with a double major in Māori Studies and Anthropology (1987), a B.A. (Hons.) in Māori Studies (1989), and a doctorate in Māori Studies (2003) from Victoria University of Wellington.
- 4.** My PhD Thesis (2003)¹ is the basis of all my continuing research, teaching and engagement in tribal and Māori development. Titled, *The Changing Images of Nineteenth Century Māori Society – From Tribes to Nation* it is an historical, ethnographic and linguistic interpretation of rangatira motivations concerning He Wakaputanga o te Rangatiratanga o Nu Tireni, 1835 (The Declaration of Independence) and Te Tiriti o Waitangi, 1840 and the movement towards the creation of a Māori nation and economic development.
- 5.** I have completed research in traditional Māori philosophy, religion and metaphysics and how its worldview, culture, ethics and values informs theories and practices of history, anthropology, philosophy, management, organisational culture, economics, and globalisation. This has progressed to the extent that there is increased interest in the research internationally as well as locally. My research, based on fieldwork in North Auckland and Waikato, as well as archives and literature, has identified the versatility and persistence of traditional Māori and other indigenous peoples' concepts, ideas and practices in

¹ Manuka Henare, *Changing Images of Nineteenth Century Māori Society – From Tribes to Nation*. Unpublished PhD Thesis, Victoria University of Wellington, Wellington, 2003.

philosophy, jurisprudence, human rights, economics, business and society.

6. I am a member of a number of professional organisations including:
 - (a) Historical Association of NZ,
 - (b) Polynesian Society of NZ;
 - (c) NZ Association of Anthropologists;
 - (d) Society for Risk Analysis (USA);
 - (e) The NZ Institute of Directors;
 - (f) Metanexus Institute of Science and Religion, USA;
 - (g) Pouhere Kōrero: Māori Historians Association.

7. My contributions to governmental and other advisory bodies and invited public presentations are based on the recognition as a specialist in New Zealand and internationally on Māori customs, history of He Wakaputanga o Te Rangatiratanga o Nu Tireni 1835 (the Declaration of Independence) and the Te Tiriti o Waitangi/Treaty of Waitangi, 1840, the Treaty of Waitangi principles and its application to contemporary constitutional, political, economic and social life.

8. My experience relative to this particular hearing is based on research work in the Māori community for the past 40 years, especially in the Bay of Islands, including the Kerikeri Inlet area.

9. As an anthropologist and historian I have been engaged in the Treaty of Waitangi Claims process as a witness, researcher and advisor. I have led three teams of contract researchers (historians, anthropologist and archaeologist). Currently I am Principal Investigator of a University of Auckland Business School Research Team working closely with some 200 North Auckland Ngāpuhi Claimant groups in the Wai 1040 Te Paparahi o Te Raki Claim since 2002. I have led three teams of contract researchers (historians, anthropologist and archaeologist). We have completed two technical reports for WAI 1040 Claimants and the Waitangi Tribunal. They are:
 - (a) Henare, M.A., Petrie, H., Puckey, A.M.A. (2010). *"He Whenua Rangatira" Northern Tribal Landscape Overview (Hokianga, Whangaroa, Bay of Islands, Whāngārei, Mahurangi and Gulf Islands)*, August, Crown Forestry Rental Trust (CRFT), UniServices Ltd. pp760.

(b) Henare, M.A., Petrie, H., Puckey, A.M.A. (2009). *Oral and Traditional History Report: Te Waimate Taiāmai Alliance*, August, Crown Forestry Rental Trust (CRFT), UniServices Ltd., Auckland, pp511.

We are currently contracted for a third report, which is in its final editing stages:

(c) Henare, M.A., Puckey, A.M.A. & Middleton, A. (due 2012). *Te Aho Claims Alliance: Oral and Traditional History Report*, Crown Forestry Rental Trust (CRFT), UniServices Ltd., (pp. 500).

10. I presented evidence also to other Waitangi Tribunal Hearings on behalf of Te Rūnanga o Muriwhenua (Wai 45); Whakatōhea (Wai 87); Ngāti Koata (Wai 566); Ngāti Rangī (Wai 151); and on behalf of Te Rūnanga Whakawhanaungatanga o Ngā Hāhi Te Reo Māori Claim (WAI 11). I have also presented evidence to the Waitangi Tribunal in the Foreshore and Seabed Claim (Wai 1071) in respect of customary usage of the Foreshore and Seabed ("Te Takutai Moana").

11. Attached in Appendix One is a list of my publications.

EMPLOYMENT SUMMARY

12. After careers in the private sector and the not-for-profit sector I started my academic career in 1993 as a lecturer in Māori Studies at Victoria University of Wellington. After promotion as a senior lecturer, I taught undergraduate courses in Māori Culture and Society; the Treaty of Waitangi; and Customary Concepts of Māori. At postgraduate level, I taught a course in Tribal Ethnographies and lectured also in Development Studies.

13. In 1996, I joined the University of Auckland Business School as a Senior Lecturer in Māori Business Development where I taught papers on Management 101; Kaupapa Māori in Management in undergraduate and postgraduate Commerce degrees; currently I teach in the Business School's Executive Programmes such courses as, Māori History and Resources; Strategic Planning, Governance and Management for Māori as part of the Postgraduate Diploma in Business (Māori Development).

14. I am also the foundation Director of the University of Auckland Business School's Mira Szászy Research Centre for Māori and Pacific Economic

Development, which was launched in 1999. Dame Mira Szászy of Ngataki, Far North, was the first known Māori woman to get a degree from the University of Auckland and one of the founders of the Māori Women's Welfare League. The Mira Szászy Research Centre collaborates with the University of Auckland's New Zealand Asia Institute with matters to with Māori and Pacific economic development.

- 15.** My current Ministerial appointments include: Authority Member, Environment Risk Management Authority of NZ (ERMA) 2003-2010 at which point all authority members were reappointed to establish the Environmental Protection Agency (EPA). This appointment ended in June 2012. I currently hold Ministerial appointments to the Governing Council, Te Wānanga o Aotearoa, since 2008; and the Council, Manukau Institute of Technology, since May 2010.
- 16.** I am also a member of the National Strategy for Financial Literacy Advisory Committee, Retirement Commission Office, appointed by the National Literacy Commissioner. The Committee reports directly to the Minister of Finance and is currently chaired by the Governor of the Reserve Bank, Dr Allan Bollard.

INTRODUCTION

- 17.** I was approached by Mr Haami Piripi, Chair, Te Rūnanga o Te Rarawa to offer evidence relating to aspects of Te Rarawa and wider Ngāpuhi ni tonu philosophy, history and anthropology. I will address the following matters:
 - (a)**Rangatiratanga: Leadership yesterday and today. Ngā taonga tuku iho, rendered as a valuable gift from Io, the Supreme Being, and handed down from spiritual and human ancestors;
 - (b)**He Wakaputanga o te Rangatiratanga o Nu Tirenī 1835 (The Declaration of Independence): Te Rarawa Nation making ancestors – Panakareao, Te Morenga, Te Huhu, Papahia and Te Tiriti o Waitangi 1840;
 - (c)**Mana whenua or diverse hapū (tribes) associated with mixed hapū-iwi communities of Kaitaia;
 - (d)**Rangatiratanga: Justice Delayed is Justice Denied – Pōhara, Tōnui, Kōkiri: Imagine a Child and Whānau Centred Economy of Wealth Creation and Poverty Removal in Muriwhenua.

18. I confirm that these matters are within my area of expertise.

(A) Rangatiratanga: Leadership yesterday and today. Ngā taonga tuku iho, rendered as a valuable gift from Io, the Supreme Being, and handed down from spiritual and human ancestors.

He Korunga o Ngā Tikanga - Ngāpuhi nui tonu Worldview, Ethics and Values

19. The Ngāpuhi nui tonu world view is an account of the world as it has been experienced and understood by ancestors, spiritual and human, and descendants over generations; this world view is not simply a description of Māori experience and thought: it is also imbued with an understanding of Māori cosmological, genealogical, spiritual and moral philosophy.

20. According to three contemporary stages the universe consists of the spiritual world from which emanates the material world. The Reverend Māori Marsden of Te Aupōuri, Te Rarawa, Ngāpuhi and Ngāti Kahu has written that a Māori understanding is that the universe is "a two-world system in which the material proceeds from the spiritual, and the spiritual (which is the higher order) interpenetrates the material physical world of Te Ao Mārama."² In a similar vein, the Reverend Tawhao Tioke of Ngāi Tūhoe speaks also of the universe as a two-world system of the spiritual and the material. Similarly, the Reverend Hemi Pōtatau of Ngāti Kahungunu writes that all things come from spiritual powers.³

21. A further explanation given for the Māori world view is as follows:

The Māori world-view is holistic and cyclic, one in which every person is linked to every living thing and to the *atua*. Māori customary concepts are interconnected through a *whakapapa*

² Māori Marsden cited in Manuka Henare, *The Changing Images of Nineteenth Century Māori Society, From Tribes to Nation*, Unpublished *PhD Thesis*, Victoria University of Wellington, 2003, p. 43.

³ Manuka Henare, 'The Changing Images of Nineteenth Century Māori Society, From Tribes to Nation', Unpublished *PhD Thesis*, Victoria University of Wellington, 2003, p. 43.

(genealogical structure) that links *te taha wairua* (spiritual aspects) and *te taha kikokiko* (physical aspects).⁴

Here, emphasis is given to the concept of whakapapa, which is used to explain the physical and spiritual relationships Māori have with one another and with their environments. Other researchers of Māori ways of thinking and knowing, such as Huia Jahnke and Julia Taiapa, share this explanation:

A world-view of the Māori is encapsulated in whakapapa, the description of their reality in the form of genealogical recitals. Implicit in the meaning of whakapapa are ideas of orderliness, sequence, evolution and progress. These ideas are embodied in the sequence of cosmological narratives, traditions and tribal histories.⁵

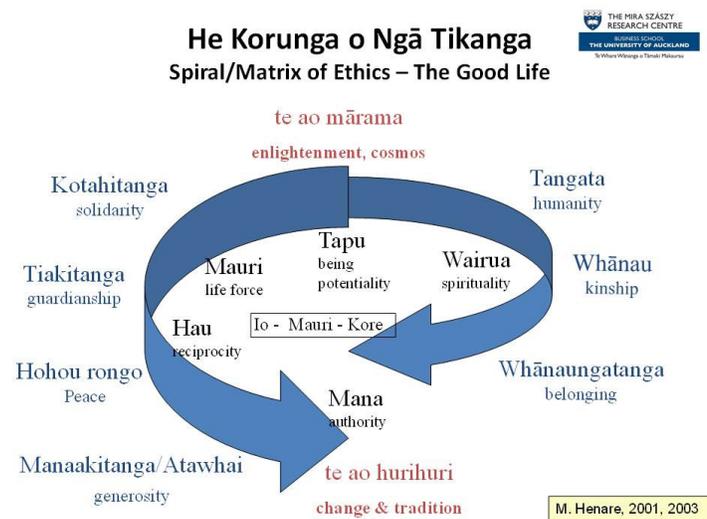
- 22.** The Ngāpuhi nui tonu world view is largely derived from ancient Pacific cosmology, involving the study of the universe as a whole, and belief systems, which are related through oral traditions and narratives that describe elaborate and supernatural occurrences and provide key principles in Māori cultural and societal customs, values and beliefs. From a Ngāpuhi perspective, the universe evolved from and by the actions of Io Matua kore, the Supreme Being who had no parents, through different stages of existence, each with its own layers and dimensions.
- 23.** The mana of Ngāpuhi nui tonu is maintained and enhanced in a number of waka narratives and their explanations of ancestral origins; the use of these generative narratives speaks into being the location of Ngāpuhi nui tonu mana within North Auckland or Te Taitokerau. The whakapapa of the crews of *Matahorua*, *Ngā-Toki-Mata-Whao-Rua*, *Māmari*, *Takitimu*, *Mataatua*, as well as *Kurahaupō*, *Māhuhu-ki-te-rangi* and other waka, converge in a number of ancestors common to the many whānau, hapū and later iwi.⁶

⁴ Tānia M. Kai'ai, John C. Moorfield, Michael P.J. Reilly and Sharon Mosley, *Ki Te Whaiao: An Introduction to Māori Culture and Society*, Auckland, 2004, p. 13.

⁵ H. Jahnke and J. Taiapa, 'Māori research', in C. Davidson and M. Tolich, eds, *Social Science Research in New Zealand: Many Paths to Understanding*, Auckland, 1999, p. 41.

⁶ Patu Hohepa, evidence in respect of the Ngāwhā Geothermal Resource, Wai 304, 4.1 (B25(a) of enquiry, Waitangi Tribunal Office, p. 12.

24. Finding one's identity and humanity in whanaungatanga (belonging to a whānau, hapū and iwi) that is located in a particular time and place, can also be expressed as 'I belong, therefore I am'.⁷ It conveys the importance of both the individual and the group in kinship solidarity.
25. *He Korunga o Ngā Tikanga*, is a spiral or matrix of ethics. It constitutes a traditional Ngāpuhi nui tonu - North Auckland philosophical ideal of a good life. The spiral is a group of powerful generative supreme values that constitute a coherent philosophy, metaphysics and religion in which cardinal ethics and virtues explain motivation for Māori agency from the nineteenth and twenty-first centuries. These ethics are described as follows:



- a) Tikanga te ao mārama: the ethic of wholeness, evolving, cosmos.
- b) Tikanga te ao hurihuri: the ethic of change and tradition.
- c) Tikanga tapu: the ethic of existence, being with potentiality, power, the sacred.
- d) Tikanga mauri: the ethic of life essences, vitalism, reverence for life.
- e) Tikanga mana: the ethic of power, authority and common good, actualisation of tapu.
- f) Tikanga hau: the ethic of the spiritual power of obligatory reciprocity in relationships with nature, life force, the breath of life.
- g) Tikanga wairua: the ethic of the spirit and spirituality.

⁷ J. Irwin, *An Introduction to Māori Religion*, Adelaide, 1984, p. 7; R. Maaka, 'The New Tribe: Conflicts and Continuities in the Social Organisation of Urban Māori', *The Contemporary Pacific*, 6, 2 (1994), p. 314.

- h) Tikanga tika: the ethic of the distinctive nature of things, of the right way, of the quest for justice.
- i) Tikanga whanaungatanga: the ethic of belonging, reverence for the human person.
- j) Tikanga whānau: the ethic of family.
- k) Tikanga tangata: the ethic of the human person and humanity.
- l) Tikanga tiakitanga: the ethic of guardianship of creation, land, seas, forests, environment.
- m) Tikanga hohou rongo: the ethic of peace and reconciliation, restoration.
- n) Tikanga kotahitanga: the ethic of solidarity with people and the natural world and common good.
- o) Tikanga manaaki-atawhai: the ethic of love and honour, solidarity and reciprocity.⁸

26. By applying *He Korunga o Ngā Tikanga*, traditional, moral and ethical rangatira thinking and behaviour, we can see that the common good is paramount and particularly pertinent in the case of the Ngāti Kahu remedies application. In my mind there is no moral or ethical basis for Ngāti Kahu's to be allowed to adversely prejudice the agreed upon Te Rarawa settlement. The onus has been for all rangatira of the participating iwi to make the best decisions for their people whilst respecting the choices for settlement made by their neighbouring Iwi. The Tribunal should resist at this stage getting involved in the agreed settlements.

