

"And so it should be. The Maori culture of New Zealand is unique in the world. Its carvings are rich in symbolism. Its music is harmonious and appealing. Its dancing has captivated many hearts and its oral tradition is abundant in song and story. There is a great body of 'oral literature' that has survived for many generations full of wisdom in its narrative and beauty in its poetry and at the heart of it all is the maori language.

"The retention of the language for the maintenance of an oral history is but one reason why the claimants seek to promote the language. It is also the means by which they explain themselves and their ways to the rest of New Zealand. The language is the embodiment of the particular spiritual and mental concepts of the Maori, more closely related to oriental tradition than to our western ways. It offers a particular world view which, while not challenging our social structure, highlights alternatives for development. Its emphasis on holistic thinking, group development, family relationships and the spiritual dimension of life is not inappropriate in a nuclear age. Without the language this new dimension of life from which New Zealand as a whole may profit would be lost to us. That is the burden of the claim made in this case.

"But the claimants and their supporters go further. They say that it is intolerable that a Maori should be treated like a mascot. They say that the dignity of the Maori race is in issue and the preservation of the maori tongue is at the heart of the matter. They say that the unique quality of Maori culture is a special reason for its preservation and that to preserve the body one must nourish the soul. They adopted what Dr Benton had to say when telling us of the right to speak maori (now denied in many public places such as the Courts) and of the right to hear maori spoken (now an all too rare experience because of the overwhelming predominance of English in the media). He said:

'... Rights which cannot be enforced are illusory, and protection which cannot sustain life is no protection. We would not think that the Wildlife Service is fulfilling its responsibilities if it announced that it was protecting the kakapo by supplying a few live specimens to selected zoos, a few stuffed ones to selected museums, and then declaring an open season on the grounds that 'nature' must be left to take its course. The maori language is just as much a part of our national heritage as the kakapo, and far more important in human terms than any of the birds or trees whose names it has given us, yet it is in no less danger from man-made environmental hazards than the endangered species in our flora and fauna.'

"The claimants say that they are not just part of an ethnic minority. They say

that they are not to be treated like migrant groups who have recently come to this country from other lands. They say that they belong here, that they and their culture have no other home, that they are the tangata whenua of New Zealand and that by the Treaty they made with the colonising English they and their culture were given promises in writing that they expect and demand to be kept.

"It is against all this background that we have to consider this claim."

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The Waitangi Tribunal takes its jurisdiction from the maori and english versions of the Treaty of Waitangi and issues raised by the differences between the two texts. At heart in this language claim was whether or not it was included in the guarantee given by the Crown to the Maori people regarding the use of 'o ratou taonga katoa', all their valued customs and possessions.

In the Tribunal's Kaituna River finding, the accepted phrase was seen to mean 'all things highly prized' and the Motunui finding to the same effect. In the Manukau case taonga was seen as meaning more than objects of tangible value.

The Tribunal therefore found that it was "plain" that the language is an essential part of the culture and must be regarded as "valued possession" – and the word 'guarantee' was seen by the New Zealand section of the International Commission of Jurists as imposing "an obligation to take active steps within the power of the guarantor if it appears that the Maori people do not have or are losing the full exclusive and undisturbed possession of the Taonga."

The claim that the Maori people have been prejudiced by non-compliance with the Treaty was highlighted by the decision of the Court of Appeal in *Mihaka v Police* (1980) where it said that the Treaty did not cover the right to use maori in the Courts.

The Tribunal disagrees with this and says that the law is in conflict with the Treaty, and inconsistent with the guarantee of recognition given by the Crown under the Treaty.

Objections to the recognition of te reo maori as an official language of New Zealand

The Tribunal summed up objections commonly expressed against official recognition. Under the objection that there's no need because Maori people speak english it says:

"the maori language is worth protecting and deserves protection quite apart from the Crown's duty under the Treaty to provide such protection."

Under the objection that maori language cannot meet the needs of modern society it says that just as english has taken on words from other languages, maori is just as capable.

Under the objection that english is international and more useful than maori: "usefulness depends on circumstances, the monolingual New Zealander learns that on a marae his limited education puts him at a disadvantage".

The Tribunal sees official recognition as increasing the opportunity of using the skill of speaking maori. Calls of too much expense with official recognition have been seen as minor compared with ensuring the language doesn't die out.

It says official recognition doesn't force Maori standards or values onto anyone, as english speaking New Zealanders can continue their lives as before.

It sees recognition as going a long way to restoring the mana of the language.

On the objection that the Maori people are only an ethnic minority, the Tribunal says that's not true as "the Maori alone is party to a solemn treaty made with the Crown".

Divisiveness would not result from official recognition says the Tribunal, because it says divisiveness is not caused by differences but by lack of respect for other different groups or lack of understanding.

Education

The education system came in for a severe battering from the Tribunal as it heard speaker after speaker outline how their maori language had been suppressed at school.

It also heard how the schools didn't take Maori needs seriously and what the cost had been to te reo maori.

It noted that where Maori is taught "serious classes do not begin until the secondary level of education is reached" ... "the Department did not explain the matter in the course of its evidence".

Also where children have gone to kohanga reo and have a good working knowledge of maori, "they find themselves in a mono-lingual primary school atmosphere where, we were told, many lose their fluency within a few months because they are swamped by english and hear no maori spoken at all."

It found that the insistence by educationalists that teachers of maori language at primary school be fully trained in all aspects of teaching was unnecessary.

It found the kohanga reo model of kaiako as being perfectly suitable to build on. It noted the Department of Education's response.

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