

New Zealand Government: Reclaiming the status, rights, and interests of wāhine Māori (Māori women) in decisions affecting land, resources and people

Mauri hikitia – Māori hāpaingia
Mauri ora ki te whei ao ki te ao mārama
Thei Mauriora.

Hikitia rā te hā, wairua, te mana o Hine-Ahu-One anō hoki
Mō te wāhine me te whenua, kā mate ai te tāngata ara
Mai i te wāhine, te whare tapu o te tangata
Kā puta te tangata, te whānau, te hapū, te iwi, ngā iwi katoa.

Let our life force be raised and held high
Let our living force emerge into the light of day, into life itself (so that)
It is life, it is life.

Pay heed and uplift the dignity, the spirit, and the power of woman
For men have died for land and women
And from woman the sacred house of man
Have emerged the individual, the family, the sub-tribe, the tribe, the people.

Introduction

This submission begins with a whakataukī or proverb used in the claim by the Māori Women's Welfare League to the Waitangi Tribunal for the Mana Wāhine Kaupapa Inquiry in 1993¹. This whakataukī illustrates the high regard given to wāhine Māori (Māori women) of Aotearoa New Zealand in te ao Māori (the Māori world) and is a fitting way to set the scene for a judicial inquiry currently underway.

Under the Inquiry, wāhine Māori have lodged claims against the Crown for alleged breaches to the Treaty of Waitangi signed in 1840 between the Crown and hapū (sub-tribes) of iwi Māori (Māori tribes). The Treaty of Waitangi (the Treaty) is a significant point of difference with other countries in the international context regarding issues that impact on indigenous peoples.

The Mana Wāhine² Kaupapa Inquiry (the Inquiry) is a thematic inquiry by the Waitangi Tribunal. Claims to this Inquiry allege the Crown has failed to protect the rangatiratanga (right to exercise authority, chieftainship) of wāhine Māori and their right to non-discrimination on grounds of gender, with serious prejudicial consequences for their social, economic, cultural and spiritual well-being and their access to leadership roles.

Waitangi Tribunal process

The Waitangi Tribunal is a standing commission of inquiry (under the Commissions of Inquiry Act 1908), where Māori individuals or groupings can submit a claim alleging that the Crown has breached the Treaty by particular actions, inactions, laws, or policies that have caused prejudice to Māori. It has powers similar to a court of law, where witnesses are summoned and documents are requested to present evidence of a breach or breaches by the Crown, to the principles or obligations under the Treaty.

¹ The Māori Women's Welfare League is a national Māori women's organisation

² The term used for the status, validity, power and influence of Māori women.

Once a claim is assessed and meets the requirements of the Waitangi Tribunal the claim is then registered, and claimants can apply for legal aid funding to assist them in the legal costs for processing the claim.

The claim filed with the Waitangi Tribunal in 1993 by members of the Māori Women's Welfare League was in response to a failure to appoint any women to the Māori Fisheries Commission. The Commission was responsible for managing fisheries assets returned to Māori in the Fisheries Settlement. Twenty-five years later in 2018, the Mana Wāhine Kaupapa Inquiry (the Inquiry) formally commenced, and approximately 170 claims have been made to the Tribunal to date.

The Inquiry

The Inquiry is currently underway with a number of contextual (tūāpapa) hearings where the Waitangi Tribunal is presented with evidence from wāhine Māori claimants, who are drawing on historical accounts of life for wāhine Māori pre-1840, prior to and at the signing of the Treaty.

The Tribunal and claimants agreed this contextual setting to be important as a foundation to the Inquiry to understand the life, role, and status of Māori women before the Treaty was signed. The body of evidence gathered during this phase of the Inquiry will provide insights into how colonisation impacted on the lives of wāhine Māori in 1840, in particular, their authority over land, resources, and people. according to tikanga (Māori customs). Wāhine Māori and tāne Māori (Māori men) had complementary roles in determining their own internal political, economic, and social rights and objectives and acted collectively in accordance with those determinants.

Claimants allege the imposition of the colonial patriarchy prevented the practice of tikanga and prioritised colonial (British) laws over te ao Māori. This move elevated the role of tāne Māori over wāhine Māori, reducing the role and status of wāhine Māori within their own tribal and whānau lives.