(B) He Wakaputanga o te Rangatiratanga o Nu Tireni 1835 (The Declaration of Independence): Te Rarawa Nation making ancestors – Panakareao, Te Morenga, Te Huhu, Papahia and Te Tiriti o Waitangi 1840.

27. The Ngāti Kahu claimants have raised questions about historical leadership and the role of Panakareao during a time of major whānau and hapū transformational change leading to the emergence of new types of larger tribal entities such as iwi. I offer below some of my

⁸ Manuka Henare, Tapu, Mana, Mauri, Hau, Wairua. A Māori Philosophy of Vitalism and Cosmos. In J. Grimm (Ed.) *Indigenous Traditions and Ecology: The Interbeing of Cosmology and Community*, 2001, pp. 197-221. Cambridge: Harvard University Press for the Centre for the Study of World Religions; Manuka Henare, *Changing Images of Nineteenth Century Māori Society – From Tribes to Nation*. Unpublished PhD Thesis, Victoria University of Wellington, Wellington, 2003.

historical research, based on my PhD Thesis⁹, of the period 1800-1840 which explores the emergence of iwi and the notion of a Māori nation in the mid to later 19th Century. Personalities such as Panakareao, Te Morenga, Te Huhu and Papahia are noted leaders of the Kaitiaki and North Hokianga region engaged with rangatira from other parts of Aotearoa or Nu Tireni.

- 28.** In late October 1835, a group of concerned local and travelling rangatira responded to an invitation to meet with James Busby, the British Resident. The rangatira met with a person whom they considered a senior foreign political adviser to them. They gathered on the front lawn of Agnes and James's house, as they were used to doing since 1833, where they would sleep in the open and debate with James, important issues of the day. Many of the rangatira, Te Morenga, Taiamai, Heke, Pomare, Kiwikiwi, Moetara, and Waikato, and probably the following - Waka Nene, Patuone, Rewa, Moka, Warerahi, Kawiti, Titore Takiri, Kekeao, Taonui, Matangi, Te Haara, Te Reweti Atuaheere, Tareha, Pumuka, Panakareao, Papahia and Tirarau - had gathered at a similar event 19 months earlier on Thursday 20th March 1834. On this occasion, with Busby's guidance and in the midst of British pomp and civility, some twenty-five rangatira and hundreds of supporters selected "te kara"¹⁰, their first national flag for Nu Tireni. New Zealand, already known internationally in the English-speaking world by this name, was rendered in Māori as either Nu Tirani or Nu Tireni.¹¹
- 29.** Acting on the instructions of the New South Wales Governor, Busby called the assembly of chiefs to enact a law to prevent Charles Baron de Thierry, the self-styled French "King of Nukuheva and sovereign chief of New Zealand" from gaining a foothold. This particular assembly was one of many convened since Busby's arrival in 1833 where he took the opportunity to progress his own idea that Māori leaders ought to "act in concert"¹² for the well-being of their people. While the perceived Thierry-French scare was a British ploy aimed at ensuring Māori dependency on the

⁹ Manuka Henare, *Changing Images of Nineteenth Century Māori Society – From Tribes to Nation*. Unpublished PhD Thesis, Victoria University of Wellington, Wellington, 2003.

¹⁰ Von Hügel's Journal, Rev. Lochore's Papers, extracts transcribed, 1834, p. 432, 433, 438; J. Lee, *I have named it the Bay of Islands...*, Auckland, 1983, p. 177.

¹¹ James Busby, 1802 - 1871, Letters and Papers. MS 46, MS 93/116.; Von Hügel's Journal, Rev. Lochore's Papers, extracts transcribed, 1834, p. 449, 450.

¹² James Busby, 1802 - 1871, Letters and Papers. MS 46, Busby to Ellic, 22nd June 1833.

goodwill of the British it is not altogether clear, from Māori sources, what weight, if any, rangatira gave to the alarmists.

30. In my study I explore the dynamic of Māori metaphor in political, economic and social processes over time until 1840. Different phenomenological approaches are used as well as history, philosophy and philosophical anthropology. The main aim is to discuss rangatira motives and understandings for their active participation in these new types of public gatherings, which rangatira in Kaitaia and the Bay of Islands accorded some priority, especially those convened at Waitangi and Kaitaia with the British Resident.

Panakareao and other rangatira Metaphor – Marae, Kaipuke

31. The late October 1835 gathering in Busby's space was the climax of a series of events involving practical day-to-day political and longer-term economic and social issues. And, in the process, they established an identity of themselves as a distinctive people in relation to the world at large, namely Australia, the wider Pacific and the new European worlds. Incorporated in this emergent national identity was the sense of belonging to a nation and a state in the making. Meeting with Busby, the rangatira such as Panakareao and Papahia agreed to the formation of a "Whakaminenga o Ngā Hapū", a phrase glossed by Busby as a confederation of hapū, was the culmination of a series of events acknowledging the identity of themselves in relation to the world and defining themselves as a nation. In entering Busby's cultural space the rangatira crossed a boundary into a liminal state¹³ which is a "step neither inside nor outside but in-between"¹⁴, a taumata in Northern Māori dialect, but known in other regions as paepae, wherein was another world. In that world, a new way of looking at the reality of economics and politics was possible, all of course on a grander scale to that which they were used to.
32. In many ways, the British Residence functioned like a marae and would explain why rangatira such as Panakareao and Papahia were comfortable meeting in the space. Such marae became places of encounter between Māori and Pākehā and were a metaphor similar to the "islands and

¹³ cf. Cleve Barlow, *Tikanga Whakaaro. Key Concepts in Māori Culture*, Auckland, 1991, p. 182-185.

¹⁴ Greg Denning, *Islands and Beaches: Discourse on a Silent Land Marquesas 1774*, Melbourne, 1980, p. 157.

beaches” described in Greg Denning’s¹⁵ illuminating ethnohistory of the Marquesas Islands of East Polynesia. For Denning the Marquesan metaphor is the model around which a history is found, rather than the historian’s model of history, and within which a Marquesan history is constructed. The beaches of the Marquesas were the neutral zones of encounter where strangers could meet and cross over into different worlds and return later to their own. In the crossing over and back again, nothing would be the same after the encounter. Following Denning’s reflections on history, anthropology and methodology I discuss two Māori metaphors, the marae and the kaupuke. The first metaphor is a model of decision-making and exchange, and the sailing ship metaphor is what can be described as a Tai Tokerau model of society, the nation or the state.

- 33.** In early nineteenth-century Tai Tokerau society, the marae complex of land and buildings was a formal institution. In addition, one could be constituted in any place considered convenient to people. A marae, says Kawharu of Ngāti Whātua was a place of consultation, a forum for debate where binding decisions might be reached “by sanctions on trust and credibility, sanctions of ridicule or hostility or rejection.” “For political purposes,” he says, “any piece of ground would suffice as a marae, given an appropriate identification of the political group.”¹⁶
- 34.** The institution of the marae was a place of encounter between locals and visitors, the living and the dead – a timeless place where matters were considered and deeds done according to ritual. As Salmond describes it, these places of encounter were “beginnings and ends”, “frontiers and boundaries.”¹⁷
- 35.** At Waitangi the house and property was James’ and Agnes’ cultural space, a little piece of Scotland that they called home. The Busby home overlooked Northern Māori space called Te Moana i Pikopiko i Whiti, which is the ancient name of the inland harbour and its many bays, beaches and inlets spread out across the whole area. The foreigners called it the Bay of Islands and its transliterated Māori term is Pēwhairangi. Te Moana i Pikopiko i Whiti also refers to the beachfront on the Pacific island called Wawauatea at Rangiatea. This, the Ngāpuhi nui tonu tradition is the

¹⁵ Greg Denning, *Islands and Beaches: Discourse on a Silent Land Marquesas 1774*, Melbourne, 1980, p. 3.

¹⁶ I. Hugh Kawharu, Translation of the Māori Text of the Treaty of Waitangi to the Court of Appeal. In *New Zealand Māori Council v Attorney-General [1987] 1 New Zealand Law Review 641*, 1987, p. 12.

¹⁷ Anne Salmond, *Hui A Study of Māori Ceremonial Gatherings*, Wellington, 1983 [1975], p. 32.

original Hawaiki homeland of Māori.¹⁸ Wawauatea was the island beach from which Kupe's canoe, and later many other canoes, were launched to start the crossing of Te Moana nui a Kiwa and the ancestral search for Aotearoa.¹⁹ Sir James Henare, who has a direct links to Te Aupōuri refers to this earthly Hawaiki in his meta-history.

- 36.** Standing on the small round grass lawn in front of Busby's house and porch the rangatira could, gazing slightly to their right see across to the other side of the harbour towards the town and grog shops of Kororāreka, aptly called Hell by the missionaries.²⁰ To their left they could see the jutting, rocky Tapeka peninsular past which the whaling, trading and military ships would enter the safe haven of an inland resting place for both ships and their crews. On top of the cliffs sat Tapeka Pā, a strategic security sentinel with clear views along both the northern and eastern coastlines of the outer Pēwhairangi Bay. From within the pā the guardian could look directly ahead in an easterly direction to the horizon of Te Moana Nui a Kiwa. The white masted sailing ships, which Northern Māori described as kaupuke because they appeared to be like floating hills of food, delivered their produce and other products for Māori and Pākehā consumers. Kaipuke were not considered waka, which were the traditional canoe and the only other means of sea transport of Māori.²¹ On their outward journey from Pēwhairangi, kaupuke were loaded with fresh vegetables, timber and other commodities. Ninety-one British colonial, American and Tahitian ships had arrived in 1834 and 89 the year earlier of which 31 and 20 were trading vessels respectively. Eighteen thirty-five also looked prosperous with the arrival and departure of 103 kaupuke, followed with 151 in 1836, 108 in 1837, 133 in 1838 and 155 in 1839.
- 37.** Many of the rangatira had already sailed aboard these floating hills and when looking at them as they glided in and out of the 1830s Tai Tokerau world of Pēwhairangi they were imagined as a community with a captain to steer it. The kaupuke became a potent Northern metaphor for nationhood and sovereignty during the 1830s and 1840s, illustrated by Nopera Panakareao's usage of metaphor in May 1840 while summing at the Kaitaia signings of the Tiriti o Waitangi. He said:

¹⁸ Erima Henare, personal communication, 2001.

¹⁹ cf. David R. Simmons, *The Great New Zealand Myth*, Wellington, 1976, pp. 31, 210, 212.

²⁰ Edward Markham, *New Zealand or Recollection of It*. E. H. McCormack (ed). Wellington, 1963, p. 63.

²¹ Hoani Nahe, Te Takenga mai o Ēnei Kupu, a Pākehā, a Kaipuke. Trans. S. Percy Smith. *Journal of the Polynesian Society*, 3, pp. 233, 235.

We have now a Helmsman, before everyone wished to steer the helm, one said let me steer, another said let me steer, and we never went straight.²²

- 38.** In addition, many had first had experience in trade with foreign vessels and knew of the value that such business brought to their respective kainga. The value of trade was of extraordinary levels. In a seven-year period 1826 to 1833, exports from Nu Tireni to New South Wales alone, totalled £531, 403, while the imports from New South Wales totalled only £164, 083. Historically advantaged, Tai Tokerau rangatira could not know the vagaries of European market forces and impacts on local whānau-hapū and regional economies, such as the Kaitaia, Bay of Islands and the North Auckland. Neither were they aware of the overall national effects of the trade on the country. However, based on what they experienced in the period the future looked very promising and the response to the new commercial activities was optimistic. They had no way of knowing otherwise.
- 39.** Nopera Panakareao's (?-1856) of Te Rarawa was in his long life time, a rangatira, a warrior, an evangelist, an assessor and one of an elite group of rangatira who are the first generation of literate Māori leaders. He wrote one of three rangatira letters in Māori. Dated 9th May 1837 it was sent from his base in Kaitaia to Te Matenga (Marsden) in Sydney. In it he requests, "tētahi Kawana mo tātou, hei tiaki i a tātou" - a Governor and protector for us. Panakareao is concerned about southern Ngāpuhi and their current fighting and while he was a supporter of Busby, he was worried about Busby's inability to protect Te Rarawa. However, he goes further than just seeking a governor asking Marsden for soldiers for the natives who would perhaps stop Ngāpuhi from fighting. He wrote, "Mehemea e wai hoia ana te tangata Māori e kore pea e w[h]awai me Ngāpuhi e w[h]awai nei" - If the Māori people had soldiers then perhaps Ngāpuhi would not fight as they fight now.²³ He supported an active engagement with Pākehā missionaries and traders, developing an acute understanding of their ways of thinking and practices.²⁴ Like other

²² Richard Taylor, *Journal 1840 - 1844 typescript*. MS Vol. 1, p.352; see also Ian Wards, *The Shadow of the Land: A Study of British Policy and Racial Conflict in New Zealand 1832-1852*, Wellington, 1968, p.49; Angela Ballara, Nopera Pana-kareao. In William H. Oliver (ed.), *The Dictionary of New Zealand Biography, Volume One 1769 - 1869*, Wellington, 1990, p. 326.

²³ Panakareao to Marsden, 9th May 1837, Vol. 3 A1994, pp.139, 136-137. 1837.

²⁴ Angela Ballara, Tamati Waka Nene. In William H. Oliver (ed.). *The Dictionary of New Zealand Biography, Volume One 1769 - 1869*, Wellington, 1990, p.327-328.

nascent Ngāpuhi writers Eurera Pare and Taiwhanga, he had a strong sense of categories of distinctiveness and relationships between Māori and Pākehā.

- 40.** As a descendent of rangatira who signed on behalf of their people, Te Rarawa, this history and reflection on history is very much an insider's view of cultural, economic and political change. These tribal co-founders of the Māori nation were Papahia, Te Huhu, Te Morenga and Panakareao. The issues facing Te Tai Tokerau and Māori society in the 1820s - 1830s were extensive. Technological and economic changes and transformations, debilitating civil type wars of hapū on hapū and internal migrations had taken place and their residual consequences continued. Yet, the lack of peaceful security weighed heavily on rangatira and their peoples' minds. The phenomenon of rising expectations are apparent as many hapū sought the new fruits of a rapidly changing Te Taitokerau economy, where earning cash and foreign exchange enabled them to acquire new tools and produce. These contributed to the desired change in the quality of Māori lifestyles.²⁵
- 41.** The desire for an enhanced lifestyle is noteworthy. Many Tai Tokerau rangatira were alarmed at the relatively high death rate among newborn children. They observed the lifestyle of Pākehā families who lived in northern communities.²⁶ They contrasted their children's mortality rate with that of newborn Pākehā children. Why, they asked, do more Pākehā babies remain alive than ours? was a typical question put to James Busby and missionaries. It seems that rangatira and their people had reached a conclusion that new food, new types of clothing, new types of living conditions, new knowledge had something to do with helping babies stay alive longer.²⁷
- 42.** Two other issues worried both Busby and some rangatira. First, was the troublesome behaviour of the whalers, traders and missionaries from England. Second, prompted by missionaries and Busby, they thought French nationals might gain a hold in their islands. Given the developing relationship of many hapū with the British Crown the latter preoccupation

²⁵ Letter of R. Davis to James Busby, 29th June 1839 in James Busby, *1802 - 1871, Letters and Papers*. MS 46; see also Adrienne Puckey, *Trading Cultures: A History of the Far North*, Wellington, 2011; Hazel Petrie, *Chiefs of Industry: Māori Tribal Enterprise in Early Colonial New Zealand*, Auckland, 2006.

