

In the Waitangi Tribunal

Wai 207

Wai 785

Under **The Treaty of Waitangi Act 1975**

In the Matter of **The Te Tau Ihu Inquiry (Wai 785)**

And

In the Matter of **The claim to the Waitangi Tribunal by Akuhata Wineera, Pirihira Hammond, Ariana Rene, Ruta Rene, Matuaiwi Solomon, Ramari Wineera, Hautonga te Hiko Love, Wikitoria Whatu, Ringi Horomona, Harata Solomon, Rangi Wereta, Tiratu Williams, Ruihi Horomona and Manu Katene for and on behalf of themselves and all descendants of the iwi and hapu of Ngati Toa Rangatira**

BRIEF OF EVIDENCE OF NGARONGO IWIKATEA NICHOLSON

Dated 11 June 2003

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BRIEF OF EVIDENCE OF NGARONGO IWIKATEA NICHOLSON

- 1 Ko Ngarongo Iwikatea Nicholson taku ingoa.
- 2 I tupu ake au i nga takiwa o Porokaiaia i nga turi a taku whaea me taku tupuna Kuia, Koroua.
- 3 Ki te patai mai koe – kei whea a Porokaiaia? – maku e ki atu he waahi tenei pa tata atu i Poroutawhao, i waenganui i nga taone o Riwini me Pokitana.
- 4 Te nohanga whakamutunga tenei a Te Rangihacata, ka mau tonu iho, iraro i te mana a Ngati Huia – mai iho, taemai ki tenei ra.
- 5 I hekema au i nga tatai a Ngati Toa, a Ngati Raukawa, a Ngati Huia. Na ratou ahau i tono kia haerema, ki te awhina i nga mahi o te wa, a te Iwi.
- 6 Ka roa ano te wa ahau i noho kite whakaaro – me pewhea? Me taku maharahara irunga ano i te mohio, na taku Kuia ahau i tohutohu penei:

“Kia tupato, kia kua koutou e haere hianga haere – haere whakahihi haere, me whakaiti koe i a koe. Kia mohio mai koutou, ko koutou nga teina o nga teina katoa”

“Na kia mau kite pono, kite tika, koe i mohio ai”.
- 7 Na, ko enei taku awangawanga, kite puta i au etehi kupu – tera pea, ka titiro makutu mai nei etehi. Ko ahau ka whakataukingia kite hianga, ki te whakahihi.
- 8 Heoi ano ahakoa taku awangawanga i te whakaaro iho au, me awhinaatu – me manaakitia tenei tono a taku iwi.
- 9 Kua tae pea ki te wa, me korero ano o enei korero – ka hia nga tau, na te aroha, na te mamae e noho huna ana, e ngau kino nei iroto i tena whakatupuranga – i tena whakatupuranga tae mai ki tenei ra, ki a matou o enei whakatupuranga.
- 10 Na kei te whakaae atu taku ngakau kia horahia ki mua i te aroaro o nga kai wewete, kai whakawaa e noho nei kite muka i enei korero – ahakoa paku

ahakoa iti, tera pea kia puta atu ite kohu, ite kapua pouri, ka hia te roa e tau iho nei, pehi iho nei ahau a Ngati Toa ki raro.

- 11 Kaati, me timata penei aku korero.
- 12 Ka tukuna atu enei korero irunga ite pono, ite tika – taaku i mohio ai, taaku i rongo ai, kite he enei korero, ka tukuna atu e au taku tinana kia mate hei utu mo taku hara.
- 13 Na, ta te Maori tikanga penei, ki te ngahoro mai nei te kupu ite ngutu o te tangata he tapu. Ki te he koe, ko to tinana te utu.
- 14 Ta te pakeha – kao, ko tenei mea te pene me te pepa ka meatia to tohu, kua mana ka kiia he (Affidavit).
- 15 **Ko te mamaenui, ka mauhereheretia a Te Rauparaha me ana hoa – ki etehi me Te Kanae me Tamaihengia.**
- 16 **Ka panaia a Te Rangihaeata i waho atu i nga takiwa o Te Whanganui a Tara. Mo te aha te take?**
- 17 Kia matou nei, hei patu tikanga – hei kohuru i te wairua o te tokorua nei, o nga tangata, o te Iwi – kia mama ake te huarahi kia ngawari mai te tango wawe i te whenua.
- 18 E hara i te mea i te whakahawe ahau i nga korero me nga take i Te Tauihu e korerotia ake nei e etehi.
- 19 Taku mohio e ai ta nga pakeke – i haere tahi mai matou me nga wehewehenga o Taranaki i nohotahi, i kaitahi, i pakangatahi mai i konei tae noa atu ki te Waipounamu.
- 20 Ki te hoki ano ki te timatanga ko ia ko Te Rauparaha te tangata nui, ahakoa he maha ana tuaakana, o ana matua – tupuna i era wa e ora tonu ana. Ko ia kei te tohu huarahi, tohu pakanga arahi ite Iwi iroto i nga mahi katoa. Na te Iwi ia i ara ake kia nohia tera taumata, nana ano te tumanako, te moemoea kia taemai ki konei, ki konei noho ai, kia pumau ai te noho i tenei takiwa a Ngati Toa mehemea ka taea.
- 21 Na, nui nga pakanga. Ko te muru tuatahi e ai ta nga pakeke, kei te ope a Tuwhare – Rangatira o Ngapuhi. Engari kaore ano kia tau te noho na nga

