

E TORU NGĀ TAUIRA MO TE HONONGA KI TE MĀORI KI TE PĀKEHĀ MO TE UMANGA TAHA TURE

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Ki te kōrero tātau mo ngā hononga tōtika i waenganui i te Karauna me te Māori, kei te kōrero kē tātau mo te pūmautanga kaha ki te Tiriti o Waitangi. Ahakoa he aha ngā tautohe, ngā whakamārama mo te wāhanga Māori, wāhanga Pākehā o te Tiriti e pā ana ki ngā kupu “kāwanatanga” me te “sovereignty” ko te tino rangatiratanga kia noho pūmau. Ko te tino pūtake o ēnei wāhanga e rua kia āhei ngā hiahia o ngā taha ē rua, kia noho tahi mai i runga i āna tikanga, ā, kia kua tētahi e aukati i tētahi. I te mea hoki e kuhu atu ana ngā tokorua iwi nei, Māori, Pākehā ki te rapu i te ōranga tonutanga e tū tahi ai rāua tahi. E toru ngā tauira mo te hononga ki te Māori ki te Pākehā taha ture: Taha Ture Tapa Toru ka tāea ahakoa iti nei te hononga kātahi, te Taha Tangata Whenua Ture, ko ngā tikanga ka tau mai no roto ake i te tangata whenua, kā rua, me te Taha Rua Ture kia hāngaia he taha ture mai i ngā taha ē rua.

I MIHI

Tuatahi e tika ana kia mihi ki te kaupapa o tēnei hui he whakarangatira, kia rangona, kia riro ma tō tātau reo hei whakatū te whare kōrero ki ngā kaupapa kei mua i a tātau katoa. Te Mata o te Tau, ngā kaihautū o tēnei hui ka nui te mihi.

He hōnore matanui ki te whakaara i ēnei kōrero ki tēnei hui, e riro ai ko te reo Māori anake te reo i ēnei rā torutoru nei hei taumata kōrero mo tēnei kaupapa i raro o te maru o Tā Timi Kara e rapu nei tātau he huarahi tika kia hāngai, kia noho ora tonu te Tiriti-o-Waitangi i waenga i a tātau e takatū nei ki tēnei whenua māhora. Ko tēnei tangata ko Timi Kara he tangata i whakapau kaha i ana pukenga i te wā e ora ana ia i roto i te whare pāremata ki te whakatō, whakaora i ngā tikanga Māori i waenga te Karauna me te Māori, ēngari kia rewa tahi ake ngā tikanga pupuru tangata. Otirā kua roa hoki te hunga kohi kōrero hītoria e whakaputa ana i te kōrero, mēnā i te tika te huarahi a te Karauna

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pērā i te tauira i whakaputaia e Ngata, e Te Rangihīroa me Pōmare ki te hautū kaha i ngā kaupapa e pā ana ki te Māori. Whāia ko tā rātau katoa he pakanga, he kōkiri kia noho tahi mai te ōranga tonutanga ki tā te Māori titiro.

II HE TURE I WAENGA TE KARAUNA ME TE MĀORI

Koia te kaupapa o taku kauhau i tēnei rā, me pēhea rā e tino māro ai te noho tahi mai o Ngāi Tātau te Māori ki raro i ngā kumenga o te taha ture e pēhi nei, e karapoti nei i a tātau. He aha ngā huarahi ture hei here i tēnei hononga kia pakari ai mā tāua te Māori. I te mea hoki he rōia o te ture taku tino pukenga ka whai whakaaro atu au ki te titiro ē rua aua kaupapa o te ture.

- (1) Te kaupapa ture o te motu whānui:
- (2) Tā te Māori titiro, whakaaro ki aua whakataunga ture:

Ka tīmata ake au ki te titiro ki te āhutatanga e pā nei kia tātau i nāianei te taha ture i waenga te Karauna me tātau te Māori.

Ka whakatakotohia e au e toru ngā taumata, wāhanga o te ture hei titiro, hei whakaaro ngātahi mā tātau ki roto i tēnei hui. Ahakoa he ōrite ēnei kōrero, ēngari he tino rerekē ngā whakataunga kupu whakataki ā-ture. Ko ēnei rerekētanga hei whakamārama i ōna hononga, me te āhua he mea nui tonu ki te titiro ki aua momo rerekētanga.