²⁶ Busby Letter to Colonial Secretary of New South Wales, 16th June 1837 - James Busby, *1802 - 1871, Letters and Papers*. MS 46.

²⁷ Harrison M. Wright, *New Zealand 1769 - 1840: Early Years of Western Contact*. Cambridge, 1959, p. 57 - 80.

was important. These international dimensions were also part of the drama of the times. However, as stated elsewhere in the thesis I think these aspects have been overstated and reflect British, early settler and missionary world-views and priorities.

- 43.** While all these complex issues were significant factors in the actions of the rangatira, I argue that they are all manifestations of the primary concern of the leaders, which was the well-being of their people, particularly the children. The ethics of whanaungatanga, manaaki, kotahitanga, tapu and mana are at work. The responsibilities of leadership, expressed as rangatiratanga and tohungatanga, demands that the kinship group provide for the necessities of life, namely good food, shelter, security, peace and stability in society. The emphasis on a performing economy for the whānau and hapū was the fundamental preoccupation of the rangatira and tohunga of the period. The significant new developments in local and international trade and its benefits to prosperity was the impetus needed for rangatira to think in new ways for dealing with old problems of maintaining self-sustaining communities. I suggest that these same world views, core ethics-values and behaviour are drivers of today's rangatira and tohunga. This must be so because leaders today assert that they are driven and inspired by tikanga Ngāpuhi nui tonu, tikanga Te Rarawa, tikanga Te Aupōuri and Tikanga Ngāti Kahu.

He Wakaputanga o te Rangatiratanga o Nu Tireni

- 44.** Early nineteenth-century rangatira like Panakareao, Te Morenga, Te Huhu and Papahia had an understanding of sovereignty, which is about the locus of power itself. This understanding is inferred in the term mana. The rangatira written evidence shows that the English notion of sovereignty is rendered in Tai Tokerau Māori in two phrases, the first in a way new to their thinking of the time and the second, represented a traditional Māori political understanding of power and the exercise of it. The Northern Māori language text of the Declaration of Independence refers to the authority and power of the rangatira to act and speak as, "Ko te kīngitanga, ko te mana i te wenua".²⁸ Busby and Henry Williams rendered these as sovereignty, power and authority. "Kīngitanga" is glossed as sovereignty. The second phrase, "Ko te mana i te wenua"

²⁸ See Clause 2 under Appendix Two.

needs explication as the translation simply as power and authority is inadequate and does not capture the subtlety and nuances implicit in the phrase. It refers to the mana intrinsic and infused in the land, which flows directly from it to the rangatira. The whenua gives to rangatira the mana and is the basis upon which they must act as custodians and defenders of the land and its mana. Busby and Williams translate the phrase as all “power and authority within the territories” but in their translation, they address only the effects of the mana i.e. power and authority. The literal translation does not identify the source of the mana intrinsic in the land. The phrase in Taitokerau Māori is more subtle and extensive, ‘ko te mana i te whenua’, refers to the source of the mana, which is the land and ultimately the source of mana itself which is that of Papatūānuku and Ranginui to Io Matua Kore.

- 45.** For Busby, this became the political basis for the Tai Tokerau claim of sovereignty, nationhood and statehood as understood in the writings of the renowned Swiss jurist Emerich de Vattel in *Droit des Gens*.²⁹ Translated as, *The Law on Nations* it was published in two volumes in London in 1760. A new corrected translation was published in London in 1793 and later in the United States in 1805.³⁰ Busby illustrated de Vattel’s principles regarding the retention of sovereignty while being in a protectorate relationship with another independent state. He spoke to the likes of Panakareao, Te Morenga, Te Huhu, Papahia and other rangatira of the Ionian people and a treaty between the European allies respecting the sovereignty of the Ionian Islands.³¹
- 46.** However, for the rangatira, their statement on mana-sovereignty asserted a metaphysical and moral entitlement over the land based upon natural inheritance through the five great principles of land tenure. The first, taunaha whenua, (the bespeaking of land) gained through discovery. The second principle of entitlement is whenua raupatu, which involved conquest and the ability to hold the land. Whakapapa, the genealogical connexions to the land is the third principle, followed by the

²⁹ Emerich de Vattel, *The Law of Nations or The Principles of Natural Law*. Translation of the 1758 edition by Charles Fenwick. Washington, 1916 [1758].

³⁰ Patricia Burns, *Fatal Success: A History of the New Zealand Company*, Auckland, 1989, p. 71.

³¹ Henry Jervis, Appendix F. Treaty between the Allied Powers respecting the Ionian Islands. *History of the Island of Corfú, and the Republic of the Ionian Islands*, London, 1852, pp.291-295; Orkney (George W.H. Fitzmaurice, Earl of...) known earlier as Viscount Kirkwall (ed.), 1864. Appendix B. Convention entre les Cours de Vienne, de Saint-Petersbourg, de Londres et Berlin, pour fixer le sort des sept îles Ioniennes, signée à Paris, le novembre 1815. In *Four Years in the Ionian Islands. Their Political and Social Condition. With a History of the British Protectorate*. Vol. I, London, pp.293-298.

fourth, ahi kā roa, (long-burning-fires) meaning constant occupation, including residence on the land, working the cultivations, hunting, bird snaring and fishing on or near the land.³² The fifth principle is known as ringa kaha, which is the defence of entitlement to occupation. Simply put no-one is strong enough to kick the people off the land.

- 47.** What is observed is a convergence of principles between those of Tai Tokerau Māori and Emerich de Vattel. However, perhaps without knowingly doing so, the rangatira followed de Vattel and others in articulating what Paul McHugh might describe as a constitutionalist belief. According to McHugh the constitutionalists in the Anglo discourse, held that:

...where (and for whatever reason) man came together in political society, that is organized and co-operative association, the group assumed a corporate identity so conferring the 'natural attribute' of inherent authority over its own members.³³

- 48.** Rangatira of the 1830s did not or could not locate mana in one person but were able to recognise the collective mana of a gathering of rangatira who met for a specific purpose. This idea, follows the assertion of sovereignty and mana, "Ko te Kīngitanga, ko te mana i te wenua" is expressed as "ka meatia nei kei ngā tino Rangatiratanga anake i tō mātou huihuinga," which Busby and Williams gloss as "declared to reside entirely and exclusively in the hereditary chiefs and heads of tribes in their collective capacity." However, a better translation is as follows: [The sovereignty (Kīngitanga) and the mana from the land of the Confederation of Nu Tireni] are here declared to belong solely to the true leaders (Tino Rangatira) of our gathering in common. The leaders state that their collective mana, and therefore sovereignty, is located in the land (mana i te wenua) and its people, therefore they reject the English notion that sovereignty is vested in one person or a parliament.
- 49.** Prompted and informed by Busby, the Taitokerau rangatira proclaimed Nu Tireni as, "he wenua rangatira", which has been rendered as the most noble of land. Busby and Williams gloss it as "an independent state." In other words, the idea that the country considered in this way is the highest expression of mana.

³² Wiremu Parker, The Substance that Remains. In Ian Wards (ed.), *Thirteen Facets. Essays to Celebrate the Silver Jubilee of Queen Elizabeth the Second 1952-1977*. Wellington, pp.170-171.

³³ Paul G. McHugh, Constitutional Theory and Māori Claims. In I.H. Kawharu, (ed.). *Waitangi: Māori and Pākehā Perspectives of the Treaty of Waitangi*, Auckland, 1986, p. 28.

Whenua Rangatira – A Traditional Taitokerau Model of Peacetime Occupation in a Time of Plenty³⁴

- 50.** Subsequent research of the archaeologist Agnes Sullivan³⁵ found that, in the early nineteenth century, Tāmaki residents and their neighbours shared a concept of an ideal pattern of occupation called whenua rangatira, which she glossed as 'high grade land', and which has been referred to elsewhere in a *He Whenua Rangatira" Northern Tribal Landscape Overview* report as 'the most noble of lands'. Whenua rangatira was territory in which a population could make unrestricted use of land and marine resources and over which there would be no armed incursions by enemies.³⁶ There would be a network of permanent settlement sites (kāinga tūturu - residences and work camps) spread across openly accessible territory and connected by hokihoki mai – seasonal backward and forward movements along paths across the territory.³⁷
- 51.** Sullivan abstracted the whenua rangatira concept from statements made in the 1860s about life in Tāmaki and Hauraki before the series of far-reaching disturbances of 1821 onwards.³⁸ She cautioned that these recollections were nostalgic and selective, because the 1800-1820 period was not as peaceful as the statements imply. Therefore the recollections represent 'an idealisation and partial distortion of actual conditions'.³⁹
- 52.** This ideal has a solid traditional basis to it and it might have been achievable during times of plenty, but would be unlikely when resources were constrained by either natural events or population pressures. It follows from whenua rangatira being more successful in times of plenty that they survived in times of peace. Sullivan suggested that the concept of whenua rangatira might have arisen from the necessity to maintain

³⁴ Manuka Henare, Hazel Petrie, Adrienne Puckey, "*He Whenua Rangatira" Northern Tribal Landscape Overview (Hokianga, Whangaroa, Bay of Islands, Whāngārei, Mahurangi and Gulf Islands)*, August, Crown Forestry Rental Trust (CRFT), UniServices Ltd., 2010, pp760.

³⁵ Agnes Sullivan, *Māori Gardening in Taamaki Before 1840, Part I Traditional, Ethnographic and other Historic Documentary Sources*, (Uncorrected draft of MA Thesis), Auckland, pp.73-74.

³⁶ Hoani Naahe, *He korero mo te haerenga mai o nga tupuna, Kauaeranga*, 1860 ACL, MS 96, p.65.

³⁷ Paroa Tuuhaere, Testimony, Judge Monro's notes of Native Land Court cases, 1866 Folder 1, Auckland Orakei, pp.81-84, AWML MS 366 Box 1, Folder 2; Apiha Te Kawau, Testimony In Maori Land Court 1868a, Orakei Minute Book 1, p.218.

³⁸ Manuka Henare, Hazel Petrie, Adrienne Puckey, "*He Whenua Rangatira" Northern Tribal Landscape Overview (Hokianga, Whangaroa, Bay of Islands, Whāngārei, Mahurangi and Gulf Islands)*, August, Crown Forestry Rental Trust (CRFT), UniServices Ltd., 2010, p. 377.

³⁹ Agnes Sullivan, *Māori Gardening in Taamaki Before 1840, Part I Traditional, Ethnographic and other Historic Documentary Sources*, (Uncorrected draft of MA Thesis), Auckland, p.74.

large-scale kūmara growing. Proverbs stressing that kūmara was the food of peacetime reinforce the notion that whenua rangatira were peacetime and peaceful territories.⁴⁰

- 53.** Although the traditional experience is described as an ideal, Sullivan gives an example for Orākei. When a witness in the Native Land Court was asked if there had been a fortified pā at Orākei around 1820 he replied: “He noho noa iho, he whenua rangatira”. That is, that Orākei had been an ordinary (peacetime) occupation of a whenua rangatira type. Absence of fortifications and open access and use were the distinguishing features of whenua rangatira.
- 54.** Security and permanency of occupation were dynamically defined. Permanent settlements were those to which people habitually returned rather than never left.⁴¹ There were two main aspects to permanency – authority to occupy or use, and customary patterns of use. Sites visited routinely, either annually or seasonally, would be occupied short-term regularly, even if only for a few hours or days. By contrast, if there was no intention or authority to repeatedly occupy, then the occupation would be regarded as temporary – people who light a fire and (then) go away.⁴² Sites of permanent settlements were shifted periodically and methodically, mainly for environmental reasons. Thus the pattern of occupation of a whenua rangatira involved both short-term movements between sites and longer term planned site shifts.
- 55.** With the caveat that Sullivan places on the nostalgic recollections of the 1860s, she argued that the economic history of the region in the 1820-1840 period can be seen as a series of oscillations around a whenua rangatira standard. The degree of divergence from the standard indicated the economic and social climate, through which the whenua rangatira standard was regarded as attainable, even if not attained at the time. These ideas, ideals and standards become important when considering the use of the term ‘whenua rangatira’ in He Wakaputanga o te Rangatiratanga o Nu Tīreni drawn up in 1835.

⁴⁰ Graham, G S, n.d. [15], Maori proverbs: their relation to Maori daily life, AWML MS 120 M38, 50pp, p.19.

⁴¹ Wiremu Reweti, Testimony, Kaipara Minute Book 2, 1869, p.177.

⁴² Apiha Te Kawau, Testimony In Maori Land Court 1868a, Orakei Minute Book 1, p.216.

- 56.** In effect, in accepting the usage of the expression *mana i te wenua*, the gathered leaders made explicit what was already implicit. In rangatira minds, the islands belonged to Māori through *taunaha wenua*, *whakapapa*, *raupatu wenua*, *ahi kā roa* and *ringa kaha*. The principle of *taunaha wenua* is implicit in the naming of the islands. The *wenua* had many names, one being the great fish of Māui, *Te Ika a Māui* (North Island), also named by Kupe and his wife as *Aotearoa*, and then yet again named *Nu Tireni* (New Zealand). Whatever the name it remained Māori land and milieu. The assertion of a collective *mana* over the islands was an old value expressed in a new idiom, the idiom of nascent international law and politics.
- 57.** The extraordinary political event of 28th October 1835 would, in the life of any modern nation state, be celebrated as a milestone of achievement. However, for much of the first and second halves of the twentieth century it is a silent part of *mana Māori* history as the Treaty discourse became dominant. Moreover, in settler political and constitutional historiography of the nineteenth and twentieth centuries it has been often ignored, simply denigrated or dismissed as irrelevant to New Zealand history and by definition it is assumed to include *Tai Tokerau* and later Māori historiography.
- 58.** In the minds of *Panakareao*, *Te Morenga*, *Te Huhu* and *Papahia* the *mana* is with themselves and their people, and by definition the emergent understanding of sovereignty is with them also.

From Te Kara 1834 to Te Tiriti o Waitangi 1840

- 59.** When *Panakareao*, *Papahia* and others chose 'Te Kara', the first official flag of *Nu Tireni*, they were party to the establishment of an international identity, whether they, in their time, understood it or not. When the flag was recognised by United Kingdom, the United States of America, France, Russia and other countries, *Nu Tireni* was acquiring an international identity under international law of the time. *He Wakaputanga* as a Declaration of Independence was also recognised by United Kingdom, United States and France and affirmed in these countries minds the sovereignty was with Māori. In this context, we can now discuss the thinking of *Panakareao* and *Papahia* and other rangatira associated with *He Wakaputanga*. The oral and archival evidence

suggests that from a North Auckland Māori frame of thinking and behaviour Te Tiriti o Waitangi was intended to be a Treaty to be between two sovereign states, not a treaty of cession.