- raruraru o te wa ka tohe tonu a Ngapuhi ratou ka hoki. Engari i mua i to ratou wehenga atu, ka mea ko to ratou take raupatu kia unuhia penei “o koro to kainga nohoia e mara to kainga”.
- 22 Kaore i roa i muri mai ka hoki te roopu moroiti a Ngati Toa e hoki atu ana ki Kawhia. I konei ka timata te whakawhaiti mai i nga wehewehenga a Ngati Mango kia kotahi iroto i nga whakaaro kia heke mai ki te Au o te tonga, ki konei noho ai.
- 23 **Na, kei nga tau 1820, ka wehemai Kawhia iraro i te maru o Ngati Toa iraro i nga whakahaere a Te Rauparaha. Ahakoa Ngati Rarua, Ngati Koata – hui koata mai ko to ratou whakatauki, “Ko Mango taringa tahi”.**
- 24 He roa ano te wa i hikoi mai ai ma roto o Taranaki katahi ano ka taemai. Me to ratou mohio he nui nga waahi kihai i murua e te ope tuatahi a Tuwhare.
- 25 Heoi ano he maha nga taangata i whakaorangia ki tena waahi, ki tena waahi me te moetahi i te wahine herehere (wahine Rangatira) e Pikinga, a Te Rangihaeata.
- 26 He tikanga tuturu tenei mea te whakaora i te tangata i te wahine ranei me te moe tahi me etehei o nga herehere. Ta ratou mahi hei tiaki i nga whenua me nga rawa katoa mo te kai whakaora.
- 27 Kaore i roa i muri mai, ka tino whai take ano ki te whawhai – ki te pakanga a Te Rauparaha. Ko ana tamariki i kohurutia, i kainga ki Ohau. He wa ano i muri mai ka whakaara ake tona whare i runga o Kapiti a tapangia “Ko Te Umu ki Ohau”, ko te Iwi na ratou ano tenei mahi ka whakataukingia ki te “Rari kai po”.
- 28 Ka pakanga haere, a, ite mea kua murua Kapiti – ka noho ki reira. Tae rawa ake ki te tau 1826, ka maranga nga Iwi nei ite whakangaro i a Ngati Toa. Ko Kahungunu, Whanganui, Hamua, Rangitane, Muaupoko, Ngati Apa, Ngati Kuia – e hia mano, ko wai ka mohio te taenga atu ki Kapiti – te mutunga iho, i a Ngati Toa te Huka o te riri.
- 29 Mo tenei pakanga e ai ki etehi – ko te pakanga o Whakapaetai – ki a matou ano ko tona tikanga ko te Umupakaroa. No konei i mutu ai te kaha a nga Iwi te whakangaro i a Ngati Toa. E ai ta ratou ki “kua mimiti te tai”.

- 30 Na, ko te Ao Maori tera, ta ratou mahi he patutangata, kai tangata, muru taonga, muru whenua, mahi raupatu – ahakoa, te weriweri, ko te Ao Maori tera, me ona tikanga. He kaha no matou te ki, na te patu ka riro mai – na te patu ano ka riro atu.
- 31 Ko te raruraru:
- tuatahi**, mai i te taenga mai o te pakeha ia, kihai i mohio ki nga tikanga a te Maori
- tuarua**, ko te Tiriti O Waitangi tona tikanga me mutu te patu tangata
- tuatoru**, ko nga Kooti Whenua Maori he mea hanga na te pakeha, kia tutuki i a ia tana hiakai whenua.
- 32 Kei te mau tonu i a matou ko Te Rauparaha koia te kai arahi i nga mahi, kaore he tangata ki tua atu – ko ia anake.
- 33 Na te kaha hiakai whenua a te pakeha, koia kei te akiaki etehi ki te hoko hei peehi iho i te mana Rangatira.
- 34 I te haere tonu tenei mea te patu tangata ahakoa Te Tiriti O Waitangi.
- 35 Ko te mauheretanga o Te Rauparaha, he mea pehi iho i te mana Rangatira, tenei mea te wairua o te tangata, o te Iwi.
- 36 He nui nga Iwi e whakaae ana ki te hoko mo Te Rauparaha te take. I poheahea ratou mehemea kia pera ko to ratou tangata ka whakahokia mai.
- 37 Tae noa atu ki roto o Ngapuhi – e hia mano eka i riro i te Kawana, kia whakahokia mai te kaumatua nei, a Mangonui. Ta te pakeha kupu (under duress).
- 38 Kua mohio noa atu ka whakahaua e Taringakuri a Te Rangihaeata kia topea nga rakau mai i Rotokakahi ina te nui hei tohu i te au kati, kia kua nga pakeha i uru atu – tetehi taha ma te pakeha, tetehi ma te Maori.
- 39 Tera tikanga ano kia maumahara te tangata, i ahu mai ona whenua ona rawa i whea – mehemea he rawa tuku, he whenua tuku, he awhina ano te riro i a koe – kia mau mohio koe, na wai.