Kia āta tirohia e tātau ēnei wāhanga e toru, ēngari, kia mārama tahi tātau ki ēnei herenga kōrero, tōna tikanga hei whakapakari i te tikanga noho a te tangata, kia arotia nuitia atu ana tikanga. Ko te kaupapa nui kia mārama tātau me pēhea whakaū ai ngā kaupapa ture nei.

Ki te kōrero koe mo te kaupapa hononga ture, he mea tika kia mārama koe ki tā te Māori whakatau i ana tikanga, me te whakapae o te ture ā-motu, hei whakapakari i te āhua o te noho a te tangata. Ko ēnei tikanga hononga na te Pākehā tahi me te Māori. Ae he wāhanga anō kei kona kāre e tau pai ngā hononga, kai te pai tēnā ko te mea nui kia kaua e pēhia e tētahi ture, ngā tikanga uarā a tētahi atu.

Ko te mea nui ia ki ahau me pēhea tino tau tika ai kia tāua te Māori a tātau tikanga i roto i te whānuitanga atu o ngā hāpori, me rātau hoki he rerekē a rātau tikanga.

III TE HONONGA ME TE TIRITI O WAITANGI

Ki te kōrero tātau mo ngā hononga i waenganui i te Karauna me te Māori, kei te kōrero kē tātau mo te hononga pūmau ki te Tiriti o Waitangi

Arā atu anō ngā hononga ki waenganui i te Karauna me te Māori kei waho atu o te Tiriti o Waitangi, ēngari na te mea kua tau noa atu te noho a te Tiriti o Waitangi, kāti he hononga pūmau tō te Māori ki te Karauna. Kaua rawa te Karauna e wareware i tēnei whakataunga.

He pai rawa tēnei āhuatanga hononga hei tūmata i te mea hoki mēna tātau i te whakaaro mo tēnei hononga, ko te Tiriti o Waitangi te ātamira, te mana tikanga ā-iwi, te mana whakairo here i waenga te Karauna me te Māori me tū tonu. Ko te kaupapa hoki o te Tiriti kia puta he hua ki ngā, taha ē rua. Te Taha kia tātau, te taha kāwanatanga.

Ahakoia he aha ngā tautohe, ngā whakamārama mo te wāhanga Māori, wāhanga Pākehā mo ngā kupu “kāwanatanga” me te “sovereignty” me tino rangatiratanga kia noho pūmau ēnei kaupapa. Ko te tino pūtake o ēnei kupu kia āhei ngā taha ē rua, kia noho tahi mai i runga i āna tikanga, ā, kia kaua e whakapōreareatia e te tētahi atu, tetahi atu. I te mea hoki e kuhu atu ana ngā tokorua iwi nei, Māori, Pākehā ki te rapu i te ōranga tonutanga e tū ai rāua tahi.

Tēnā, tirohia e tātau te kupu nei “tino rangatiratanga” he kupu tēnei e mau kaha ana ki te wairua, ki te tinana o te Tiriti o Waitangi e pā kaha ana te Māori i ana whiriwhiri me te Karauna.

I roto i ngā pūrongo kua puta i te Roopu Whakamana i te Tiriti o Waitangi kua kitea e tino whakahau ana te Māori i ēnei kupu te “tino rangatitanga” e kī ana kia mau kaha ā-ture, ā-tikanga, ā-tōrangapū te mana o te Māori.¹

E ai ki a Mason Durie ki te tirohia ngā rerekētanga “he uaua ki te kite atu ko Te Tiriti o Waitangi he kaupapa hei whakatū, whakaara noa kia kotahi te tikanga, kia mau noa iho ko te mana Māori.”² Kei te tika te kōrero a Mason.

Kua tau kē ngā kupu āpiti o Te Tiriti o Waitangi, anei aua kupu āpiti:

- Te kāwanatanga he mea tuku ki te Karauna, ēhara kia tūmatanui rawa, ā, kei roto e kī ana kia aro kaha te Karauna ki ana tikanga hei hāpai i ngā tikanga Māori.³
- Ko te Karauna tahi me te Māori he tikanga ōrite kia hāpai tika tētahi i tētahi. Kia pono tētahi ki tētahi ko ia te kaupapa o te hononga Tiriti.⁴
- Ko te tino kaupapa o te Tiriti hei whakatū hononga, kia haere whakamua, kia hāngai ki tēnei ao hurihuri me ngā iwi ē rua.⁵
- He mea tika rawa kia rapua he huarahi hei whakapakari i ngā iwi ē rua, kia kaua hoki tētahi e takahi i tētahi atu, kia tutuki ai ngā wawata a ngā iwi ē rua.⁶

1 Waitangi Tribunal Ngai Tahu Report: Wai 27 (Brooker & Friend Ltd, Wellington, 1991) 232.

2 Mason Durie *Te Mana, Te Kawanatanga: The Politics of Maori Self-Determination* (Oxford University Press, Auckland, 1998) 209.