- 60.** Busby explained the principles of sovereignty to the rangatira when they were choosing te kara, the flag of independence 1834 and in the making of He Wakaputanga o te Rangatiratanga, the Declaration of Independence, and illustrated the principles with the example of the Ionian Islands who, through the Treaty of Paris 1815, entered into a protectorate relationship with Great Britain and one in which Ionian sovereignty remained with Ionia. Busby may not necessarily have talked about de Vattel's principles of international law directly to the rangatira, I found no record of it, but they appeared to have an understanding of the principles and practicalities of a protectorate administration. This is demonstrated in the Declaration itself and in the Treaty of Waitangi. From a Ngāpuhi nui tonu view, the principles of international law underpinned their willingness to enter into a treaty protection and not cession. The later expressions of the metaphor of the ship asserted by Panakareao at the Kaitaia signings of the Treaty and recorded in Pompallier's report to the Vatican on Ngāpuhi understanding of the treaty. The metaphor of the kaupuke and the gaining of a captain to help sail the ship is consistent with the principles of protection. The Tai Tokerau rangatira of Kaitaia, Hokianga and Pēwhairangi understood the difference between the owner of a ship and the captain who was a hired hand.
- 61.** The encounter of Te Tokerau leaders with the British in the negotiations of the Treaty was not a meeting of equals in terms of their respective experiences with each other and their experience of other countries. The contact with new countries was for them an experience of very recent origins whereas the British experience had been accumulated over hundreds of years of colonising, and the building of a nascent empire. This meant that the horizons of the two parties were vastly different. The horizons represented the limits of a future that was yet to come in terms of the signing of the Treaty.
- 62.** The Te Tai Tokerau horizon, based on their experiences in the past with a colonial power had a horizon in which they were offered assistance to build a civil society and, the protection of their culture and ways of life.

Rangatira did not know, nor could they be expected to know, the full force of British intentions. For Panakareao and others the horizon and the future were based on both the trust and the hope for a future in which they would prosper in their relationship with the British Government and Queen. Northern rangatira had little experience of colonisation, though they had observed some of its negative effects in Sydney, Australia and Tahiti. It was part of British people's lived experience. The British future was a well thought out and pragmatic plan of colonisation and control and the exercise of political, social and economic power. Traditional settler historiography would have us accept that Te Taitokerau leaders and peoples willingly submitted themselves to domination, albeit to domination of a different kind to that which many had witnessed in Australia and Tahiti. I argue that a Te Taitokerau interpretation of evidence points to something quite different, they sought to pursue a relationship that was the opposite of domination.

Kaitaia Signings, 28th April 1840⁴³

- 63.** The Kaitaia signings of Te Tiriti o Waitangi and Panakareao's famous distinction between the shadow and the substance of the land is evidence that in signing Te Tiriti, he and others did not intend to cede their mana or sovereignty in perpetuity.⁴⁴
- 64.** The Kaitaia gathering was attended by about four hundred and was opened by Mr Shortland. The speeches followed a similar pattern to earlier signings such as at Waitangi. Wero said:

We do not want a shepherd. Our ancestors were gentlemen many generations back you find us so now, you may be a good master but shall we not be stopped by you from getting our firewood. Formerly we cleared any spot we liked and burned the wood from it but then perhaps some one else came and liked the spot and said this spot will do for me to build a house upon then there a quarrel took place.
- 65.** He raises some anxieties about what may happen in the future as do other speakers at this gathering. There are anxieties about the possible behaviour of the soldiers and traders. But there is trust in the missionaries and again signs of welcome for the governor and what he

⁴³ Richard Taylor, Journal 1840 - 1844 typescript. MS; T.L. Buick, *The Treaty of Waitangi*, Christchurch, 1976 [1914].

⁴⁴ Cf. Manuka Henare, Hazel Petrie, Adrienne Puckey, "*He Whenua Rangatira*" *Northern Tribal Landscape Overview (Hokianga, Whangaroa, Bay of Islands, Whāngārei, Mahurangi and Gulf Islands)*, August, Crown Forestry Rental Trust (CRFT), UniServices Ltd., 2010, pp760.

represents and belief in his role as protector. The themes of the earlier discussions are all present in these discussions.

66. Wiremu Wiriana Kupa follows with his concerns:

They tell us you are come to murder us all but if it were such as were taught it will be to save us. If your actions were like those of the missionaries I should not fear but I fear the soldiers I am afraid of that man (pointing to the soldiers) and that man ...

67. Panakareao, who was the last speaker, gave a measured speech and advocated for the governor advising the others not to listen to Pākehā who warned of trouble. He saw some of the good things that had happened because of contact with Pākehā traders. He expected the Governor to be fair and just as he utilised the metaphor of the kaupuke, the ship. He said:

Hear all of you both white men and natives, this is what I like, my desire is that we should be of one heart that you should speak your words openly as you would act and not say one thing and mean another. I am at your head I wish you to have the governor, this will be our defence we must all hang together let everyone say yes, as I do, we have now supporters to look up to. I am jealous of the speeches of the Pākehā Māori be careful and don't listen to the speeches of bad white men. Many of the Māori say white men will begin to quarrel. I say no, it will be the natives. It was my great grandfather who first brought the white men to this land, not very far off from where we are now sitting even to this identical spot. All the chiefs then agreed to what my grandfather did. Some went on board. He got much trade and many fine things from this ship, which he distributed through the land, Let us act right. Let the Ngāpuhi do as they like let us do no harm to the white men let us imitate my grandfather who did right. What have we to say against the governor the shadow of the land will go to him but the substance will remain with us. He will not deprive us of our potatoes by force. It will be as it is now, we shall bring our produce for sale and receive a just and equitable price for it. Let young and old have one mind and leave the Ngāpuhi alone (alluding to their endeavours to get him to join in a conspiracy against the whites) if they do evil they will suffer for it. They took the white men to the bay where they killed and eat them and plundered their ship. We have never gone to Port Jackson to get arms to destroy our countrymen with the people of this part have always been peaceable they never injured the white man. The natives of Hokianga have gone to cut off the governor. They will suffer for it, if you want to be killed go and fight the governor. We have now a man at the helm. Before everyone wanted to steer. First one said let me steer and then another said let me steer but we never went straight – now we have got a steersman. Be jealous look well into your heart and do no evil. The natives in the bay did wrong and they suffered for it. The whites won't commence the evil ct will be from us. What man in his senses ever said we should have to take our food to the governor who would appropriate a portion of it for his own use without paying for it. He will buy it the same as for

others. If you have got no more to say now, conclude and say yes altogether.

- 68.** He spoke with considerable dignity and 60 rangatira signed following his summation. According to some eye witness accounts, the rangatira rushed forward crying yes and signed their names after him.
- 69.** Te Tiriti o Waitangi was a British Crown initiative, which many rangatira signed, however, just as many did not sign. Its aim was a Crown programme of peaceful European settlement in partnership with Māori. Te Tiriti o Waitangi was therefore a treaty between two sovereign states, not between one state and a motley group of autonomous tribes. The subsequent fact of the Crown's usurpation of cultural and political power does not extinguish the original vision and agenda of Māori.
- 70.** Taiwhanga's long-term vision is more transparent on 13th January 1836, three months after his letter. He associates himself with some Ngāpuhi, despite misgivings, and Te Rarawa leaders and joined "te wakaminenga", the fledgling confederation of hapū. Taiwhanga together with Tamati Waka Nene, Huhu, Tona and Kiwikiwi put their moko marks to "Te Wakaputanga Rangatiratanga o Nu Tireni." They were in the second group of signatories following the October 1836 huihuinga. The English missionary George Clark was foreign witness to this occasion and may well be the author of the explanatory paragraph added to the document:

Ko mātou, ko ngā Rangatira, ahakoa kihai i tae ki te huihuinga nei, no te nuinga o te Waipuke, no te aha rānei, ka wakaae katoa ki te wakaputanga Rangatiratanga o Nu Tireni, a ka uru ki roto ki te wakaminenga (Appendix VII Addendum).

This is glossed as:

We, the rangatira, although not able to attend the great gathering (huihuinga), because of floods and for whatever other reasons, we all fully support (wakaae) the declaration of independence of Nu Tireni, and we now enter into the sacred confederation (wakaminenga).

- 71.** The declaration and his 1837 letter are consistent around one issue pertinent to this historical discussion. Panakareao requests of the British a protectorate relationship and assistance from the King in building a united Māori nation. There are shades of Busby's advice to Northern Māori of the application of de Vattel's principle whereby an emergent nation is able to seek help from an established nation, without the

necessity of ceding sovereignty. Implicit in Panakareao's letter is Busby's exemplar outlined to the 1835 huihuinga. Busby had talked about the Ionian Islands and its protectorate relationship established between the European allied powers and the Islands through *Le Traité de Paris 1815* (Treaty of Paris 1815). In Article Two of the Treaty, the new State of the United States of the Ionian Islands was placed under "the immediate and exclusive protection of His Majesty the King of the United Kingdom of Great Britain and Ireland, his heirs and successors."

- 72.** Historically, the 1825 letters are only five years after Māori language became a newly designed written language, and are pointers to the speed at which those who had the opportunity and put their minds to it acquired a developed utility of literacy in their mother tongue. These little known items of early Māori writing may be the earliest surviving examples of such writing in Māori by a Māori. They are snapshots of how younger and older Māori were thinking about themselves, their country and a glimpse at how they referred to the people from England. Māori of the period, particularly Ngāpuhi nui tonu leaders identified themselves in relation to the European world.

(C) Mana whenua or diverse hapū (tribes) associated with mixed hapū-iwi communities of Kaitaia

- 73.** On the important matter of who are mana whenua today of Kaitaia, my thinking is as follows. Following customary belief and practice, all should consult each other on matters of importance relevant to their respective kaitiakitanga, meaning guardianship, responsibilities and obligations over Kaitaia and its kāinga-pā sites. In North Auckland tribal history it would be unusual to have a hapū-iwi as a sole mana whenua, and it is true for the multiple kāinga sites such as Kaitaia. A key notion of my evidence is the idea described by Angela Ballara⁴⁵ of mixed communities already well-established, which in my mind may be referred to as multi mana whenua. While Ballara also talks of communities of interest coming together, she says they also had a tendency to disband: "in the 18th century communities developed, thrived by living and co-operating together in mutual defence, and then fell apart, but the stuff in of which

⁴⁵ Angela Ballara, *Iwi: The Dynamics of Māori Tribal Organisation from c.1769 to c.1945*. Wellington, 1998, pp. 197, 202, 203.

they were formed, the various independent hapū, moved on.”⁴⁶ However, in my mind this latter comment is not necessarily true for Kaitaia of the 18th-19th centuries where the evidence is that a long term, reasonably stable membrane of relationships was maintained over time. Marriage, political alliances and food security priorities were means used to maintain the whenua rangatira, that is, communities of prosperous localised economies.

- 74.** Thus, it is not appropriate for any hapū to claim a sole mana whenua right to Kaitaia on the basis that it is a long established mixed community of interest. The role of the kaitiakitanga derives from one of the supreme virtues (see *He Korunga of ngā Tikanga*) governing behaviour, requires a set of shared values and political and economic strategies to make it work in a sustainable way. Historically, it seems that from time to time a hapū associated with Kaitaia may be invited to be the kaitiaki, the guardian, on behalf of all. This shared mana whenua would require a high level of consultation with all other mana whenua associated with Kaitaia or any other similar site in North Auckland. For this to work, it would need all the core values of *He Korunga o Ngā Tikanga* to be working. It is tikanga Taitokerau or Ngāpuhi nui tonu custom that requires this high level of consultation before any action is taken of a kaitiaki nature. Historically, it was common practice in Taitokerau for other hapū to appoint a lead hapū who has the obligation to act on behalf of the greater good of the whole and its members.

(D) Rangatiratanga: Justice Delayed is Justice Denied. The Moral Basis of a Remedy Claim in the context of Pōhara, Tōnui, Kōkiri: Imagine a Child and Whānau Centred Economy of Wealth Creation and Poverty Removal

- 75.** In my mind the Claim for Remedies as articulated by the Claimant’s Ngāti Kahu needs to be set against the current climate of anxiety permeating Tai Tokerau socio-economic conditions. I raise first the moral leadership required at this decisive stage of reaching settlement agreements between Crown and ngā tāngata, ngā whānau, ngā hapū, ngā iwi of Muriwhenua that address spiritual and human needs. Having read the entire Ngāti Kahu Claimants’ Statements and briefs of evidence

⁴⁶ Ibid, p. 214.

it seems to me that there is a lack of a moral basis for delaying or impeding a just process, i.e. a remedy hearing at this time. I suggest the philosophy and legal maxim of 'justice delayed is justice denied' is pertinent to this application for remedies. The likely overall effect of such a remedies claim of Ngāti Kahu, whether it is intentional or unintentional, is to stall a just settlement process, most of which, I understand, has been agreed upon by Crown and claimants. The immediate effects of a delay of justice will impact whānau, hapū and iwi well-being. Finally, I suggest the Tribunal deny the intrusion of the Remedies Application into redress already given to other Te Hiku Iwi to allow them to proceed with their agreed settlements thus meeting a standard of justice set by the Nobel laureate Martin Luther King who invokes Christian Biblical theology from the Old Testament. He argued that "Injustice anywhere is a threat to justice everywhere" proposing that an injustice is meant to be handled at the present moment.⁴⁷ The primary injustice here relates to the behaviour of the New Zealand Crown towards its Treaty partner, the Māori people of Muriwhenua. The proposed settlements go some way towards addressing past injustices with a justice-inspired settlement. There is also another important principle at stake here and that is that the settlement process ought to result in equitable settlements as between the Te Hiku Iwi.

- 76.** Should the Waitangi Tribunal WAI 45 enquire into the properties already included in the Te Rarawa Deed and in effect cause a delay of the settlement process itself, it will bring further distress to the majority of claimants of whose well-being will be affected. It may lead to a perception that the settlement of the claim, in a timely fashion, is not an important issue to the Tribunal, thus creating further injustice for claimants. There will likely be further opportunity costs incurred on top of those experienced historically and furthermore, there will be additional transaction costs incurred in making economic exchanges possible. Such costs need not necessarily be monetary or financial, they would include lost time and the loss of pleasure of receiving other benefits that provide utility or human capabilities. These are two significant economic factors that I would ask the Tribunal to consider.

⁴⁷ Martin Luther King, "Letter From Birmingham Jail", 16 April 1963, from Martin Luther King's *Why We Can't Wait*, annotated by Michael Wilson. Retrieved from http://mlk-kpp01.stanford.edu/index.php/encyclopedia/documentsentry/annotated_letter_from_birmingham/.