Issues raised in the claims

The Waitangi Tribunal has organised the issues raised in the claims into three broad themes:

- Protection of the role, status, and knowledge of wāhine Māori – protection of the inherent mana (power, control) and rangatiratanga (authority) of wāhine Māori
- Equity and disparities in outcomes and wellbeing for wāhine Māori – recognition and protection of the role, status and knowledge of wāhine Māori has led to the marginalisation and discrimination against wāhine Māori
- Representation and access to leadership, governance, and decision-making roles for Māori women – provision and promotion of the appointment, representation, and participation of Māori women in governance and decision-making roles across all sectors.

Issues regarding a lack of recognition for wāhine Māori in leadership roles is a recurring theme across the claims.

Claims are also seeking the remedies from the Crown, some of which include:

- Ensure representation in decision-making roles and settings for wāhine Māori

- Establish a working group of wāhine Māori claimants to address issues raised with the Crown and the performance of its agencies
- Develop a Treaty of Waitangi-compliant framework to restore the rangatiratanga of wāhine Māori
- Implement a policy and legislative framework that allows pay equity for wāhine Māori
- Resourcing and support for work opportunities and income equality for wāhine Māori
- Resource leadership programmes that inspire and develop young wāhine Māori
- Review existing Crown policies in relation to the over-representation of wāhine Māori in lack of access to justice issues, poor health outcomes, victims of family and sexual violence and educational non-achievement.

Claimants are very clear that the Crown response or government approach to the Inquiry needs to ensure that the voices of wāhine Māori are at the forefront of any policy changes or initiatives that affect them and their whānau.

Governance and management of the Crown's response to the Inquiry

The Minister for Women and the Minister for Māori Development are the co-lead Ministers for the Crown's response to the Inquiry. Te Puni Kōkiri (Ministry for Māori Development as the principal advisor to the Crown on Māori wellbeing and development) and Manatū Wāhine (Ministry for Women) are the co-lead agencies for the Inquiry.

The co-leadership functions are supported by a Joint Roopū (group) which was established in November 2019 and includes officials from both agencies. The joint roopū has two key functions:

- To lead the Crown's involvement in the Waitangi Tribunal Mana Wāhine Kaupapa Inquiry and its response to the issues raised
- To work across government to ensure policy, legislation, and agencies recognise the specific needs of Māori women and address the disparities between Māori women and the rest of society.

The response from the Crown to the Inquiry is supported by two governance groups. The first is an Interdepartmental Steering Group consisting of agencies from across government who have an influential position and are strategically positioned as sector leaders and respondents to the claims.

The Interdepartmental Working Group (the Working Group) is made up of the same agencies in the Steering Group, including Te Puni Kōkiri and Manatū Wāhine. The purpose of this group is to support the Steering Group and carry out the day-to-day work of ensuring the Crown's participation in the Inquiry.

While the Inquiry progresses, the Working Group is identifying existing policies and programmes that can potentially have a focus on wāhine Māori. This approach is not the Crown's response to the Inquiry however, it is an opportunity to examine 'business as usual' initiatives that can make positive changes in the short to medium term, instead of waiting for the Inquiry to be completed. This work will be informed by engagement with wāhine Māori to ensure that their voices are driving the key policies that affect them and their whānau.

Work progressing in the coming months

The Joint Roopū and members of the Working Group will further develop their thinking on a cross-government approach to applying a wāhine Māori lens to existing policies and initiatives. An engagement process will be implemented to test this approach with wāhine Māori.

A joint research committee of claimants, claimant counsel, a Waitangi Tribunal staff member, and Crown representatives, has been established to undertake research into historical accounts where there are gaps in evidence, and in impacts on wāhine Māori in contemporary settings.

The next phase of hearings, following the tūāpapa hearings, will be focused on evidence related to contemporary issues affecting wāhine Māori. It is also at this phase of the Inquiry where the Crown will be formulating its response.

Conclusion

In his role as the co-Lead Minister for the Inquiry, the Minister for Māori Development has stated that, “the Inquiry will help us better understand how historical events have shaped many of the issues faced by wāhine Māori today providing an opportunity for us to work collectively to restore their mana and rangatiratanga.”³

Reflecting on this statement and the issues across the claims and what this might mean in a Crown response to the Inquiry, claimants are speaking fundamentally about the loss of rangatiratanga and the impact of that, not only on their lives, but also of their whānau, hapū and iwi.

Me aro koe ki te hā o Hine-ahu-One

Pay heed to the dignity of women

³ 2021 Waitangi Tribunal Members’ Conference Speech (30 March 2021)