40 I nga rangi tata nei ko te take i mea atu kia uru atu e Ngati Toa ki te hokomai Mangahao, a Ngati Raukawa – he tikanga mahara tera.

41 Kaati, me hoki ano ake au ki nga rongu korero mai o nehera taemai ki enei ra, kei te kaha rawa etehi ite ki mo Te Rauparaha – ‘e hara ia ite rangatira’.

42 Tena, me hoki ano aku korero ki nga korero a nga tupuna, na e mau nei i au, na i ngahoro iho nei i nga ngutu a o matou Kuia, Koroua.

43 Anei nga korero e ai ta nga pakeke:

He wa ano ite whakaaro tonu te matua a Te Rauparaha ite kimi wahine ano maana. Na, i wehemai i Kawhia tau rawa ake i Maungatautari ki mua ite aroaro o te kaumatua o Korouaputa. Koia ano tetehi o nga Rangatira nui o Ngati Raukawa o taua takiwa. Katahi ano ia ka ki, “e koro, te take I haeremai ahau ki a koe, he kimi wahine ano maku, me te whakaaronui ki o tamahine, - tena, homai koa tetehi maku?”

44 Na ka noho. I te whakaaro iho a Korouaputa – me pewhea, katahi ano ia ka ki

“e hoa, kotahi anake ko, te mea I mahue mai nei ki au, ko taku mokai, he mea harihari wai maku”

me tana whakaaro ano – ka mutu ia ka ki

“heoi ano e pai ana, kaore e kore ki te whiwhi tamariki, tera ano he taniwha tetehi”.

Te mutunga iho ka mea atu a Werewera

“e pai ana tukuna mai, taria he tohu a tona wa a taua korero ka tutuki”.

45 Ahakoa pewhea kei te mau tonui i au i a Ngati Huia ko te whanautanga mai o te tamaiti nei o Te Rauparaha, he mea tohu na tana koroua – na Korouaputa.

46 He nui nga korero mo te whanautanga mai o enei tamariki. Ratou katoa i whanau mai i nga takiwa o Kawhia – ki taku rongu.

47 Ko te mataamua i tapangia ki Te Rangikatukua. No tana whanautanga mai ka oho nga whakaaro o ana maatua ka haria te tamaiti nei kia tirohia e te koroua, mehemea koia tenei te taniwha kua oti i a ia te tohotohu i mua. Ka

mea Korouaputa “Kao, waiho ma te rangi ka tukua”. Ko te take tenei ka tapangia ko Te Rangikatukua.

- 48 Nga korero mo ana tuahine mo Waitohi me Te Kiripaeahi me tera o ana tuakana mo Mahurenga – kua ngaro i a matou o enei ra.
- 49 Engari, a Te Rauparaha, no te putanga mai he hanga pouriuri no te ngakau a Werawera i te tamaiti tuturu rereke te ahua. He tamaiti papaku rawa ona ahuatanga tuturu rereke, heio ano, na te kaha o te whaea ka whakahokia ki Maungatautari kia tirohia mai nei e tana tupuna.
- 50 No te kitenga atu te kaumatua ka ruru tana matenga ka ki “Ae. Ko ia ano”.
- 51 Mai i tera wa ka kiia he tamaiti Rangatira, na whakatupungia penei me te Rangatira, pakeke haere, a, ka whakahokia ki Maungatautari ki te nohotahi me tana matua (turanga whanau) me Te Hape ki tuaarangi. I reira i te ako tonu i te mau rakau, te rere o te taiaha, te karo o te wahaika ka noho koia ano te kai hapai rakau a Hape. No te matenga a Hape i riro i a ia te mana a Hape me te wahine nui me Te Akau. Na reira mai i reira i te whanautanga mai, whakatupungia ake penei me te rangatira, pakeke haere a a tona wa, na te Iwi ia i ara ake hei arahi, hei takitaki i nga mahi nui a te Iwi. Tatu iho ki tenei takiwa tae noa atu – ki te Tauihu ki Te Waipounamu.