- 77.** I bring to the attention of the Waitangi Tribunal a grave moral, economic and political crisis currently facing Te Taitokerau Māori people in general today. The spectre of the tyranny of poverty and abject poverty is being experienced by increasing numbers of Māori today, particularly children. As evidence of this situation and context, what follows is a commissioned thought piece I prepared for the Office of the Children's Commissioner about the state of poverty among Māori and Pasifika children and their families.⁴⁸ For the first time we now have data and analysis on the specific state of Māori and Pasifika children. The tragedy is that of the 60,000 Māori children in poverty, the largest grouping of poor children are in Te Tai Tokerau. They are more likely than other groups to live in over-crowded households.
- 78.** Three complementary reports published in August and September 2011 shaped the thinking behind the idea of a child and whānau, or family, centred economy of wealth creation and poverty removal. The reports point to a sophisticated level of collaboration among child focussed human rights and development organisations, and academic, public and private sector research teams. The consensus seems to be that children are New Zealand's greatest wealth and current levels of poverty are detrimental to the New Zealand vision of the good life.
- 79.** The first report was commissioned and published by the organisation Every Child Counts, and released in August 2011. Titled, *The first 1000 days. The effectiveness of public investment in children*⁴⁹, it had a particular focus on the economics of Māori and Pasifika children. The evidence shows that however successful Aotearoa New Zealand appears to be on the basis of international comparisons of health, education, and labour market outcomes, Māori and Pasifika children are not sharing in that success.
- 80.** According to the late Rev Dr Hone Kaa, Chair of Every Child Counts, the second report commissioned and published by Every Child Counts complements the economic cost of public investment in New Zealand children. Titled, *He Ara Hou: The Pathway Forward. Getting it right for*

⁴⁸ Manuka Henare, Pōhara, Tōnui, Kōkiri: Imagine a child and whānau centred economy of wealth creation and poverty removal. *A Newsletter from the Office of the Children's Commissioner*, Summer 2011 (79), pp. 17-23.

⁴⁹ D. Grimmond, *The effectiveness of public investment in children*, New Zealand, 2011.

*Aotearoa New Zealand's Māori and Pasifika children*⁵⁰ explores the nature of factors contributing to Māori and Pasifika child poverty.

81. *He Ara Hou* says that of the:

...200,000 children living below the poverty line in our country, just over half are Māori (59,651) and Pasifika (44,120). Māori and Pasifika have hardship rates two to three times higher than other groups. They are more likely than other groups to live in overcrowded households. Māori and Pasifika children have two to three times poorer health than other groups.⁵¹

82. Second, it assesses this reality against the goal of sustaining children's potential, and proposes a new way of thinking is timely:

...we do this in terms of a new political philosophy called the Capabilities Approach. Māori and Pasifika development then becomes the expansion of their capabilities to lead the kind of lives they value. Such an approach has a bearing on our interpretation of Te Tiriti o Waitangi/Treaty of Waitangi and the formulation, implementation, and evaluation of social policy. The Capabilities Approach addresses human rights and social justice, and offers better systems for Māori and Pasifika to evaluate the effectiveness of policies in terms of well-being for themselves.⁵²

83. The third complementary report was released in September 2011 by the Child Poverty Action Group (CPAG) and is titled, *Left Further behind*.⁵³ It is a much wider study that explored how current policies fail the poorest children in New Zealand. The core message was that ALL children are entitled to the best possible support from parents and all New Zealand society; that charity alone cannot solve the problem of poverty; and that poverty faces around 200,000 children in New Zealand at the moment. The research team concluded with seven key recommendations such as, set specific targets to end child poverty by 2020; create a senior cabinet position with responsibility for children and move towards a child-centred approach to policy and legislation; acknowledge the vital social and economic contribution made by good parenting; remove work-based rules for child assistance and simplify tax credits; free access to health care for children under six; develop a fund a national housing plan; and adequate funding for low decile schools thus guaranteeing access to quality education.

Pōhara, Tōnui and Kōkiri:

⁵⁰ Manuka Henare, Adrienne Puckey, and Amber Nicholson, *He ara hou: The pathway forward. Getting it right for Aotearoa New Zealand's Māori and Pasifika children*, Wellington, 2011, p.iii.

⁵¹ Ibid, p. vii.

⁵² Ibid, p. 5.

⁵³ M.C. Dale, M. O'Brien, S. St John (Eds.), *Left (further) behind. How Policies fail the poorest children in New Zealand*, Auckland, 2011.

- 84.** Three traditional Māori terms, pōhara, tōnui and kōkiri inform a Māori sustainable economic response in terms of understanding the moral issues and the removal of poverty and its consequences. Pōhara refers to poverty, of being poor, or being cut off from opportunity. The other side of pōhara is tōnui, rendered as prosperous, prolific, prosperity – not in a utilitarian sense but in terms of the common good and the quest of a good life. The plan of action is found in Kōkiri meaning a group moving decisively forward with a purpose, a goal, a target. The *He Ara Hou Report*⁵⁴ addresses these three agenda, in sustainable Māori terms.⁵⁵
- 85.** The *He Ara Hou Report*⁵⁶ sees the current reality of ngā uri pōtiki, the youngest descendants of the ancient Austronesian trader explorers; namely Māori and other Pasifika children living in Aotearoa today. We assessed this reality against a goal of sustaining their potential, and we do this in terms of a new political philosophy called the Capabilities Approach. Māori and Pasifika development then becomes the expansion of their capabilities to lead the kind of lives that they value. Such an approach has a bearing on Te Tiriti o Waitangi/Treaty of Waitangi and social policy formulation, implementation and evaluation. The Capabilities Approach addresses human rights, social justice, and offers better systems for Māori and Pacific Islanders to evaluate the effectiveness of policies in terms of well-being for themselves.⁵⁷
- 86.** Te Tiriti o Waitangi/The Treaty of Waitangi continues to shape the emergent partnership of the Māori and the New Zealand Crown via the Government and administration of the day.⁵⁸ Te Tiriti o Waitangi, being the Māori text is of significance to Māori because it determines the nature of the relationship with the Crown. The Māori agency of wealth creation feeds the vital essence of the four well-beings of Māoritanga: spiritual well-being, environmental well-being, family, kinship and social

⁵⁴ Manuka Henare, Adrienne Puckey, and Amber Nicholson, *He ara hou: The pathway forward. Getting it right for Aotearoa New Zealand's Māori and Pasifika children*, Wellington, 2011, p. 5.

⁵⁵ Manuka Henare, *Māori Economic Development is Nation Building. Pōhara, Tōnui, Kōkiri: Poverty, Prosperity, Progress*. Paper presented at the Second Biennial Aotearoa New Zealand International Development Studies Network (DEVNET), 17-19 November 2000.

⁵⁶ Manuka Henare, Adrienne Puckey, and Amber Nicholson, *He ara hou: The pathway forward. Getting it right for Aotearoa New Zealand's Māori and Pasifika children*, Wellington, 2011, p. 5.

⁵⁷ Robert Mahuta, and Manuka Henare. 'The Basis for a Māori Foreign Policy'. In R. Kennaway and J. Henderson (Eds.) *Beyond New Zealand II: Foreign Policy into the 1900's*, Auckland, 1991, pp. 57-63; Manuka Henare, 'Sustainable Social Policy'. In J.P. Boston, P. Dalziel, & S. St John, (Eds.) *Redesigning the Welfare State in New Zealand: Problems, Policies, Prospects*, Auckland, 1999, pp. 39-59; cf. Manuka Henare, and E. Douglas, *Te Reo o Te Tiriti o Waitangi. The Treaty Always Speaks The April Report, Vol. III, Part I, Report of the Royal Commission on Social Policy*, Wellington, 1998, pp. 79-220.

⁵⁸ Manuka Henare, and E. Douglas, *Te Reo o Te Tiriti o Waitangi. The Treaty Always Speaks The April Report, Vol. III, Part I, Report of the Royal Commission on Social Policy*, Wellington, 1998, pp. 79-220.

well-being, and economic well-being. Paradoxically, despite the wealth creation, the tragedy of poverty among Māori children is now evident on a scale not experienced in recent times. Poverty starves the mauri or life force of ngā uri pōtiki Māori, the most vulnerable sector of Māori society, with potentially dire long-term consequences if not addressed immediately. The injustice of pōhara, poverty, is a Tiriti o Waitangi issue of significance today.

- 87.** The Preamble of the Māori language version of Te Tiriti o Waitangi 1840 has within it a key principle of economic development and business futures: the Māori philosophical idea of a 'good life'. The principle is relevant today and will continue to be for the coming 50 years.⁵⁹ In the Preamble Queen Victoria tells the world that a lasting peace and the continuation of a quality of life as determined by Māori is an expectation of the relationship between her government and Māori. In speaking to the world through the proposed treaty, Victoria states in the Māori text of Te Tiriti, "kia tohungia ki a rātou ō rātou rangatiratanga me tō rātou wenua, kia mau tonu hoki te Rongo ki a rātou me te Ātanoho hoki". This is rendered as her desire "to preserve to them their full authority as leaders (rangatiratanga) and their country (tō rātou wenua), and that lasting peace (Te Rongo) may always be kept with them and their continued life as Māori people (Ātanoho hoki)".⁶⁰
- 88.** Regarding ngā uri pōtiki Pasifika, the young children of the Pasifika communities, who themselves are also affected through the starving of their life force and potentialities, the injustice while not a Tiriti o Waitangi matter, is a human rights, social justice and equity issue.
- 89.** Meri Ngaroto, Te Aupōuri tribal leader of the early Nineteenth century, dramatically challenged her people about a form of behaviour of the time, namely He kōhuru tangata, the killing of another by stealth. Posing a question in poetic form upon hearing of the plan, she said:
- He aha te mea pai?
What is the most important good?
He Tangata, he tangata, he tangata!
Humanity! humanity! humanity!

⁵⁹ Manuka Henare, 'Lasting Peace and the Good Life: Economic Development and the 'Te Ātanoho' principle of Te Tiriti o Waitangi'. In V.M. Tawhai & K. Gray (eds.). *'Always speaking': The Treaty and Public Policy*, Wellington, 2011.

⁶⁰ Manuka Henare, *Changing Images of Nineteenth Century Māori Society – From Tribes to Nation*. Unpublished PhD Thesis, Victoria University of Wellington, Wellington, 2003, p. 229

- 90.** Meri is part of the genre of Māori-Polynesian-Austronesian humanistic and reciprocal traditions. Humanism and reciprocity is a philosophical duality that informs the ethical and moral basis of living a responsible life and a life of obligation that constitutes 'a good life.' She is not alone in her thinking. Nobel Prize winning Economist Amartya Sen⁶¹ maintained that a truly developed society would enable humans to be and do, and to live and act, in certain valuable ways. Both actual achievements and the freedom to achieve are intrinsically valuable ingredients in a good human life.
- 91.** While Meri's question and response appear to put humanity above all other, in the Māori worldview, humans are part of, and not separate from the spiritual, cosmic, environment, kinship and economic spheres of existence. Humans are part of an integrated whole, a unified two-world system in which the spiritual is the higher order and interpenetrates the material/physical world of te ao mārama, and the material proceeds from the spiritual. Tangata can exert some control over the natural world. At the core of Māoritanga is a belief in life forces – tapu, mauri, hau, wairua – that are significant in society and nature.⁶² Furthermore, philosophically speaking Māoritanga consists of four well-beings: spiritual well-being, environmental well-being, family and kinship well-being, and economic well-being.⁶³
- 92.** Given that the Māori worldview is that humans are inseparably integral to their environment, *He Ara Hou* report⁶⁴ argues, from a policy perspective, that sustainable development necessarily involves a similar approach to humans (i.e. to sustain the potential of humans, by safeguarding their capacity and combating adverse effects), which would constitute sustainable life.
- 93.** Mark Anielski, among others, exposes fundamental flaws in using GDP (Gross Domestic Product) as a measure of standards of living, as it fails to measure well-being and human capabilities. He argues instead, that

⁶¹ Amartya Sen, *Development as Freedom*, New York, 2000; D.A. Crocker, D. A. 'Functioning and Capability: The Foundations of Sen's and Nussbaum's Development Ethic, Part 2'. In M. Nussbaum & J. Glover (Eds.), *Women, Culture and Development: A Study of Human Capabilities*, New York, 1995, pp153, 157.

⁶² Manuka Henare, Tapu, Mana, Mauri, Hau, Wairua. A Māori Philosophy of Vitalism and Cosmos. In J. Grimm (Ed.) *Indigenous Traditions and Ecology: The Interbeing of Cosmology and Community*, 2001, pp. 197-221.

⁶³ Manuka Henare, 'Lasting Peace and the Good Life: Economic Development and the 'Te Ātanoho' principle of Te Tiriti o Waitangi'. In V.M. Tawhai & K. Gray (eds.). *'Always speaking': The Treaty and Public Policy*, Wellington, 2011

⁶⁴ Manuka Henare, Adrienne Puckey, and Amber Nicholson, *He ara hou: The pathway forward. Getting it right for Aotearoa New Zealand's Māori and Pasifika children*, Wellington, 2011, p. 18.

sustainability should be founded on the key principle of genuine wealth: “the conditions of well-being of a community or organization in accordance with the values of its citizens”.⁶⁵ As the values of citizens are diverse, it follows that well-being will be perceived differently by various cultural groups. Therefore, it may be inappropriate to assess well-being by one benchmark, or to make comparisons between ethnic groups. It is the gap between Māori and Pasifika aspirations (based on their values) and the reality for their children, rather than any gap between their data and national measures or non-Māori/non-Pasifika data, or even between Māori and Pasifika, that is important. Nevertheless the report presents some comparative material as a means of highlighting the differences between what is possible and what is the reality.

94. Sustainable human and economic development is a holistic approach; it involves whole of life sustainability, but in *He Ara Hou*⁶⁶ we recognise the importance of investment in the formative stage of life, the youngest. This is not to reduce humans to the mere status of ‘resources’, but because we can think of such an investment as having an important economic as well as non-economic return. Nevertheless, well-being and improvement in GDP are not to be confused.
95. When the data of *He Ara Hou*⁶⁷ is measured against Māori and Pasifika capabilities and aspirations, the level and extent of material poverty of Ngā Uri o Te Moana Nui a Kiwa ki Aotearoa grows at an alarming rate. The poverty of Ngā Uri, specifically Māori and Pasifika children of Aotearoa, who are both the descendants of the common Austronesian-Polynesian ancestor Kiwa, is both unsustainable and ethically and morally wrong. The new generation is at risk. The term ‘poverty’ describes an undesirable gap. In development thought, the poor are seen to be lacking income, or the ability to satisfy basic needs, or the capabilities to lead a fully human life. A focus on basic needs is excessively based on commodities as alleviators of poverty.⁶⁸

⁶⁵ Mark Anielski, Genuine Wealth: Building Economies of Well-being. *Environments Journal*, 35(1), 2007, p. 98.

⁶⁶ Manuka Henare, Adrienne Puckey, and Amber Nicholson, *He ara hou: The pathway forward. Getting it right for Aotearoa New Zealand's Māori and Pasifika children*, Wellington, 2011, p. 20.

⁶⁷ *Ibid*, p. 20.

⁶⁸ D. P. Levine, and S. Abu Turab Rizvi, *Poverty work and freedom: Political economy and the moral order*, Cambridge, 2005, pp. 41, 46.

