

He Wakaputanga o te Rangatiratanga o Nu Tirenī

Declaration of Independence of New Zealand

Early relationships between Māori and Pākehā (1800-1840) were characterised by both groups seeking mutually beneficial economic opportunities and expanding their knowledge about the world.

Māori enterprises included:

- horticulture to supply European ships with food,
- processing and supplying building materials,
- international travel to strengthen diplomatic alliances and purchase new technologies,
- operating trans-Tasman transport networks to export goods.

In 1834, James Busby (appointed by the British government to represent their interests in New Zealand) assisted Māori leaders to select a national flag so their ships could be registered and have official access to international ports. King William IV formally recognised the flag, granting Māori ships the protection of the British Navy when in international waters.



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In October 1835, The Declaration of Independence - He Wakaputanga o te Rangatiratanga o Nu Tirenī asserted to the world that sovereign power of New Zealand resided with the Confederation of United Tribes of New Zealand. The signing of the Declaration of Independence was witnessed by Busby, and Māori sovereign independence was formally recognised by Britain.

<https://nzhistory.govt.nz/culture/declaration-of-independence-taming-the-frontier>

As the number of Pākehā increased, Māori became concerned about how to manage their growing lawlessness. As early as 1805, northern leader Te Pahi had

visited Sydney to petition the Governor to deal with the failure of Pākehā to respect Māori law and custom. British missionaries to New Zealand were reporting incidents of Pākehā committing murder, kidnappings, and enslavement. The British government decided something needed to be done as Māori leaders warned they would enforce their own laws to control Pākehā miscreants. The threat of a possible French takeover of New Zealand was another factor that galvanised British action.

Te Tiriti o Waitangi The Treaty of Waitangi



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Toward the end of the 1830s the British government began to see the colonisation of New Zealand as inevitable. Their prior position had been one of reluctance to colonise a small island so far away. However, now there were also concerns about the actions of a private investment company The New Zealand Company which was working to establish a colony in New Zealand, and the legality of the company's purchases of Māori land. This prompted the Colonial Office to rethink its position in order to protect British trade and economic interests.

Because Britain had recognised Māori independence in the Declaration of Independence in 1836 no claim could be made on New Zealand without Māori agreement, and a treaty between Britain and Māori. Treaty Making had long been an established mechanism of British Colonial policy to colonise large swathes of the world including Africa, America and India.

There are two treaty texts - one in te reo Māori (Te Tiriti o Waitangi), and one in English (The Treaty of Waitangi). The vast majority of rangatira (Māori leaders) signed Te Tiriti o Waitangi. In this text the rangatira signed to accept kāwanatanga or governance to enable the British Crown to make laws for the Pākehā that were living in Aotearoa in 1840. This text also guaranteed the rangatira possession of their

lands, rivers, and coastlines. The English text says the rangatira cede sovereignty to the British Crown while retaining possession of their lands, rivers, and coastlines.

Scholars debate why kāwanatanga was used to translate sovereignty. An earlier draft of the English text used mana motuhake to translate sovereignty. Those words were changed at the last minute to kāwanatanga, out of fear the rangatira would not sign a treaty to relinquish their mana motuhake – a more accurate meaning of sovereignty.

The Courts and the Waitangi Tribunal agree that the core meaning of the Treaty was the exchange of law-making power for the protection of chiefly authority. At the time of the Treaty signing, Māori outnumbered Pākehā settlers by 40 to one, and the tribes represented a powerful military force. It is unlikely that Māori would have agreed to the unqualified transfer of their authority to the new arrivals. It is more probable they understood the Treaty guaranteed the continuation of tribal force and tribal affairs.

Article 2 of the Treaty of Waitangi (English version) promised Māori exclusive and undisturbed possession of their lands, rivers, and taonga; yet within 50 years of its signing Māori had lost more than 50% of their lands.

<https://archives.govt.nz/discover-our-stories/the-treaty-of-waitangi>

Aotearoa New Zealand Draft Histories Big Idea - Understand: *Colonisation and its consequences have been central to our history for the past 200 years and continue to influence all aspects of New Zealand society.*

<https://www.education.govt.nz/assets/Documents/Aotearoa-NZ-histories/MOE-Aotearoa-NZ-Histories-A3-FINAL-020-1.pdf>

Assimilation was vigorously pursued as a policy to force Māori to acquire the habits, attitudes, and mode of life of British norms and customs. Assimilation continued well into the 20th century with the education system prohibiting Māori from being spoken at school, and encouraging Māori students into menial roles such as domestic servants and manual labourers.

Māori went from sovereign and autonomous in their own country to poorly paid, low status workers for settler landowners and merchants.

https://www.armymuseum.co.nz/wp-content/uploads/2021/06/PDF_TRB_Assimilation_Gary_EDIT.pdf

Legislation has been used as the primary tool to alienate Māori land and obstruct self-determination.

- In 1852 the New Zealand Parliament was established. Māori men were disenfranchised by electoral rules that saw voting eligibility determined by individual title to land.
- Millions of acres of Māori land were confiscated under the New Zealand Settlements Act 1863.

- The creation of the Native Land Court in 1865 was the primary mechanism to destroy collective Māori land ownership and transfer it into individual title.
- In 1882 the West Coast Preservation Act saw Māori imprisoned without trial and prohibited from gathering in groups larger than 50 people.
- In 2004 The Foreshore and Seabed Act vested ownership of the foreshore and seabed to the Crown. Māori argued their customary rights to the foreshore and seabed had never been extinguished. The [United Nations Committee on the Elimination of Racial Discrimination](#), after being asked by [Te Runanga o Ngāi Tahu](#) to consider the legislation, issued a [report](#) on 12 March 2005 stating that the foreshore and seabed legislation discriminates against Māori by extinguishing the possibility of establishing Māori customary title over the foreshore and seabed, and by not providing a means of redress.

https://www.armymuseum.co.nz/wp-content/uploads/2021/06/PDF_TRB_LawAndLegislation_Marlene_EDIT.pdf

International law upholds the principle of 'contra proferentem' where ambiguity of meaning exists in treaty texts. This means the interpretation is 'against the draughtsman' and the preferred meaning should be the one that works against the interests of the party who provided the wording. According to this principle Te Tiriti o Waitangi (Māori language version) expresses the true intent of what Māori agreed to – kāwanatanga/governance and did not relinquish their sovereignty.

Māori continue to assert their customary rights in the 21st century including the right to participate as an equal treaty partner in all political and social relationships with the government and local authorities.