3 Waitangi Tribunal Report on the Manukau Claim: Wai 8 (Government Printer, Wellington, 1985) 66.

4 Waitangi Tribunal Report on the Orakei Claim: Wai 9 (Department of Justice, Wellington, 1987) 147-148.

5 Waitangi Tribunal Report on the Motunui-Waitara Claim: Wai 6 (Department of Justice, Wellington, 1983) 52.

- Ko te ātamira whakataua a te Tiriti ko te noho tahitanga o ngā iwi e rua ki tēnei motu, ki tēnei whenua, ā, mā tēnei ritenga e kitea ai kia whāia rawahia ngā hononga mo ngā iwi e rua.⁷
- He mea tuku e te Kaurana te tino rangatiratanga ki ngā iwi. Ko te tikanga o tēnei kia hāpai nui te Karauna i ngā taha e rua kia kaua tētahi e whakaparahakotia.⁸
- Ko te kupu āpiti o ngā whakahaere e kī ana kia aro kaha te kāwanatanga mo ana mahi whakatinana kaupapa ki te Māori.⁹
- He mea tika kia aro te Karauna ki te tino rangatiratanga. Ko tēnei e pā ana kia riro ma te iwi anō e whakahaere ana rawa, hāngai ki tā te Māori tikanga.¹⁰ Ko tēnei tikanga kua āta whakahautia kia mau, kia tūturu.¹¹

Ko te Tiriti o Waitangi i roto i ēnei rā kei waenganui i ngā whiriwhiri me te Māori me te Karauna, kua tau ōna here kōrero ki waenganui i ngā hāpori katoa o Aotearoa, taha ture, taha Kāwanatanga, ki roto i ngā kōrero a te Māori mo ana tikanga, ā tae atu hoki ki ngā whakataunga kōrero kua takoto i Te Roopu Whakamana i te Tiriti o Waitangi me ngā hua kua puta i ngā kēreme.

I roto katoa i ēnei wāhanga kupu āpiti, me ōna hononga nui rawa kei te whakaritea tonutia, he tika i tēnei wā kia āta tirohia ngā kaupapa, ngā hononga i waenga i te Māori me te Pākehā tikanga me ngā momo here.

I tēnei wā kei te kōrero au, whakamārama atu ki a koutou e toru ngā tauira mo te hononga ki te Māori ki te Pākehā taha ture, taha hononga tahi, taha tangata whenua, me nga tikanga ture o ngā taha rua.¹² Ahakoa te rerekētanga o te whakaaro ēngari ko ōna kaupapa he rapu huarahi hei tūhono.

IV TAHA TURE TAPATORU (WHĀNUI)

Ko te taumata tuatahi hei titiro, hei kōrero māku ko te Taha Ture Tapatoru. Ko te tikanga o tēnei Ture e kī ana ka āhei ngā tikanga ā-ture a tēnā ki te ora ki roto i te whenua kotahi. Ēngari ko tēnei

6 Waitangi Tribunal Report on the Muriwhenua Fishing Claim: Wai 22 (Department of Justice, Wellington, 1988) 194-195.

7 Ibid, 192.

8 Waitangi Tribunal Maori Development Corporation Report: Wai 350 (Brookers, Wellington, 1993) 31-32.

9 Waitangi Tribunal Muriwhenua Land Report: Wai 45 (GP Publications, Wellington, 1997) 390.

10 Waitangi Tribunal Ngai Tahu Report: Wai 27, above n 1, 230-231.

11 Ibid, 244.

12 See Brad Morse "Indigenous Law and State Legal Systems: Conflict and Compatibility" in Brad Morse and Gordon Woodman (eds) *Indigenous Law and the State* (Foris Publications, Dordrecht (The Netherlands), 1987) 101.