- 96.** Someone whose basic needs are satisfied would still be poor if her or his potentialities as a human being were not sustained. As Durie, Fitzgerald Kingi, Mckinely, & Stevenson have already said:
- ... ultimately, Māori development is about Māori people and if there is economic growth but no improvement in health well-being, then the exercise is of questionable value. Equal recognition of both social and economic goals is therefore imperative.⁶⁹
- 97.** Returning to Meri Ngaroto's proposition, what constitutes a good human life in Māori terms? Sen answered in general terms 'both actual achievements and the freedom to achieve'. A good life in Māori and Pasifika terms is one in which the mauri is not only maintained, but enhanced.⁷⁰
- 98.** As noted above, many have criticised the use of GDP as the primary indicator of national standards of living. Moves have been made to develop much broader measures than the GDP/GNP 'standard-of-living' index, one of which is the Human Development Index (HDI) adopted by the United Nations and the OECD 'to shift the focus of development economics from national income accounting to people-centred policies. This index has been used since 1993 by the United Nations Development Programme (UNDP). The index has standardised a system of measuring well-being, and uses specific measures for the well-being of children. It is a summary measure for assessing long-term trends in three basic dimensions of human development – health (life-expectancy at birth), knowledge (literacy and education) and standard of living or Gross National Income (GNI) per capita.⁷¹
- 99.** New Zealand is ranked third in a list of 'very high development' countries in 2010, behind only Norway and Australia.
- 100.** A second measure, the inequality-adjusted HDI, was introduced in 2010 to indicate the inequalities within a nation's population in the three basic dimensions of income, life expectancy and education. Data for the

⁶⁹ Mason Durie, E. Fitzgerald, T.K. Kingi, S. Mckinely, and B. Stevenson, *Te Hoe Nuku Roa: a Report for Te Puni Kōkiri, the Ministry of Māori Development*, Palmerston North, 2002, p. 25.

⁷⁰ Manuka Henare, 'O le mau e faasino i le Pepa a Tui Atua Tupua Tamasese'. In F. I. Tamasese (Ed.), *O le Su'ega Faalumaga i Tu ma Aga, Tala o le Vavau ma le Tala Faasolopito e Faamautūina ai le Filemu ma Pulenga lelei i Aiga, i Nuū, i Ekalesia. Faaliliuina*, Apia, 2007, pp. 13-22; Manuka Henare, 'Traditional Samoan Philosophy, its Metaphysics and Spirituality: Reflections on 'In Search of Harmony'', by Tui Atua Tupua Tamasese Taisi Efi'. In Tui Atua Tupua Tamasese Taisi Efi, Tamasailau M. Suaali'i-Sauni, Betsan Martin, Manuka Henare, Jenny Plane Te Paa & T. K. Tamasese (Eds.), *Pacific Indigenous Dialogue on Faith, Peace, Reconciliation and Good Governance*, Apia, 2007, pp. 13-26.

⁷¹ Manuka Henare, Adrienne Puckey, and Amber Nicholson, *He ara hou: The pathway forward. Getting it right for Aotearoa New Zealand's Māori and Pasifika children*, Wellington, 2011, p. 21.

inequality-adjusted HDI 2010 survey was not available for New Zealand. However, data from the 1980s to 2005 ranked New Zealand well above OECD average inequality (i.e. adversely), which suggests that NZ's inequality-adjusted HDI ranking could be lower than the comparatively favourable unadjusted HDI rank. Within NZ's population, Māori and Pacific Islanders are at the lower end of the spread.⁷²

- 101.** Amartya Sen⁷³ maintained that a truly developed society would enable humans to be and do, and to live and act, in certain valuable ways. He described a good human life in terms of functioning and capabilities, achievements and the freedom to achieve. Earlier, *He Ara Hou*⁷⁴ noted that in development thought the poor are seen to be lacking income, or the ability to satisfy basic needs, or the capabilities to lead a fully human life, and that a focus on basic needs is excessively based on commodities as alleviators of poverty.⁷⁵ Whereas poverty might be seen as a lack of capacities or abilities to meet basic necessities for bare survival, the term 'capabilities' is used to refer to a wide range of capacities and opportunities required for human well-being as a whole. The term capabilities indicate more clearly the agency and active participation of a person, rather than an entitlement, which implies that the person does not have to do anything.⁷⁶
- 102.** Alexander quotes Sen: 'A functioning is an achievement of a person; what he or she manages to do or to be. ... It has to be distinguished from the commodities which are used to achieve those functions'.⁷⁷ Functionings are the various things a person values being or doing; these are culturally diverse. This is consistent with Anielski's key principle of genuine wealth: "the conditions of well-being of a community or organization in accordance with the values of its citizens".⁷⁸ On the other hand, 'capabilities are the various combinations of functionings that a person can achieve or could have achieved. Capabilities stand for

⁷² Ibid p. 22.

⁷³ Amartya Sen, *Development as Freedom*, New York, 2000

⁷⁴ Manuka Henare, Adrienne Puckey, and Amber Nicholson, *He ara hou: The pathway forward. Getting it right for Aotearoa New Zealand's Māori and Pasifika children*, Wellington, 2011, p. 22.

⁷⁵ D. P. Levine, and S. Abu Turab Rizvi, *Poverty work and freedom: Political economy and the moral order*, Cambridge, 2005, pp. 41, 46.

⁷⁶ J.M. Alexander, *Capabilities and Social Justice: The Political philosophy of Amartya Sen and Martha Nussbaum*, 2008, p. 56.

⁷⁷ Sen, 1987, cited in *ibid*, p. 56.

⁷⁸ Mark Anielski, *Genuine Wealth: Building Economies of Well-being. Environments Journal*, 35(1), 2007, p. 98.

the extent of freedom that a person has in order to achieve different functionings'.⁷⁹

103. Following Amartya Sen, I have earlier proposed that functionings are constitutive of Māori being and are the ends and sometimes the means of Māori life.⁸⁰ They may be understood in Māori terms in the following way, *mana tangata* is the actualisation of *tapu tangata*, where *tapu* is the God and ancestral-given potential of being. Achieved functionings are measurable, observable and comparable e.g. literacy; life expectancy. Functionings can be elementary, such as escaping morbidity and mortality; nourishment; mobility. They can be complex involving self-respect, participation in Māori life, or to appear in society without shame.

104. I would reason that capabilities or freedoms are therefore such things as *mana Māori motuhake*, which is autonomy, self-reliance and self-determination. Sen clarified these concepts and the interplay between freedom and capability.

105. The freedom to lead different types of life is reflected in the person's capability set. The capability of the person depends on a variety of factors, including personal characteristics and social arrangements. A full accounting of individual freedom must, of course, go beyond the capabilities of personal living and pay attention to the person's other objectives (e.g. social goals not directly related to one's own life), but human capabilities constitute an important part of individual freedom.⁸¹

106. Martha Nussbaum built on Sen's capability approach and, focusing on human dignity, proposed a systematic list of central capabilities that could serve as benchmarks for governments and policymakers.⁸²

1. Life. Being able to live to the end of a human life of normal length.
2. Bodily health. Being able to have good health; to have adequate shelter.
3. Bodily integrity.

⁷⁹ J.M. Alexander, *Capabilities and Social Justice: The Political philosophy of Amartya Sen and Martha Nussbaum*, 2008, p. 57.

⁸⁰ Manuka Henare, *Hauora, Oranga Tangata: Toward a Māori Capabilities Approach Māori Concept of Well-being & Measurability. A Moral-Historical View*. Working Paper, June 2011.

⁸¹ Sen as cited in J.M. Alexander, *Capabilities and Social Justice: The Political philosophy of Amartya Sen and Martha Nussbaum*, 2008, p. 57.

⁸² Martha Nussbaum, 'Constitution and Capabilities', in D. K. Chatterjee (Ed.), *Democracy in a Global World: Human Rights and Political Participation in the 21st Century*, Maryland, 2007, pp. 115-116.

4. Senses, Imagination and Thought. Being able to use the senses, to imagine, think and reason – and to do these things in a truly human way, a way informed and cultivated by an adequate education.
 5. Emotions. Being able to have attachments to things and people outside ourselves; to love those who love and care for us. Not having one's emotional development blighted by fear and anxiety.
 6. Practical reason. Being able to form a conception of the good and to engage in critical reflection about the planning of one's life.
 7. Affiliation (a). Being able to live with and toward others, to recognise and show concerns for other human beings. (b). Having the social bases of self-respect and non-humiliation; being able to be treated as a dignified being whose worth is equal to that of others.
 8. Other species. Being able to live with concern for and in relation to animals, plants, and the world of nature.
 9. Play. Being able to laugh, to play, to enjoy recreational activities.
 10. Control over one's environment: (a) Political: Being able to participate effectively in political choice. (b) Material. Being able to hold property and having property rights with others; having the right to seek employment on an equal basis with others; having the freedom from unwarranted search and seizure.
- 107.** In *He Ara Hou*⁸³ we argue that such a capabilities approach would involve developing an MDI (Māori Development Index) using Māori-value based data in its measurement. The same development of capabilities would apply to a Pasifika indices (PDI) for life in Aotearoa.
- 108.** A capabilities approach to Māori and Pasifika development as well-being is concerned with the agency of tangata, human person, as a member of Te Ao Māori and New Zealand society, and as a participant in economic, social and political actions. Māori and Pasifika development becomes then the expansion of Māori capabilities to lead the kind of lives that Māori value. Mana motuhake enhances the ability of tangata to help themselves and to influence the world.
- 109.** Māori and Pasifika agency means that Māori-Pasifika act to bring about change, and their achievements are judged in Māori-Pasifika terms according to kawa atua, tikanga tangata and ritenga tangata, meaning God-given virtues, human principles and appropriate behaviour, and moemoea-wawata, rendered as dreams and aspirations of Māori and Pasifika people.

⁸³ Manuka Henare, Adrienne Puckey, and Amber Nicholson, *He Ara hou: The pathway forward. Getting it right for Aotearoa New Zealand's Māori and Pasifika children*, Wellington, 2011, p. 26.

110. Let me conclude this discussion by suggesting that the above context gives focus on the urgency of the moment that requires a sophisticated level of moral and political tribal leadership of all those involved in the hapū and iwi of Muriwhenua. The following discussion offers a traditional set of moral philosophy and ethical behaviour of rangatira engaged in the current Treaty of Waitangi settlement process.

MANUKA HENARE

23 August 2012

APPENDIX ONE

RESEARCH PUBLICATIONS:

Refereed Journals

Spiller C., Pio E., Erakovic L., & Henare M. (2011). Wise up: Creating organizational wisdom through an ethic of kaitiakitanga. *Journal of Business Ethics*, 1-13.

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Henare, M. (2011). Lasting peace and the good life: Economic development and the 'te atano' principle of Te Tiriti o Waitangi. In V. MH. Tawhai & K. Gray-Sharp (Eds), 'Always speaking': The Treaty of Waitangi and public policy (pp. 261-275]. Wellington, New Zealand: Huia publishers.

Henare, M. (2011). Māori literacy and the making of a nation. In K. Martin & B. Mercer (Eds), *The French place in the Bay of Islands: Essays from Pompallier's Printery* (pp. 220-243). Russell, New Zealand: Matou Matauwahi.

Henare, M. (2008) *First Hand Account*, 3.1: Manuka Henare on Hau: The Ethic of Generosity and Spirituality of Māori Gift Exchange. In Joy Hendry, *An Introduction to Social Anthropology: Sharing our Worlds*. London: Palgrave MacMillan, pp56-58.

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Māori Edition, translated, Ngā Tāngata Rau 1941-1960 (pp. 237-240). Auckland: Nā Auckland University Press me Te Tari Taiwhenua.

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Henare, M.A. (1998). Panapa Wiremu Netana 1898-1970. In Dictionary of New Zealand Biography Volume 4 1921-1940. Auckland: Auckland University Press and Department of Internal Affairs.

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Henare, M.A & Kernot, B. (1996) Māori Religion: The Spiritual Landscape. In J. Veitch (Ed.) Can Humanity Survive? The World's Religions and the Environment (pp. 205-215). Auckland: Awareness Book Co.

Mahuta, R. & Henare, M.A. (1991) The Basis for a Maaori Foreign Policy. In R. Kennaway & J. Henderson (Eds.) Beyond New Zealand II: Foreign Policy into the 1900's (pp. 57-63). Auckland: Longman Paul.

Henare, M. (1990). Development: Sovereignty or Dependency? In Puna Wairere. Essays by Māori (pp. 40-45). Wellington: NZ Planning Council.

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Refereed conference papers and proceedings

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Henare, M.A. (2001). He mahi kai te taonga: Recognition of Work Experience as Entry for University of Auckland Business School. A Māori Case Study. In N. Benton & R. Benton (Eds.), Te Rito o te Mātauranga Experiential Learning for the Third Millennium (pp.111-119). Selected Papers from the International Consortium for Experiential Learning December 2000. Auckland: The James Henare Māori Research Centre, University of Auckland.

Henare, M.A. (2001). Māori, the Navajo, the Scots, the Welsh – Nation Building and Economic Development. In "Nation Building" and Māori Development in the 21st Century (pp. 115-123). Hamilton: School of Māori and Pacific Development, University of Waikato.

Henare, M.A. (1999). Hope and Māori Self-determination. In M. Eastham (Ed.) Proceedings of the Theological Symposium on Hope (pp. 93-121). Wellington: Caritas Aotearoa-New Zealand.

Sheridan, D. & Henare, M. (2011). Ka Pao: Building Business Skills Online. In T. Bastiaens & M. Ebner (Eds.), Proceedings of World Conference on Educational Multimedia, Hypermedia and Telecommunications 2011 (pp. 271-274). Chesapeake, VA: AACE. Retrieved from <http://www.editlib.org/p/37877>.

Keynote Addresses & Thought Leader in Conferences/Seminars/Tribunals

Henare, M.A. (2012) Delegate, International Conference on Global Movement of Moderates "In Pursuit of an Enduring and Just Peace". Kuala Lumpur Convention Centre, Kuala Lumpur, Malaysia. Organised by IIUM Alumnae Association & International Islamic University of Malaysia with support from Ministry of Foreign Affairs, Razak School of Government. Personal Invite to participate as NZ Delegate and think tank leader, 17-19 Jan

Henare, M. (2011). Keynote Address, Children and Pasifika children: the good life and poverty. From welfarism to a capabilities approach. Well-being and measurability. Families Commission, NZ Government. He Ara Whakamua: Building Pathways Together to the Future, Te Mahurehure Marae, Auckland, New Zealand, 01 Dec.

Henare, M. (2011). In The Spirit of the Eagle and Crow: Our Theory of Indigenous Economic Development. Yulkuum Jerrang, the 3rd Victorian State Indigenous Economic Development Conference, Melbourne, Australia, 2-4 Nov.

Henare, M. (2011). Multiple Perspectives: Finding your anchor. NZ Association of Occupational Therapists Clinical Workshops, Te Tii Marae, Waitangi, New Zealand, 02 Nov.

Henare, M. (2011). Pōhara, Tōnui, Kōkiri Social-Economic Justice & Development. Te Waihono a Kupe Māori Caucus on Whānau Violence Prevention, Auckland, New Zealand, 16 Sep.

Spiller, C., Pio, E., & Henare, M.A (2011). Building a Bridge and Getting Over It: A Middle Earth Position on Wisdom Through Kaitiakitanga. Academy of Management 2011 Annual Meeting: West Meets East: Enlightening, Balancing, and Transcending, San Antonio, Texas, USA, 12-16 Aug.

Henare, M. A. (2011). Tikanga Kotahitanga, Tikanga Hau Ora: The Virtue of Solidarity and Well-being. Te Rūnanga o Aotearoa Symposium, Wellington, New Zealand, 08 Jul.

Morgan, O. & Henare M.A. (2011). The sui generis protection of Mātauranga Māori. Innovation and Communications Law Conference, Melbourne, Australia, 29-31 May.