Te Tauihu

- 52 Ko te korero a etehi, kihai ta ratou whenua i murua. E mea ana ratou ahakoa ratou i huna ki waahi ke kei te ka tonu te ahi me to ratou mana whenua.
- 53 Kei te ahua penei pea taaku ki etehi. Kite hinga koe ko to mana, mana tupuna me o rawa katoa kua ngaro i a koe.
- 54 Ta te Maori tikanga tera mai ra ano.
- 55 Tena kite pakari ake koe i a koe, ka whai kaha ano koe i te riri, kia riro mai ano kia mau tonu i a koe te huka o te riri, na i a koe te tai, kua mana ano koe i a koe, e tika ana ko koe te Rangatira.
- 56 Heio ano kia whakatoopungia o enei whakaaro kia whakarapopo i enei korero:

Ko te mauheretanga o Te Rauparaha.

Ko wai ka mohio i te ngau ote mamae e ngau kino nei, ngau haere nei i roto i a ia, tae noa atu i tana whanau me Te Iwi nui tonu.

Ahau nei, kaore e taea te whakairo iroto i nga kupu tenei mea te mamae, me te whanuitanga o enei pehi kino i pa mai ki te Iwi i a Ngati Toa me to matou tupuna. Kihai i hamenetia e te Kooti i whakawaangia e te Kooti, kore rawa.

Te Pana o Te Rangihaeata.

He ahua pera tonu he mamaenui, kaore e taea te whakaatu. Mehemea ko te wairua o te tangata ka kohurungia, ko wai ka mohio i nga kupu e tika ana, kia rangimarie te noho o te tangata, i a ia.

- 57 Ki te kaore o enei ahuatanga, kaore e kore kua whai waahi, whai take ano i nga takiwa o Te Taihū puta noa, ahau a Ngati Toa.
- 58 Ta te Karauna taana mahi i te wawahi i te Iwi me te whakararuraru i nga tikanga, tikanga whakaaro kia whai waahi ano kite tango wawe i te whenua. Kia tutuki ta ratou hiakai whenua.
- 59 Te kaha a etehi ki te rapu oranga mona anake. Ka whakarerea nga tikanga tupuna me te tere rata ana i nga tikanga a te pakeha.
- 60 Heoi ano tenei kei te inoi atu au ki a koutou, ki nga Kaiwhakawaa, kia aroha mai, kia titiro atawhai mai i a matou.
- 61 Heoi, ko taaku hei whakakapi ake tenei korero aku:

“Kaua e waiho te he kia haere. Ma te tika ka tika te he. Ta te he taana mahi, te whakararuraru i te tika.”

Some Preliminary Comments

- 62 I am now going to switch from Maori to English. I personally would have preferred to present this entire brief of evidence in Maori. However, my reason for doing this is that my experience to date of transcription and translation of Maori into English in the Courts in New Zealand has not been favourable. In particular, the transcription and translation of my Maori evidence in the Section 30 Maori Land Court case was grossly inaccurate.
- 63 This leads me briefly to give some comments on Te Reo Maori, an official language of Aotearoa.

64 On the matter of translation Ngati Toa cites the following scholars of Te Reo Maori:

- J.B. Palmer, ‘Foreward to the 1959 edition’ in A.T. Ngata and P. Te Hurinui *Nga Moteatea Part I* Wellington, Polynesian Society, reprint 1988, page PXI - XII
- A.T. Ngata, ‘Preface to the 1959 edition’ in A.T. Ngata and P. Te Hurinui *Nga Moteatea Part I* Wellington, Polynesian Society, reprint 1988, page XIII – XVIII
- P. Te Hurinui ‘Introduction to the 1959 edition’ in A T Ngata and P Te Hurinui, *Nga Moteatea Part I*, Wellington, Polynesian Society, reprint 1988, page XXVII – XXIX.

65 All of the above noted the difficulty of accurate translation of the monumental work *Nga Moteatea*. This is amplified by a quote from J.B. Palmer:

“No matter how brilliant the translation, how apt the phrase or vivid the image, the English version is no substitute for the original Maori”.

66 Again Ngati Toa states that one has to feel Maori to understand fully Maori.

67 Unfortunately, despite the fact that the Treaty promises retention of Ngati Toa taonga, which includes the Maori language today, I speak English before this Tribunal. I speak English because I have concerns due to my previous experiences already mentioned that any future record of my evidence can be guaranteed to be accurate. If the language used was Maori then I have every confidence in the Maori adjudicators and their competence. They, however, are not necessarily responsible for any translation or written record for the future.

