

The Treaty — a day off or a rip off

Envy and suspicion

But Europeans and some Maoris regarded Rua and his settlement with envy and suspicion. They decided he was pro-German when he urged his men not to fight in World War One.

But it was his call for a single law for Europeans and Maoris which brought his downfall. When he stitched the words "Kotahi Te Ture Mo Nga Iwi E Rua" (One law for both peoples) to a Union Jack the New Zealand Herald described the action as "insolent".

Taste for liquor

At first Rua forbade alcohol at Maungapohatu. But after a while he and his followers developed a taste for it. He applied for a liquor licence in 1910, but it was refused. Maoris were not allowed to drink at home. The law was not the same for both peoples. So Rua sold it illegally.

This was just the loophole his European adversaries were looking for. He was fined and put in jail for a short time in 1915 for sly grogging. Authorities hoped this would tarnish his image, but he returned powerful as ever (and still drinking) to his settlement.

The next year a band of 70 heavily-armed police marched through the rugged hills to arrest Rua at Maungapohatu. He was preparing a feast for the visitors when they arrived, but it soon became clear they hadn't come for a party.

Rua turned anxiously away from two armed constables who appeared on horseback over a ridge, then two zealous policemen broke away from their group, leapt on him and struck him.

Bloody battle

A single shot rang out — to this day no one knows who fired it. But it started a bloody gun battle which lasted half an hour. Rua's son and another follower were killed. Four constables were wounded.

The police marched Rua back to Whakatane, where he sat through a 47 day trial — the longest in New Zealand history up til 1977. He was sentenced to a year's jail.

After his release he returned to the Ureweras where people still held him in high esteem. But the settlement at Maungapohatu had broken down. He moved with some of his wives and followers down river to Matahi, and lived quietly till his death in 1937.

He had promised to rise again three days after his death. A crowd of 600 people gathered to see the prophecy fulfilled. They stood in complete silence at dawn and waited.

When they finally became certain Rua was not coming back, the wails of the tangi started up again. But this time, as an observer noticed, the cries had a ring of "heartbreak previously lacking".

Leviticus 25:23

"The land shall not be sold in perpetuity, for the land belongs to me, you are only strangers and guests."

In assessing the Treaty of Waitangi it is not possible to divorce the legal considerations from an essentially spiritual and moral basis.

The Maori chieftains were the guardians of their respective tribal lands and with the increasing flow of colonial settlers, it was perhaps inevitable that they would seek a commitment from the embryonic government of the time to protect 'Te Whenua', the very essence of their being, their ethos.

Conflict

The resulting covenant with all its biblical connotations was presented and with the assistance of missionaries, signed by the Maori representatives. And so was born a conflict between the notions of legality and morality.

Morally, the claims of the Maori are indisputable. Sadly the legal mechanisms to protect those claims were drafted in such a way as to completely break both the spirit and letter of the Treaty.

Some obvious examples of this unilateral contravention were the 1862 Native Lands Act, which ended the Crown's pre-emptive right and the 1953 Maori Affairs Act which extinguished a claim based on the customary title of the claimant, as against the Crown.

Where to?

So where do we go from here? How do we try to lift the dark clouds that have hung over the Waitangi skies and achieve something which is more than promissory note for racial equality?

To merely continue the long drawn-out debate on the status of the Treaty will achieve little.

Some practical avenues that offer promise are:

- to endeavour to include the Treaty in some form in the Draft N.Z. Maori Council Bill;

- to place the Treaty to one side and proceed to draft a current reciprocal commitment in the form of a declaration or charter of rights, or formal treaty with a contractual basis; and

- to re-involve the Churches in the Treaty question and pursuit of alternatives, not merely because of their past involvement in this area, but to add the spiritual dimension to the deliberations and more closely re-align the concepts of legality and morality.



A note on the writer.

Pauline Kingi has degrees in Arts, Criminology and Law. She has done advanced studies in Maori Land Law and International Law. She has been admitted to the Bar and from 1979-1981 was engaged as Research Director for the National Council of Churches, Maori Section's Land Research and Advice Programme 'Te Ropu Tomokia' which was jointly sponsored by the NCC Maori Section and the Archdiocese of Wellington Secretariat for Evangelisation, Justice and Development.

She has attended forums in Hong Kong, the Philippines and liaised closely with Aboriginal and Hawaiian groups interested in adopting a Treaty of Waitangi model for their respective countries.

She is currently the Maori Representative with the Auckland Regional Authority.