Henare, M.A. (2011). He Wakaputanga: History Revisited and The New Zealand Declaration of Independence. Stout Summer Series, Victoria University of Wellington, Wellington, Stout Research Centre for New Zealand Studies. Invited and Funded, 16 March.

Henare, M.A. (2010). Tāngaengae te pito-umanga kia ranea ai: A Strategy for Māori Economic Development and Wealth Creation. The Economy of Mana 2010-2060. Federation of Māori Authorities AGM, Waitangi, New Zealand, 05-07 Nov.

Henare, M.A. (2010). Manaakitanga me Kotahitanga. Sustainable Common Wealth Quality Teaching Conference 'Making a difference – lifting productivity

through vocational education', Waiariki Institute of Technology, Rotorua, New Zealand, 24 Sep.

Henare, M.A. (2010). Sustainable Māoritanga, Sustainable Well-Beings. NZ Public Health Association Annual Conference, Tūrangawaewae Marae, Ngāruawāhia, New Zealand, 22 24 Sep.

Henare, M.A. (2010). 1,000+ years of Māori Business History, 5,000 years of Pacific Business History: Telling Our Story of Business and Economics. He Rau Tumu Kōrero III, Māori Historians' Symposium 2010: 21st-Century Māori History, Te Whare Akonga o te Akatoki, University of Canterbury, Christchurch, New Zealand, 02 Sep.

Henare, M.A. (2010) Invited Keynote Introductory Address, He Wakaputanga me Te Tiriti 1820-1840 Indigenous Politics & Economics WAI 1040 Waitangi Tribunal Te Paparahi o Te Raki Enquiry, The 4th Oceanic Conference on International Studies (OCIS), The University of Auckland and Victoria University of Wellington, 30th June, University of Auckland Business School, Auckland, New Zealand.

Henare, M.A. (2010) Brief of Evidence for Manuka Arnold Henare speaking to PhD Thesis (2003) Changing Images of Nineteenth Century Māori Society – From Tribes to Nation 15 June 2010, on the Matter of the Te Paparahi o Te Raki Inquiry before the Waitangi Tribunal (WAI 1040), Te Tau Rangatira, Te Tiriti o Waitangi Marae, Waitangi, Bay of Islands, Tūmanako Law, Kerikeri, pp116.

Henare, M.A. Ngāpuhi-Māori World View pre-1840 He Wakaputanga me Te Tiriti. Wai 1040 Te Paparahi o Te Raki Initial Hearings, Tau Rangatira, Te Tiriti o Waitangi Marae, Waitangi, Pēwhairangi, New Zealand (PowerPoint), 15 June 2010.

Henare, M.A. (2010) Te Ringa Whero: Traditional Māori Leadership its Kawa, Tikanga and Ritenga the next 50 Years and Tohungatanga Māori Development & Leadership: Rangatiratanga-Tohungatanga-Wairuatanga, Manu Ao Academy Leadership Programme 2010, Waipapa Marae, The University of Auckland, Auckland, New Zealand, 15-16 April.

Henare, M.A. (2010), Te Ringa Whero 'Titiro atu ki ngā taumata o te moana': Looking to a transfigured future 50 years from now. Seminar Paper presented at the Leadership Programme Series for Māori in Public Health, Tūrangawaewae Marae, Ngāruawāhia, New Zealand, Digital Indigenous, 4th March. Invited and Funded.

Henare, M.A. (2009). He Wakaputanga me Te Tiriti 1820-1840. Paper presented at the Wānanga o Te Aho Claims Alliance, Mahuhukiterangi Marae, Tautoro, North Auckland, New Zealand, 28th November.

Henare, M.A. (2009). The contribution of Māori entrepreneurship to the economy of Aotearoa. Māori Entrepreneur Symposium, Te Wānanga o Raukawa (Tribal University), Ōtaki, New Zealand, 11-12 Nov.

Henare, M.A. (2009). 'Māori Futures: Preparing for the 21st Century', Theme: New Markets - Social Enterprise & Jobs, Inclusion & Sustainability 1. Closing the Indigenous Economic Gap. Paper presented at the Social Enterprise World Forum 2009, Melbourne. Invited and Funded as Keynote Speaker and Panellist, 6-8 October.

Henare, M.A. (2009). Every Child Counts Summit –for the Every Child Counts summit, a coalition of agencies including UNICEF, Barnados and Save the Children discussing the welfare of NZ children. Anglican Church Parish Marae, Mangere, Manukau City, New Zealand, September 16th. Invited keynote speaker & Facilitator for Closing Session.

Henare, M.A. (2009). Te Whangaroa Papa Hapū 1820-1840 He Wakaputanga me Te Tiriti. Paper presented at the Wānanga o te Whangaroa Papa hapū, Te Piringatahi o Ngā Maungarongo Marae, Waitakere City, Auckland, New Zealand, 5th September.

Henare, M.A. (2009). Te Waimate Taiāmai Alliance 1820-1840 He Wakaputanga me Te Tiriti. Paper presented at the Wānanga o Te Waimate Taiāmai Alliance, Kaikohe, New Zealand, 15 Aug.

Henare, M.A. (2009). Te Ringa Whero 'Titiro atu ki ngā taumata o te moana': Looking to a transfigured future 50 years from now and Rangatiratanga - Tohungatanga - Wairuatanga: Māori Development & Leadership. Two Seminars presented at the Leadership Programme Series for Māori in Public Health, Tūrangawaewae Marae, Ngāruawāhia, New Zealand, Digital Indigenous, 19 March & 18th September. Invited and Funded.

Henare, M.A. (2009). Te Tiriti, Development and International Partnerships. Facilitator, and presenter, NZ AID Treaty Workshop, New Zealand Ministry of Foreign Affairs and Trade, Wellington, New Zealand, 7th August. Invited sole presenter.

Henare, M.A. (2009). Rangatiratanga - Tohungatanga - Wairuatanga New Zealand Development & Leadership. Hillary Leadership 2009 - Turning into Culture Conference, Lincoln Green Hotel & Conference Centre, Lincoln Road & Te Pai Place, Waitakere City, New Zealand, 25 June 2009. Invited keynote.

Henare, M.A. (2009). Hauora, Oranga Tangata. Māori World View, Ethics & Morality Toward a Māori Concept of Well-being & Measurability. A Moral-Historical View. Hapai Te Hauora Tapui Ltd, Māori Public Health Leadership Conference, Te Noho Kotahitanga Marae, Unitec Polytechnic, Avondale, Auckland, New Zealand, 23rd June.

Henare, M.A. (2010) The Waka 'Aotearoa New Zealand' and its Poverty - Comments on the 2009 Government Budget. The 9th Child Poverty Action Group Post Budget Breakfast, University of Auckland, New Zealand, 29 May.

Henare, M.A. (2009). Regional & Local Economies of Mana: Indigenous Business, Economic Development, & Well-Being in Oceania. Keynote Paper presented at the Pacific Alternatives: Cultural Heritage & Political Innovation in Oceania Conference, 24-27 March, East West Centre, University of Hawai'i, Manoa, Honolulu, Hawai'i, USA. Invited and Funded Keynote Speaker.

Henare, M.A. (2009, February). Te Tiriti o Waitangi, Rights to Development & Human Rights. Paper presented at the Waitangi Seminar 2009, Wellington, New Zealand.

Morgan, O.J., Henare, M.A. (2008 Dec). Lets Abandon Intellectual Property Rights, A joint international conference of the ASA, the ASAANZ and the AAS, Auckland, New Zealand.

Henare, M.A. (2008). Keynote speaker for the opening session, Māori Leadership, 7th International Conference on Studying Leadership, The University of Auckland Business School, The University of Auckland, New Zealand, 8-9 December. Invited Keynote Speaker.

Henare, M.A. (2008 November). 'Setting the Scene - Future Lessons from the Past, Te Ao Hou - Māori Futures, Auckland, New Zealand.

Henare, M.A. (2008). Key note speaker, Future Talent - Achieving our Aspirations, Federation of Māori Authorities Annual Conference, Rotorua, New Zealand, November.

Henare, M.A. (2008 September). Traditional Religions in Multifaith Context of Asia-Pacific, Multi-Faith Conference, Uni-Diversity - The Challenges of Change, The University of Auckland, Auckland, New Zealand.

Henare, M.A. (2008 August). Pacific Peoples, Trade Liberalisation & Human Rights: New Zealand ensures indigenous Māori rights clause included in new free trade agreements (FTA's', Oxford Round Table 20th Anniversary, Trade Liberalisation and Human Rights,, Oxford University, Oxford, England. Invited contributor.

Henare, M.A. (2008 July) Putting People First' Fifteen Years On 'Titiro atu ki te taumata o te moana, 7th Conference of the European Society of Oceanists 'Putting People First' Intercultural Dialogue and Imagining the Future in Oceania, Università di Verona, Verona, Italy. Invited and Funded Keynote Address.

Henare, M.A. (2008). Key note address, An Accelerated Plan to develop Financial Literacy in Maori, 21st Century Education, The Waipareira Way Summit, Waipareira Trust, Waitakere City, Auckland, New Zealand, April

Henare, M.A. (2008). Facilitator and presenter. Setting the Scene - Future Lessons from the Past. Te Ao Hou: Māori Futures, The University of Auckland Business School Roundtable, 12 Grafton Road, Auckland, New Zealand, 19 Nov.

Henare, M.A. (2007). The economy of mana, innovation, business, traditional Pacific knowledge and the knowledge economy, 2nd Biennial Oceania Development Network Conference "Security, Growth and Development in the Pacific", National University of Samoa: Le Papaigalagala, Apia, Samoa, 30 October Invited Keynote speaker.

Henare, M.A. (2007 September). Keynote address, Wai Ora: The Economy of Water, United Water, NZWWA's 49th Annual Conference, Rotorua, New Zealand.

Henare, M.A. (2007 August). Hauora Hokianga - Hokianga Health, Hauora Hokianga - Hokianga Health, Hokianga, New Zealand.

Henare, M.A. (2007 July). Making a Difference: Working with Māori, Fonterra - Making a Difference: Working with Māori, Auckland, New Zealand.

Henare, M.A. (2007 July). Making a Difference: Working with Māori, Methanex New Zealand Ltd - Making a Difference: Working with Māori, University of Auckland Business School, Auckland, New Zealand.

Henare, M.A. (2007 June). Keynote address - Māori Well-being & Measurability: A Moral-Historical View, Public Health Association Conference 2007, Te Tōrino - Haere whakamua, whakamuri, Reimaging Health, Auckland, New Zealand, 6th June.

Henare, M.A. (2007). Determinants of Innovation and Growth in the Seafood Sector Project 2003-2007, International Colloquium, University of Auckland Business School, Auckland, New Zealand, May

Henare, M.A. (2007 April). Tribal Fishing: Going Global through an Innovation Business Cluster, Te Matau a Māui Māori 2nd Annual Māori Fisheries Conference, Napier.

Henare, M. (2005) Ruwhiu, D., Petrie, H., Wolfgramm, R., & Spiller, S.). Te Rito o Mātauranga, Case studies in indigenous business education. International Case Study Conference, University of Auckland Business School

Reviews & Comment

Henare, M.A. (1996). Songs of Freedom J. Binney, Redemption Songs: A Life of Te Kooti Arikirangi Te Turuki. Review in City Voice, Wellington, 22 August.

Henare, M.A. (1996). Pre-election Issues. Comment in Crosslink, March.

Technical Reports

Henare, M., Puckey, A., Nicholson, A, Dale, M. C., Vaithianathan, R. (2011). He Ara Hou: The Pathway Forward. Getting it right for Aotearoa New Zealand's Māori and Pasifika children, Every Child Counts, Wellington, pp66.

Henare, M.A., Petrie, H., Puckey, A.M.A. (2010). "He Whenua Rangatira" Northern Tribal Landscape Overview (Hokianga, Whangaroa, Bay of Islands, Whāngārei, Mahurangi and Gulf Islands), August, Crown Forestry Rental Trust (CRFT),pp760.

Henare, M.A. (2010) Brief of Evidence for Manuka Arnold Henare on PhD Thesis (2003) Changing Images of Nineteenth Century Māori Society – From Tribes to Nation , on the Matter of the Te Paparahi o Te Raki Inquiry before the Waitangi Tribunal (WAI 1040), Tau Rangatira, Te Tiriti o Waitangi Marae, Waitangi, Bay of Islands, Tūmanako Law, Kerikeri, 15 June, pp116.

Henare, M.A., Petrie, H., Puckey, A.M.A. (2009). Oral and Traditional History Report: Te Waimate Taiamai Alliance, August 2009, Crown Forestry Rental Trust (CRFT), Wellington, pp511.

Henare, M.A., Sankaran, J.K., Sharp, B.M.H. (2007). Adding Knowledge and profit to Your Business" Determinants of Innovation and Growth in the Seafood Sector. Tāngaengae te pito-umanga kia ranea ai, Ko ngā pū o te moana tene e whai hua ai te māra a Tangaroa, Foundation for Research Science & Technology (FRST), pp51.

Henare, M.A., Spiller, C., Spiller, R. (2006). Making a Difference - Why and how to employ and work effectively with Māori, EEO Trust, pp28

Finucane, M., Satterfield, T., Roberts, M., Henare, M.A. & Benton, R. (2005). Tangata Whenua judgements of GMO acceptability/nonacceptability as determined by social, cultural and technical variables (Report Two). (FRST UOA

X024). University of Auckland & Te Whare Wānanga o Awanuiārangī, Whakatāne, pp143 including appendices.

Satterfield, T., Roberts, M., Henare, M.T.A., Finucane, M.L., Benton, R.A., Henare, M.A. (2005). Culture, Risk, and the Prospect of Genetically Modified Organisms as Viewed by Tāngata Whenua, (FRST UOA X0234). University of Auckland & Te Whare Wānanga o Awanuiārangī, Whakatane, pp121

Henare, M.A. (2004). Brief of Evidence for Dr Manuka Henare, 12 January 2004, before the Waitangi Tribunal (WAI 1071, 1007, 594, 566, 521, 262, 151,131,87,45) in the matter the Treaty of Waitangi Act 1875 and the matter of the Foreshore and Seabed Claims. Russell McVeagh, 37 pages plus appendices.

Henare, M.A. (2000). 'Scottish Principles of Devolution: An Event or a Process? A Study of devolution in the United Kingdom of Great Britain and Northern Ireland. A Working Paper. (FRST) UOW 814 "Laws and Institutions for Aotearoa-New Zealand" Hamilton, Te Matahauriki Institute, The University of Waikato, 15, September, pp41.

Henare, M.A. (1998). Te Tangata, te taonga, te hau: Māori Concepts of Property. Paper presented to the 'Property and the Constitution. The Public Dimension of Private Property Conference, New Zealand Institute of Public Law, Faculty of Law, Victoria University of Wellington, Old Government Buildings, Lambton Quay, Wellington, 17-18 July 1998. (FRST) UOW 604 "Laws and Institutions for a Bicultural Aotearoa-New Zealand", School of Law, The University of Waikato, Hamilton. A Working Paper, pp 21.

Henare, M.A. (1998) 'The Mana of Ngāpuhi'. In Sustainable Māori Development in Tai Tokerau. Case Study Four, The Ngāpuhi Region. (FRST) 96 UOA 13 5556 and 98 UOA 13 6685. Auckland, The James Henare Māori Research Centre, The University of Auckland, 667-694.