68 The Treaty of Waitangi is an agreement and in fact the only document which gave consent to non-Maori settlement in this country, on Maori land. We understand it to be between some non-Maori and Maori. Not between Maori and Maori.

69 The non-Maori proceeded to govern, he allowed his friends to come and settle, more friends, other races, not once consulting with the Maori Treaty partner.

70 Maori are at risk of becoming a responsibility of the Department of Conservation. They have for many years been an endangered species.

Personal Background

71 My name is Ngarongo Iwikatea Nicholson.

72 I was raised at Porokaiaia in the home of my grandparents by my mother and in the company of the other members of our extended whanau from time to time.

73 Porokaiaia is an area in the rohe of Ngati Raukawa.

74 My Grandfather worked the land there and died there in 1950 at the age of 88 years. He was of Ngati Raukawa, Pareraukawa and Ngati Huia.

75 My Grandmother died as a result of a motor accident in 1953. It is estimated she was at least 88 years old. She was of Ngati Toa and Ngati Kahungunu.

76 My Mother died of tuberculosis seven days prior to her Mother's accident.

77 For the purpose of this hearing what I have to tell will focus primarily on my Ngati Toa affiliation.

78 My Grandmother Akenahi Nicholson (nee Tamarana) could neither read nor write. She spoke Maori to us at home most of the time. Although she spoke English reasonably well by the time I was born, she preferred to speak Maori.

79 Both my Grandmother and my Grandfather were repositories of the traditions, customs and histories of their respective tribes.

80 I was the mokopuna kept home from school to accompany her to tangihanga and other hui and also to go with her to town.

81 She related the tribal stories to my mother and her other children, repeating them on numerous occasions, I expect to ensure that they were maintained

and retained. So I heard them as well, over and over again. Other elders would visit from time to time and the stories would be repeated. One of these elders was her relative (karanga papa), Rawiri Pehiatea Tatana, a great grandson of the Ngati Toa tohunga Te Whataupoko who lived and died on Kapiti Island at Te Ahihurahura.

- 82 I probably had more exposure than many of my generation to see and hear things from the discussions of my elders, particularly on marae of our rohe since I would be at times the only child present at tangi and other hui. I remember crying to go to school rather than spend 2 or 3 days at times sitting in wharemate surrounded by old women who seemed to me to spend most of the time crying and debating the accuracy of what was being said by speakers on the marae.
- 83 My grandmother Akenehi played a major part in my upbringing. She was a product of the tradition that is known to Maori to produce takawaenga and she carried her responsibility of it until she died.
- 84 Takawaenga is just one of the traditional Maori concepts that my grandmother and her generation spoke to me about. Given the importance that these traditional Maori concepts had both in the past and today, before this Tribunal, I will speak about them in more detail later in this brief of evidence.

Te Tauihu

- 85 I don't profess to know in detail much about the Te Tauihu area. What I do know is what has been orally handed down.
- 86 There are two relevant letters from members of Ngati Toa contained in the J.P.S. Vol 68, No 4 1959. These letters are written at Takapuwahia at 11 December 1851 and 29 September 1852.
- 87 The first mentioned letter is a condensed summary of the 1818 expedition led predominantly by Tuwhare, Patuone and others Ngati Whaata and Ngapuhi and continues to describe the later return of Ngati Toa, Ngati Koata and Ngati Rarua and the conquests of the Northern South Island. There are 36 names appended to this letter, no doubt with their consent. The letter makes the point that there is no distinction between the 3 Tainui factions and

refers to a proverb “Mango Taringa Tahī” and declares them all to be Ngati Toa.

88 The second letter is dated 29 September 1852. The purpose of this letter was to state the Ngati Toa claim to be heard, and seriously considered. It is couched in language that is intended to have an impact, (i.e. “muia e te ngaro”, “koe e muia na e tena manu e tena man”, and “but in the year of Tumata-Whaiti no there was me alone”). There are 12 names appended to this letter.

89 We have to remember that those named in these documents, probably without exception, were participants in the actions referred to.

90 And of course the first letter included at least two of the most prominent chiefs of Ngati Koata and Ngati Rarua, both of whom are known to have played prominent roles in the battles referred to. It should be sufficient to say that we rest our case.

91 The Ngati Toa letters provide the best possible accounts of the events that established Ngati Toa’s customary rights in Te Taihū because they were written by people who participated directly in them. The best account I can give you of the various battles are contained in these letters. Therefore I will read to you directly from them:

[Read from letters – attached as Appendix]

92 It is clear from these letters and from Ngati Toa oral history, that the conquest of Te Taihū under the leadership of Te Rauparaha and Ngati Toa, took place in six main sequential steps, as described in the letters:

- The victory of Waiorua which placed Ngati Toa in an unassailable position of strength and authority in the Cook Strait region and the preliminary reconnaissance shortly after the battle of Waiorua.
- Te Rauparaha and Ngati Toa and their allies defeating Rangitane and their allies at Wairau in retaliation to the curse of the Rangitane chief Ruaoneone. The battle was because of the curse (kai-upoko) and it is known as “Tukituki Patu Aruhe.”