momo ture he mea tika kia hono ia i ētahi wāhi ki ngā tikanga here whānui. Ko tēnei tikanga Ture Tapatoru e kī ana e pai ana kia noho tapa tahi mai aua momo ture i ngā wāhanga o tēnei kaupapa o te tino rangatiratanga. Kia aro nuitia te ture a tēnā, ā tēnā.¹³

Ko te tino kupu kei roto i tēnei ture kia āhei tēnā, tēnā i roto i ngā hāpori here ki te whakatau i āna ake ture, kia mana. Kāore tēnei mana no roto ake i te ture whānui o te motu.¹⁴ Pēnei i ngā hāpori whakawhanaungatanga, taha hāhi, taha tautoko manaaki, he rangatiratanga kei roto i ēnei whakatunga hāpori, hāunga me piri ki ngā ture whānui o te motu. Ēngari ko aua ture he mea hanga mai i roto i te ōrangatonutanga o ngā iwi kia tau pai te whakaaetanga o te kotahitanga.¹⁵ Koia tēnei ko te tikanga o te Ture Tapatoru, he hua kei konei kia kitea te noho ngātahi mai, ēngari ka waiho tonu te kupu whakamutunga, whakataunga ki ngā kooti ā whenua o te motu.

Ko te āhua nei tēnei momo Taha Ture Tapatoru kāre pea e tāea te tūhono atu ki ngā here kia kitea ai te tino rangatiratanga, kia noho ai ki tā te Māori tikanga hei whakatau.

Ki te whai pānga te Māori ki ngā here pūmau o te Tiriti o Waitangi, ko ngā whakarite ki roto i tā te Māori tikanga kāre e tāea e te kooti te takahuri ōna rite mehemea kāre ōna taumata hono ki tā te Māori ture me ana tikanga. Koia te kupu nui hei whakaaro mā tātau.

Ahakoia tēnei ko te whakamārama ture here i ngā whakaaro Taha Ture Tapatoru ka whai wāhi tonu kia rapua he huarahi hei rapu whakaaro i waenganui i tā ngā Māori ture tikanga me tā te Pākehā ture tikanga.

He mea tika rawa kia tirohia ngā taha ē rua kia tutuki pai ai te kaupapa. Tērā tonu pea ma te Taha Ture Tapatoru e rapu he huarahi pai hei whakaū i ngā kaupapa e wawatatia ana e te Māori. Ka whai hua ēnei whakarite i runga i te āhua o te tūhonotanga o ngā momo rawa.

Ki roto i te āhua ko te kaupapa he Māori ake, he mea tika rā mā te tikanga Māori anō hei whakatau he huarahi ki tā te Māori e whakarite ai.

Kei konei ka noho mauri tau ngā tikanga tuku iho Māori, ka whai wāhi ki te whakarite me ahu pēhea ki roto i ngā whare hanga kōrero, whakanoho ture. Ēngari kāre e tau pai ēnei whakahaere mehemea kāre i te ōrite ngā whakatau a ngā whare hanga kōrero ki ngā kaupapa o te ture, inā rā hoki ko te kaupapa o te Taha Ture Tapatoru kia whai wāhi te reo ture o tēnā, o tēnā. He mea nui rawa tēnei

13 Leon Sheleff *The Future Of Tradition: Customary Law, Common Law, And Legal Pluralism* (Frank Cass, Portland, 1999) 71-72.

14 Herman Dooyeweerd *A new critique of theoretical thought* (translated by David Freeman and William Young, HJ Paris, Amsterdam, 1953).

15 Sheleff, above n 13, 71.

i raro i tēnei taumarutanga ko te tino huarahi hei whai atu ko tētahi wāhanga o aua ture rā hei whakatutuki i te mana whakarite ture, tikanga e hiahiaitia ana.

V TĀ TE TANGATA WHENUA WHAKATAU TURE

Anei tēnei huarahi whakahaere ture hei whaitanga atu, hei titiro atu ko Tā Te Tangata Whenua Whakatau Ture. He tikanga tēnei i ahu nui mai i ngā kaupapa whakatū ture a te tangata, ahakoa ko wai. Ko te taumata o tēnei whakatau ture ka hāngai tonu ngā tikanga ā-iwi ki te whakauru ki ngā ture i roto i tā te tangata e hiahia ana, e pā ana ki te kaupapa ahakoa ko wai. Kua whakaae kētia kia whaimana ngā tāngata whenua ki te waihanga i tōna ake ao, i takea mai ai i ngā tikanga o mua. Me mārama hoki kāre e tāea e ngā ture o nāianei te takahi i ngā mana ā-iwi, mana whakairo hinengaro ā-tangata whenua hoki.