Henare, M.A. (1998). 'Second Affidavit of Manuka Henare in reply to Affidavits in opposition filed by the Fisheries Commission and Treaty Tribes.' The High Court of New Zealand, Auckland Registry. CP 122/95. The Matter of the Fisheries Act 1989 between Te Rūnanganui o te Upoko o Te Ika Association (inc) & ORS, Plaintiffs and The Treaty of Waitangi Fisheries Commission & ORS, Defendants. 11th March, 80 pages, includes Appendices.

Henare, M.A (1997). 'The Mana of Whangaroa'. In Sustainable Development in Tai Tokerau. Case Study Three, Whangaroa. (FRST) 95 UOA S16 3839. The James Henare Māori Research Project, University of Auckland, Auckland 213-239; Haworth, N., V. Lindsay, R. Higham, M. Henare, 'Sustainable Commercial Development in the West Ngāti Kahu and Whangaroa Region', 240-330.

Other

Henare, M.A. (2012). A reflection on a journey together. In Frances Hancock (Ed.) He Akoranga He Aratohu: Māori & Pacific Education Initiative (pp. 10-11). AucklandL ASB Community Trust.

Henare, M.A. (Jan/Feb 2012). Reaching out to Indigenous populations-Glimpses of Diversity. BizEd, AACSB International, which accredits business schools worldwide, USA, pp26-27. <http://www.bizedmagazine.com/>.

Henare, M.A. (2011). Pōhara, Tōnui, Kōkiri: Imagine a child and whānau centred economy of wealth creation and poverty removal. A Newsletter from the Office of the Children's Commissioner, Summer 2011 (79), pp. 17-23.

APPENDIX TWO:

Full Māori Text and Translation in English of He Wakaputanga o te Rangatiranga o Nu Tireni

Following is the full text in Māori, with a semantic-historical translation of the declaration. Copied from the original Māori text, there was a draft prepared and changes made although no record of the preparation of the draft have been found. Busby with Williams prepared a text in English, which was then translated in Māori. It is likely that Eruera Pare, played a key role in the translation. From his first known letter of 1825 and evidence of letter writing in subsequent years, Eruera Pare was very competent in written Māori and fluent in spoken English. However, if the current practice of the time was followed the draft was read to the gathered rangatira and followers, who debated the text. In the context of the discussion, any necessary changes were made.

Māori text	Historical-Semantic Translation by Manuka Henare, 2001	Busby's Explanation, 1835
1. Ko mātou, ko ngā Tino Rangatira o ngā iwi o Nu Tireni i raro mai o Hauraki, kua oti nei te huihui i Waitangi, i Tokerau, i te rā 28 o Oketopa, 1835.	We, the absolute leaders of the tribes (iwi) of New Zealand (Nu Tireni) to the north of Hauraki (Thames) having assembled in the Bay of Islands (Tokerau) on 28 th October 1835.	We, the hereditary chiefs and heads of the tribes of the Northern parts of New Zealand, being assembled at Waitangi, in the Bay of Islands, on this 28 th day of October 1835,
Ka wakaputa i te Rangatiranga o tō mātou wenua; a ka meatia ka wakaputaia e mātou he Wenua Rangatira, kia huaina, " <u>Ko te Wakaminenga o ngā Hapū o Nu Tireni</u> ".	[We] declare the authority and leadership of our country and say and declare them to be chiefly country (Wenua Rangatira) under the title of 'Te Wakaminenga o ngā Hapū o Nu Tireni' (The sacred Confederation of the Tribes of New Zealand).	declare the independence of our country, which is hereby constituted and declared to be an Independent State, under the designation of the United Tribes of New Zealand.

<p>2. Ko te Kīngitanga, ko te mana i te wenua o te wakaminenga o Nu Tireni, ka meatia nei kei ngā Tino Rangatira anake i tō mātou huihuinga; a ka mea hoki, e kore e tukua e mātou te wakarite ture ki tētahi hunga ke atu, me tētahi Kawanatanga hoki kia meatia i te wenua o te wakaminenga o Nu Tireni,</p>	<p>The sovereignty/kingship (Kīngitanga) and the mana from the land of the Confederation of New Zealand are here declared to belong solely to the true leaders (Tino Rangatira) of our gathering, and we also declare that we will not allow (tukua) any other group to frame laws (wakarite ture), nor any Governorship (Kawanatanga) to be established in the lands of the Confederation,</p>	<p>All sovereign power and authority within the territories of the United Tribes of New Zealand is hereby declared to reside entirely and exclusively in the hereditary chiefs and heads of tribes in their collective capacity, who also declared they will not permit any legislative authority separate from themselves in their collective capacity to exist,</p>
<p>ko ngā tāngata anake e meatia nei e mātou, e wakarite ana ki te ritenga o ō mātou ture e meatia nei e mātou i tō mātou huihuinga.</p>	<p>unless (by persons) appointed by us to carry out (wakarite) the laws (ture) we have enacted in our assembly (huihuinga).</p>	<p>nor any function of government to be exercised within the said territories, unless by persons appointed by them, and acting under the authority of laws regularly enacted by them in Congress assembled.</p>
<p>3. Ko mātou, ko ngā Tino Rangatira, ka mea nei, kia huihui ki te rūnanga ki Waitangi a te Ngahuru i tēnei tau, i tēnei tau, ki te wakarite ture, kia tika ai te wakawakanga, kia mau pū te rongō, kia mutu te hē, kia tika te hokohoko.</p>	<p>We, the true leaders have agreed to meet in a formal gathering (rūnanga) at Waitangi in the autumn (Ngahuru) of each year to enact laws (wakarite ture) that justice may be done (kia tika ai te wakawakanga), so that peace may prevail and wrong-doing cease and trade (hokohoko) be fair.</p>	<p>The hereditary chiefs and heads of tribes agree to meet in Congress at Waitangi in the autumn of each year, for the purpose of framing laws for the dispensation of justice, the preservation of peace and good order, and the regulation of trade,</p>
<p>A ka mea hoki ki nga tauwiwi o runga, kia wakarerea te wawai, kia mahara ai ki te wakaoranga o tō mātou wenua, a kia uru rātou kia te wakaminenga o Nu Tireni.</p>	<p>[We] invite the southern tribes to set aside their animosities, consider the well-being of our land and enter into the sacred Confederation of New Zealand.</p>	<p>and they cordially invite the Southern Tribes to lay aside their private animosities and to consult the safety and welfare of our common country, by joining the Confederation of the United Tribes.</p>
<p>4. Ka mea mātou, kia tuhituhia he pukapuka, ki te ritenga o tēnei o tō mātou wakaputanga nei, ki te Kīngi o Ingarani, hei kawe atu i tō mātou aroha; nāna hoki i wakaae ki te Kara mo mātou.</p>	<p>We agree that a copy of our declaration should be written and sent to the King of England to express our appreciation (aroha) for this approval of our flag.</p>	<p>They also agree to send a copy of this Declaration to His Majesty the King of England, to thank him for his acknowledgment of their flag;</p>
<p>A no te mea, ka atawai mātou, ka tiaki i ngā</p>	<p>And because we are showing friendship and</p>	<p>and in return for the friendship and protection</p>

<p>pākehā e noho nei i uta, e rere mai ana ki te hokohoko, koia ka mea ai mātou ki te Kīngi kia waiho hei matua ki a mātou i tō mātou Tamarikitanga, kei wakakahoretia tō mātou Rangatiratanga.</p>	<p>care for the Pākehā who live on our shores, who have come here to trade (hokohoko), we ask the King to remain as a protector (matua) for us in our inexperienced statehood (tamarikitanga), lest our authority and leadership be ended (kei wakakahoretia tō mātou Rangatiratanga).</p>	<p>they have shown, and are prepared to show, to such of its subjects as have settled in their country, or resorted to its shores for the purposes of trade, they entreat that he will continue to be the parent of their infant State, and that he will become its Protector from all attempts upon its independence.</p>
<p>Kua wakaaetia katoatia e mātou i tēnei rā, i te 28 Oketopa 1835, ki te aroaro o te Rehirenete o te Kīngi o Ingarani.</p>	<p>We have agreed to all of this on this day 28th October 1835, in the presence of the Resident (Reireneti) of the King of England.</p>	<p>Agreed to unanimously on this 28th day of October, 1835, in the presence of His Britannic Majesty's Resident.</p>
<p>28 Oketopa 1835</p> <p>34 Māori signatories – 23 with moko marks, 7 cross marks and 3 written signatures</p> <p>Kai tuhituhi</p> <p>4 English witnesses</p>		
<p>The following sentence was added to the declaration probably in January 1836 by George Clark CMS.</p>		
<p>Ko mātou, ko ngā Rangatira, ahakoa kihai i tae ki te huihuinga nei, no te nuinga o te Waipuke, no te aha rānei, ka wakaae katoa ki te wakauputanga Rangatiratanga o Nu Tireni, a ka uru ki roto ki te wakaminenga.</p>	<p>We, the rangatira, although not able to attend the great gathering (huihuinga), because of floods and for what ever other reasons, we all fully support (wakaae) the declaration of authority (independence) over Nu Tirene, and we now enter into the sacred confederation (wakaminenga).</p>	<p>Busby offered no translation of this additional paragraph, neither did George Clark.</p>
<p>A further 18 rangatira signatories were gathered - 11 moko marks, 4 cross marks, 2 signatures and Te Kahawai signed on behalf of Te Werowero - were gathered from 13th January</p>		

1836 to 22 nd July 1839.		
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He Wakaputanga O Te Rangatiranga O Nu Tireni

1. Ko mātou, ko ngā Tino Rangatira o ngā iwi o Nu Tireni i raro mai o Hauraki, kua oti nei te huihui i Waitangi, i Tokerau, i te rā 28 o Oketopa, 1835. Ka wakaputa i te Rangatiranga o tō mātou wenua; a ka meatia ka wakaputaia e mātou he Wenua Rangatira, kia huaina, "Ko te Wakaminenga o ngā Hapū o Nu Tireni".
2. Ko te Kīngitanga, ko te mana i te wenua o te wakaminenga o Nu Tireni, ka meatia nei kei ngā Tino Rangatira anake i tō mātou huihuinga; a ka mea hoki, e kore e tukua e mātou te wakarite ture ki tētahi hunga ke atu, me tētahi Kawanatanga hoki kia meatia i te wenua o te wakaminenga o Nu Tireni, ko ngā tāngata anake e meatia nei e mātou, e wakarite ana ki te ritenga o tō mātou ture e meatia nei e mātou i tō mātou huihuinga.
3. Ko mātou, ko ngā Tino Rangatira, ka mea nei, kia huihui ki te rūnanga ki Waitangi a te Ngahuru i tēnei tau, i tēnei tau, ki te wakarite ture, kia tika ai te wakawakanga, kia mau pū te rongo, kia mutu te hē, kia tika te hokohoko. A ka mea hoki ki nga tauiwi o runga, kia wakarerea te wawai, kia mahara ai ki te wakaoranga o tō mātou wenua, a kia uru rātou kia te wakaminenga o Nu Tireni.
4. Ka mea mātou, kia tuhituhia he pukapuka, ki te ritenga o tēnei o tō mātou wakaputanga nei, ki te Kīngi o Ingarani, hei kawē atu i tō mātou aroha; nāna hoki i wakaē ki te Kara mo mātou. A no te mea, ka atawai mātou, ka tiaki i ngā pākehā e noho nei i uta, e rere mai ana ki te hokohoko, koia ka mea ai mātou ki te Kīngi kia waiho hei matua ki a mātou i tō mātou Tamarikitanga, kei wakakahoretia tō mātou Rangatiranga.

Kua wakaētia katoatia e mātou i tēnei rā, i te 28 Oketopa 1835, ki te aroaro o te Rehirenete o te Kīngi o Ingarani.

Ko **te Paerata**, (no te Patu Koraha)
Ko **Ururoa**, (no te Taha Wai)
Ko **Hare Hongi**
Ko **Hemi Kepa Tupe**, (no te Uri Putete)
Ko **te Kekeao**, (no Ngāti Matakiri)
Ko **te Warepoaka**, (no te Hikutu)
Ko **Titore**, (no Ngāti Nanenane)
Ko **Moka**, (no te Patu Heka)
Ko **te Warerahi**
Ko **Rewa**
Ko **Wai**, (no Ngaitawake)

Ko **te Reweti Atua haere**,
(no Ngāti Tau Tahī)

Ko **te Awa**
Ko **Wiremu Taunui**, (no te Wiu)

Ko **Tenana**, (no Ngāti Kuta)

Ko **Pī**, (no te Mahurehure)

Ko **Kaua**, (no te Herepaka)

Ko **Tareha**, (no Ngāti Rehia)
Ko **Kawiti**, (no Ngāti Hine)
Ko **Pumuka**, (no te Roroa)

Ko **te Kamara**, (no Ngāti Kawa)
Ko **Pomare**, (no Ngāti Manu)
Ko **Wiwia**, (no te Kapo Tai)
Ko **te Tao**, (no te Kai Mata)
Ko **Marupō**, (no te Wanau Rara)
Ko **te Kopiri**, (no te Uri Taniwha)
Ko **Warau**, (no te Wanau Horo)

Ko **te Ngere**, (no te Uri Kapana)
Ko **Moetara**, (no Ngāti Korokoro)
Ko **te Hiamoe**, (no te Uri a Ngonga)
Ko **Tamati Pukututu**, (no te Uri o te Hawato)
Ko **Hoane Wiremu Heke**

Ko **Waikato**

Ko **Te Peha**

Eruera Pare, te kai tuhituhi

English witnesses:

Henry Williams, Missionary CMS
George Clark, CMS
James C Clendon, Merchant
Gilbert Mair, Merchant

Note: After October 1835, other rangatira joined the confederation of tribes (te wakaminenga) and supported the Declaration (te Wakaputanga Rangatiratanga). The following paragraph was added to the document in January 1836, most probably by George Clark who was the English witness to other signatories.

Ko mātou, ko ngā Rangatira, ahakoa kihai i tae ki te huihuinga nei, no te nuinga o te Waipuke, no te aha rānei, ka wakaae katoa ki te wakaputanga Rangatiratanga o Nu Tireni, a ka uru ki roto ki te wakaminenga.

13th January 1836

Ko **Tamati Waka Nene**

Ko **Huhu**

Ko **Tona**

Ko **Panakareao**

Ko **Kiwikiwi**

9th February 1836

Ko **Tirarau**

29th March 1836

Ko **Hamuera Pita Matangi**, (no te Popoto)

Ko **Tawai**, (no te Mahurehure)

Ko **Mate**, (no na te Moe)

Ko **Patuone**, (no ngati Rangi)

25th June 1837

Ko **Parore**, (no te ngati Apa)

Ko **Kaha**, (no ngati Tautahi)

12th July 1837

Ko **Te Morenga**, (no te Rarawa)

Ko **Mahia**, (no te Hapouri)

16th January 1838

Ko **Taonui**, (no te Popoto)

24th September 1838

Ko **Pāpāhia**, no te Rarawa,

25th September 1838

Ko **te Hāpuku**, (no Nati Apiti) (Hawkes Bay)

22nd July 1839

Ko **te Werowero**, (no Ngati Mahuta), - Ko Kahawai, te Kai tuhituhi