- An attack on Ngai Tahu at Kaikoura following the barracouta tooth insult in 1829/30 led by Te Rauparaha and made up of Ngati Toa, Te Ati Awa and their allies and others.
- A sea-bourne attack on Ngai Tahu at Bank's Peninsula in 1830.
- Following the actions of a man named Tuhawaiki who made Te Pehi's bones into fish-hooks, a major attack on Te Hoiere, Rangitoto, Whakapuaka and places further to the west in 1830, led by Te Rauparaha, Ropata Hurumutu of Ngati Toa and Te Whetu of Ngati Koata.
- Another expedition by Ngati Rarua to the Tasman and Golden Bay areas carried out at the same time as the attack on Kaiapoi, deliberately and strategically planned and directed by Te Rauparaha according to the Ngati Rarua chief, Niho.

- 93 After the various campaigns lands were allocated to the various member groups of the coalition by Te Rauparaha.
- 94 The fact that these other iwi admit that Te Rauparaha apportioned the land is a statement in itself and there is no comment in contradiction to this. On the other hand I think if Te Rauparaha had not been generous with his allies, then they may have questioned his actions. Conquest comes with obligations on the part of all the participating groups. Thus not only did Ngati Toa have obligations to the tribes that assisted it in achieving the conquest, but likewise those tribes had obligations to Ngati Toa for the leadership and role their leader Te Rauparaha had played in the conquest and planning of it.
- 95 Ngati Raukawa for example would recognise Ngati Toa as the tribe that gave them the land to settle on, and this is still referred to by the old speakers on the marae today. Ngati Toa gifted Whangaehu to Kukutauaki. So when early land sales were made by Ngati Raukawa, they always first consulted with Ngati Toa. In fact on the Rangitikei purchase which involved Ngati Apa, Ngati Raukawa and the Crown, Ngati Toa were also included because of their earlier association with the land, notwithstanding that the land had been given to Ngati Raukawa many years earlier. At that time Ngati Raukawa could not sell their land without consulting the person that had

given it to them, because to do so would have been in breach of their obligations to Ngati Toa.

- 96 Ngati Raukawa's obligation to recognise that Ngati Toa gifted land to them will continue forever. In the context of the early settlement by Ngati Raukawa this obligation meant supporting and assisting Ngati Toa in maintaining the Raupatu they had effected from South of Whanganui (Whangaehu) right down to Wellington and the Wairarapa and in Te Taihu.
- 97 There are many other references, not only in Ngati Toa oral and recorded history, but also in Native Land Court and European records illustrating the mana of Ngati Toa as leaders of the conquest of Te Taihu. Another example is referred to in the reports by Brian Gilling for Ngati Toa (Gilling, B. "We say that we have the authority": Ngati Toa's claim to Customary Rights in Relation to the 'Ngati Tahu Takiwa', May 2003), and Tony Walzl for Ngati Rarua (Walzl, T. "Ngati Rarua Land and socio-economic issues 1869-1960" Wai 785 Doc #A50). This relates to the expedition by Ngati Rarua to the Tasman and Golden Bay areas. The story recounted by G.G. Mitchell is that during Niho's expedition, at the Buller River – Ohikanui Creek junction, a lesser chief split off and headed for the eastern coast, to spy out the strength of Ngai Tahu in North Canterbury. Niho responded that Te Rauparaha, 'their paramount chief', had given them their instructions according to his careful planning which included the simultaneous attack on Kaiapoi, and he himself would not deviate from them. (Gilling page 65)

Some Traditional Concepts

- 98 In the Wai 145 (Wellington) Inquiry I placed on the record a document which set out my understanding of some of the traditions and customs of our Maori people and particularly those pertaining to Ngati Toa and Ngati Raukawa, and also some of the reasons we believe to have contributed to the decline of these things. I wish to revisit those traditions and customs in this inquiry district.
- 99 Ngati Toa wish to take this opportunity to explain their own understanding of some of the customs and traditions according to those handed down through the generations, in the main orally, and maintained by our present generation.

100 Some of the submissions and cases presented by other iwi have focused on:

- Traditional history of occupation
- Customary occupation up to the period of Ngati Toa's occupation
- Other claims of occupation rights extending to the present day

101 Ngati Toa are adamant and sincere in our belief that this Tribunal must not consider these submissions and statements (claims) without consideration to some of the customs that applied at the time, i.e. 1818 – 1840. Ngati Toa do not dispute pre 1818 history of the Northern South Island or the Southern North Island.