He maha tonu anō ngā whakataunga o tēnei momo ture ā-tangata kāore i te noho pai, ahakoa tēnei ko ngā kupu āpiti o Tā te Tangata Whenua Tikanga he mea tika kia āta whakaaro i te wā kei te whakaarotia he huarahi hei whakaara i te ture tikanga ki raro i ngā ture me ngā tikanga o te tangata whenua.¹⁶

I roto i ngā tau maha nei i tino whai nei ngā ture o Aotearoa i ngā tikanga here o Te Kooti Teitei o Amerika a Tiati Kaiwhakanoho, a John Marshall. I te whakatau o tētahi kēhi ki Aotearoa nei arā R ki a Symonds¹⁷ i tino tautoko te kooti i ngā kupu āpiti Tangata Whenua i tā Marshall whakatau ai ki a Johnson ki a M'Intosh,¹⁸ a Worcester ki a Georgia¹⁹ me Mitchel ki a USA.²⁰ Ki tā R v Symonds i whakaae te kooti kia noho pūmau te ture here whenua mo ana whenua tipuna, ahakoa i kona tonu anō te ture here o Ingarangi ahakoa ngā whakatau tūturu ake.²¹ I tautoko hoki te Kaunihera Whakaara i tā Marshall whakarite e whakaatu ana ia i tā te tangata whenua here tipuna ki ana whenua, hāngai tonu ki tā Marshall whakatū awatea i te Ture Tangata Whenua arā ki roto i tā Johnson ki a M'Intosh.²² Ki roto o Aotearoa nei kāre i te āta tukua te taha Ture a Tangata Whenua kia haere whakamua pērā i te kēhi o Te Rūnanga o Te Ika Whenua ki te Attorney-General.²³

16 Eddie Durie "Constitutionalizing Maori" in Grant Huscroft and Paul Rishworth (eds) *Litigating Rights: Perspectives From Domestic and International Law* (Hart Publishing, Oxford, 2002) 241-264, 264.

17 *R v Symonds* (1847) [1849-1932] NZPCC 387 (SC).

18 *Johnson v M'Intosh* (1823) 21 US 543.

19 *Worcester v Georgia* (1832) 31 US 515.

20 *Mitchel v U S* (1835) 34 US 711.

21 *R v Symonds* above n 17, 390-391 (SC) Chapman J.

22 See *St Catherine's Milling and Lumber Company v The Queen* (1888) 14 AC 46, *Nireaha Tamaki v Baker* (1901) NZPCC 371, *Wallis v Solicitor-General* [1903] AC 173.

23 *Te Runanga o Te Ika Whenua Inc. Society v Attorney-General* [1994] 2 NZLR 20 (CA).

Ahakoā tēnei kāre tonu i te rata tā te iwi titiro me ahu pēhea ia. He maha tonu anō ngā huarahi ki Tā Te Tangata Whenua whai mēnā ki te whāia tōtikatia te kawenata hāngai ki te ture o Ingarangi, ki te kore, kāore e noho hāngai te ture ā tangata. Mehemea te puku o te Ture Tikanga Tangata Whenua he mea hanga i te ture ā-tangata kei konei ka kitea he here nui tā tātau ki ngā tikanga here ture ki te tangata whenua kia kaua e tino whai atu i te pono o te ture o Ingarangi.²⁴ Hēoi anō he uaua tēnei mā ngā kooti Pākehā o te motu ki te rarau, kāre hoki e tau pai ngā ture tikanga a ngā tangata whenua ki reira.

Ki ngā kooti ki Kānata mo te kehi o Delgamuukw ki a British Columbia he mea whakapōrearea te taha tikanga here ture tangata whenua.²⁵ Ki te hiahia ngā tāngata whenua kia tūhonotia a rātau ture tikanga ki te anga whakaū ture ki ngā haporī whānui, e tika ana me āta titiro aua momo ture hāngai ki te taha tangata whenua mehe ka āhei anō te noho tahi mai.²⁶

Ko ngā whakataetaetanga mo ngā Toka Tai Moana ture tētahi tauira i fīmata ki te whakanoho i ngā tikanga here matua a te Māori ki ngā ture tikanga, ā-Tangata Whenua.²⁷ Ahakoā kua whakaritea te ture ki roto i ngā whakawhitiwhiti Kāwanatanga, kāre anō kia tino whakamātautautia tēnei āhuatanga kia whai pānga ki ngā hua o ngā mana tikanga ā-iwi.

Ahakoā anō kāre tonu pea e tau pai ngā whakaritenga kia taka ki tā te Māori rangatiratanga, hēoi ano ko te kawenata o Te Taha Ture ā-Tangata Whenua he ture hāngai, ahakoā ko wai ā, ko tōna mana ēhara no tā te Māori titiro ake, ēngari he mea hanga kē mai i te ture o Ingarangi i ērā atu rau tau kia whai i ngā hua.

Hāunga tēnei he huarahi tonu kei konei hei whiriwhiri kia kitea, kia tau pai ai te ture hono ki tā te Māori tikanga me ngā here tūmata ki te ture ahakoā ko wai. Kei konei pea he putanga, he ōranga, he taumata hei whakatū, hei whakaara kia whai hua ai tātau.

Ki te hoki atu tātau ki te kaupapa whakawhanaunga o ngā rawa, me te here tūmatanui kia hou atu ai ki ngā kirimana i tua atu i tā te Māori titiro. Ko ngā ture ārahi i aua tikanga ko tēra e hono tātai ana ki ngā kaupapa ture o ngā taha ē rua i runga tonu i te mahi whakahaere i ngā rawa a tēnā, a tēnā kia heke mai ēnei ture ki tā te Māori titiro ki te ture, tūhono ki ana tikanga. Ko te raruraru mehe kāre e kitea e te taha Pākehā te taha ture ki tā te Māori titiro, ēngari kua tau kē he mana whakatō ki tā te Māori tikanga, ae he tika kia uru tomo atu ngā whakaritenga Māori ki te taha whakaaetanga ki te taha o te kawenata ture.

24 Brian Slattery "The Legal Basis of Aboriginal Title" in Frank Cassidy (ed) *Aboriginal Title in British Columbia: Delgamuukw v The Queen* (Oolichan Books and the Institute for Research on Public Policy, Victoria (BC), 1992) 113-114.

25 *Delgamuukw v British Columbia* (1991), 79 DLR (4th) 185 (SCC).

26 Slattery above n 24.

27 See Foreshore and Seabed Act 2004.

Ki te whakatinanatia tētahi wāhanga tikanga ture here tangata, ka whakakitea e te taha ture Pākehā te wāhanga ahakoa i heke mai ēnei ture i te tikanga Māori ka āhei tonu kia tirohia, kia whakaritea te taha ture tikanga Taha Tangata Whenua, ka noho ture te tangata, te whakaritea kia āta kitea te ūmanga roa o tā te tangata whenua whakarite.

Pērā i te Taha Ture Tapatoru, kare e tāea e te kāwanatana te ture Tangata Whenua te aukati ka tāea tonutia te here atu ki ētahi atu ture hei hāpai i tā te Māori noho ki tēnei whenua i raro i te Mana Tikanga ā-Iwi o te Māori.

VI TE TAHA TURE RUA

Te anga whakamutunga hei titiro mā tātau mo tēnei rā me pēhea e noho tahi ai ngā ture ē rua o tēnei whenua. Kei tēnei anga te huarahi hei whai atu mā tātau inā ra ka tūhono ngā ture ē rua i raro i tēnei mārautanga whakanoho ture.

Ko te tinana o tēnei tirohanga mo te taha ture hāngai tonu ki te pūmau kaha o ngā ture ē rua o tēnei whenua. Koia anō te kaupapa i kōrero nuitia e Eddie Durie me Gordon Orr hei whakanoho kōrero e pā kaha ana ki ngā ture hāngai ki te Tiriti o Waitangi e mau ai te rongō i Te Roopu Whakamana i te Tiriti o Waitangi.²⁸

Ahakoa kāre tonu anō he papa whakatau ture a Te Roopu Whakamana i te Tiriti o Waitangi, ko ana pūrongo kua noho kē pēnei i te pā tūwata whakaaraa kua ranonga kua kitea mai tawhiti ki roto i tēnei āhuatanga. Ko tōna hira kua kitea ki roto i ngā papa kooti whenua o te motu, ā, me tōna here ki ngā pire hāngai ki te Tiriti o Waitangi.²⁹

Ko te paepae kōrero ma te Tiriti o Waitangi he whakamārama, he tohutohu, he whakaatu he whakarangatira. Ko te Roopu Whakamana i te Tiriti o Waitangi ko tōna rite hei whakahāhaka i te ture Māori.³⁰ He tikanga here kei roto i ēnei momo whakahaere, ā, ka kitea ēnei whakarite i ngā whakahau a Te Roopu Whakamana i te Tiriti o Waitangi.