Raupatu

102 Ngati Toa wish to refer to the following two letters:

- On 11 December 1851 at Takapuwahia, Porirua; and
- 29 September 1852 also at Takapuwahia, Porirua.

103 The two letters from the Ngati Toa chiefs are important, because the contents of these letters refer to customary practices (or tikanga) to do with Raupatu. Some of the examples are centuries old customs or practices (tikanga Maori tuturu motuhake) as follows:

- Sparing captives to guard land and resources.
- Taking forcibly tribal treasures, tangible symbols of prestige particularly greenstone mere. Many of these mere symbolised the authority over vast areas. Hence authority lost to the victor.
- Greenstone mere voluntarily ceded to the victor. Such action would often result in compassion being shown to the person relinquishing ownership and his/her life being spared. Such action was referred to in the following way:

He koha whakaora mo [name confidential] te take

A consideration or gift for the reason of [name confidential's] life (and that person's possessions).

- The suppression of all forceful resistance, at least until the reverse could be effected.
 - Denial of Raupatu right could not be established in the presence of the victor unless a reversal had taken place regarding a previous defeat.
- 104 Unless the reader of these letters understands some of the wider implications of the events and actions described in the letters, you cannot in our view expect to reach a decision regarding Maori right over land or any other property Maori may lay claim to.
- 105 Tribes before battle would sometimes hide or bury valuables before the engagement to ensure they did not fall into enemy hands. However, that did not mean Raupatu could not be effective, it simply meant some of your wealth and mana was denied the enemy.
- 106 Ngati Toa will be presenting some of our trophies of these and other engagements before the Tribunal. We do this not because we are arrogant or vain, but because we are Maori. As such, we must simply state facts according to Maori tikanga. Namely, that we have been able to retain these taonga, the symbols of our mana, notwithstanding the overwhelming difficulty in doing just that.
- 107 Much of the detail contained in these letters is not to be found in the writings by historians on these century old customs (tikanga) or practices, here or throughout New Zealand. Our own elders would not speak with such vivid detail unless provoked and of course that seldom would be necessary since their own generation were quite familiar with the facts and tikanga pertaining to them.
- 108 To understand Raupatu a dissection of the word and its English translation is useful as follows:
- Raupatu = Conquer (Williams, H.W. *A Dictionary of the Maori Language*. 7th ed. Wellington: GP Books 1988, page 330.
 - Conquer = Overcome and control (an enemy or territory) by military force (Thompson, Della, ed. *The Concise Oxford Dictionary of Current English*. 9th ed. Oxford, Clarendon Press 1995, p 283).

= be victorious (Oxford p 283)

- Conquest = the act or an instance of conquering; the state of being conquered (Oxford, p 283)

= conquered territory (Oxford, p 283)

= something won (Oxford, p 283)

- Rau = many
- Patu = strike or kill

109 Maori knew Raupatu and for them it had many parameters some of which were not unlike the Pakeha understanding of the word 'conquer'.

110 The consequences of Raupatu for the victor and those which may apply to the victims of such action I believe, to be quite extensive in comparison to those, which might apply and be evident using a non-Maori mind-set and understanding of the word 'conquer'.

111 Many have the false understanding that Raupatu required total annihilation of one's enemy or opponent. Ngati Toa believe, however, that a false understanding of our custom (tikanga) is being eluded to when persons (the bulk being the conquered) say, "we are still here today", and of course they were not able to exercise any control while secluded in the hinterlands.

112 Ngati Toa finds any suggestion that Raupatu required total annihilation of one's opposition insulting. Such a suggestion is not only offensive to the memory of our ancestors but to the whole Maori race. The tikanga simply did not require that as an end result to any engagement. To actually make such a statement or surmise such to have been the case is to offer offence and affront to the chivalry and intelligence of the whole race.

113 They were not stupid, instead by their actions and customs can be proven to have been of great intellect and intelligence. They were master tacticians and strategists. They could when occasion justified according to their tikanga demonstrate and perform acts of chivalry, in the heat of battle no other race might understand.