Ko te whāinga matua a Te Roopu Whakamana i te Tiriti o Waitangi he para i te huarahi o ngā taha ē rua, ana ko tōna rite kia noho hāngai ngā taha ture ē rua hei papa kōrero tika. I roto i ngā rā tata nei kei te tipu ake he momo reo takawaenga ki waenga i ngā reo ē rua hei whakaputa papa tipu kōrero.³¹

28 Eddie Durie and Gordon Orr "The Role of the Waitangi Tribunal and the Development of a Bicultural Jurisprudence" (1990) 14 NZULR 62.

29 See *New Zealand Maori Council v Attorney-General* [1987] 1 NZLR 641 (CA); Maori Language Act 1987.

30 Richard Boast "Waitangi Tribunal Procedure" in Janine Hayward and Nicola Wheen (eds) *The Waitangi Tribunal: Te Roopu Whakamana I te Tiriti o Waitangi* (Bridget Williams Books, Wellington, 2002) 53-64, 54-56.

31 See Colin McKenzie and Amster Reedy "A Treaty of Waitangi, Overlapping Claim Mediation: 'A Prospective Hindsight'" (2001) 9 Resource Management Journal 1.

Ahakoā anō, ko ngā hononga ā-ture kua takoto kē ki roto i ngā whakataunga nui o Te Tiriti o Waitangi. Tēra tonu pea ko ētahi wāhanga anō he uaua ki te whai atu, ki te whakatinana. Tōna tikanga ka kitea, pērā i te Ture Tapatoru, me te ture Tangata Whenua ā-Ture, hei ringaringa whakaū i te tino rangatiratanga kia māro, kia tipu ngā tikanga Māori ki raro i te momo ture tika.

VII AKU KUPU WHAKAMATAARA I TE KAUPAPA

Kua kōrero au mo ngā anga ture e toru i roto i te hononga kaha me te Tiriti o Waitangi: Taha Ture Tapa Toru ka tāea ahakoā iti nei te hononga kātahi, te Taha Tangata Whenua Ture, ko ngā tikanga ka tau mai i roto ake i te tangata whenua, kā rua. Me te Taha Ture Rua kia hangaia he taha ture mai ngā taha ē rua.

Nā he tauira katoa ēnei hei whakapuāwai, hei whakatinana i te kaupapa hononga, he ringaringa whakaaro noa ēnei hei whakatinana mā tatao katoa. Ko te kōrero nui mā tatao ko tēnei kia tāea te whakarite ēnei momo ture here ki roto i a tātau nei kaupapa.

Ki te whāia tēnei āhuratanga kare noa iho he tino here rawa i te āhuratanga o te ture. Kei te kitea i roto i ngā rā nei e haere tahi ana a tātau tikanga pēnei i tō tātau reo, karakia me te āhuratanga o tā tātau manaaki i a tātau anō. Ēngari kua tae tēnei i te wā kia whakaaro nuitia ēnei kaupapa haemata e te taha ture. Inā rā hoki ka tāea anō e tētahi kaupapa ture o te motu te whakarangatira, whakanui kia hāpaitia ngā tūhono Māori hāngai ki te pūtaiao me ngā rawa ake a te Māori? Me pēhea rā tētahi whakataunga ture o te motu whakatū, tautoko ai i ngā uarā Māori, ko aua uarā kei te tūhono me te iwi.

Nā i roto i ēnei āhuratanga e kite nei tātau i roto i ēnei rau tau mutunga kore kua kite tātau i raro i ngā here o te Tiriti o Waitangi e tino mau kaha ana ngā tohu, ngā whakaaro, ngā here tūmatanui o tā te Māori kite i ana ture me ana tikanga. He tohu ōranganui kei konei. E whakapae ana au ko ēnei huarahi, here, anga titiro whakatinana a te Māori e tāea ai e ngā ture ē rua te hono, (kia kaua e waiho noa ki te āhua o te ture whakatau). Me āta titiro kē me pēhea te tūhono kaha o ngā ture nei kia rangatira ai te noho a te tangata whenua.