- 114 They knew that total annihilation of one's opposition particularly when invading strange territory meant the destruction of in some instances hundreds of years of local knowledge. Hence their tikanga did not require it. Regarding total annihilation of a tribe, we know of no examples.
- 115 Captive men and women, particularly those of lesser standing or status, were kept to join the victors labour force. Some of these men are even known to have fought in their captors' battles.
- 116 Others of more prominent status would be retained as a means to begin, or sue for a truce or a more permanent peace arrangement, to end, or, at the conclusion of, a battle.
- 117 The most influential and widely claimed or recognised persons, High Chiefs and Chieftainesses were able to move about the country with little more than their status to protect them. And even when they found themselves on the losing side in battle no one would be foolish enough to willingly kill them.
- 118 The killing without very special reason might have the undesirable effect of attracting opposition and support against the person or persons responsible at a later date. It would be reason for some of one's own tribe to defect and disassociate themselves from such foolhardy action.
- 119 We are proud in the knowledge that our ancestors too, left us a heritage that records not only fighting prowess but more importantly examples of compassion and chivalry, notwithstanding historians' accusations particularly against our Chief and leader (Te Rauparaha) of cowardice and of being a man of few principles and scruples.
- 120 Unfortunately, it might be said, for the conquered, the Treaty and the law limited the possibility to reconquer. It also denied the conqueror the opportunity to forcibly defend what he had acquired. Neither side was able to test their ability to either hold or regain. The Land Courts however did find in favour of the conquered on occasions particularly when those from conquered iwi served in the Crown militia and later brought claims of ownership and denied Maori custom. The Crown actually gave land in some cases to these people described by Maori as kupapa. Some received payment for their services and commissions in the military as well. The Maori Land Court of that time trampled our customs (tikanga) and are among the first

to subject Maori, and of course Ngati Toa, to the cultural violence we still suffer today.

121 We submit the following examples to evidence our practice of these customs (tikanga) and our understanding:

Example I

122 The Chieftainess Tamairangi famous in song and story throughout the land, in her time, and as songs indicate resident in the area of Te Whanganui a Tara. Her name appears in a Ngati Toa song composition even before the tribe moved south.

123 An interesting fact when one considers there was no TV, no radio, no telephone and no newspapers, notwithstanding the limited mode of travel, and ability to have social contact over such distances. The composition acknowledges her status as follows:

“I arrive at the tip of my fish, there is Tamairangi the exalted one of these places.”

“Ka tau ki to hikupa o taku ika. Ko Tamairangi nga tiketike mai o nga motu.”

124 Ngati Toa believes their ancestors would never have considered killing this woman as evidenced by their own composition.

125 Te Rangihaeata took Tamairangi and her son captive to Kapiti Island when most of her people were killed. Unfortunately they were later forced to flee when her son was accused of adultery with the wife of a Ngati Toa chief. Their departure was only possible because of her status and standing, she lived a relatively free existence, although a captive. Other captives had been assigned to wait on her and provide her with her every need.

Example II

126 The custom of sparing a life is only one aspect of Raupatu.

127 Ngati Toa captured the chief Te Ataotu who became the guardian of the burial caves on Kapiti Island, even in the knowledge that Te Ataotu had in fact been responsible for the killing of at least one Ngati Toa chief. They demonstrated their chivalry and were prepared to recognise his status. Even

in captivity he lived a somewhat free existence with a position of sacred responsibility.

Example III

128 Ngati Toa do know of an incident which their traditions tells them occurred in Taranaki on the journey south. It concerns an attempt by one of the warriors of their force preparing to shoot an opposing chief of note and with a reputation that even they may have been envious of. Te Rauparaha is said to have pushed the gun aside and said:

“Let all the fighting be decided by chiefs alone”

“Me tau katoa te riri, kei te rangatira anake”

129 The intended victim fought all challenges one by one and when his opposition was exhausted he left the battle field not just with his status intact but somewhat enhanced.

130 This incident effectively disputes the notion that Te Rauparaha had no scruples or that he was not chivalrous.

131 The identity of other players in this saga shall remain confidential to Ngati Toa lest we be accused of attempting to defame any of the other participants. Ngati Toa refuses to be drawn into debate or elaborate on further detail on such a sensitive matter, our customs (tikanga) simply do not allow it.

132 Further examples of the custom of compassion and chivalry are as follows:

Example IV

133 During the Raupatu of the area we might describe as the top of the South Island and Cook Strait, Ngati Koata acquired, according to some, through the custom of tuku, areas of land including Rangitoto and other islands. The ceding of property, land or other taonga by a chief also meant that not only authority over that property but authority over the people who previously had interests in it became the responsibility of the receiver. We should remember that this tuku was large and I expect some would say more than generous. However it traditionally would have had to be, remembering it followed a battle (Waiorua) principally focused on removing those who eventually gained the advantage. It was therefore not just a gift in the non-

Maori sense of the word but another example of “koha whakaora” (see paragraphs 103 and 137).

- 134 A number of those people captured during the Raupatu were High Priests. They were known repositories of knowledge, orally transmitted customs and traditions hundreds of years devolved from their ancestors and acknowledged practitioners. They were also spared. Most were able to live their lives relatively freely particularly with the Ngati Koata section of the invading force and in the area they would have loved so much. It needs to be clear that that didn't necessarily reinstate their mana absolutely.
- 135 One, who for the same reasons espoused earlier shall remain anonymous, has always been acknowledged for his assistance in the performance of ritual incantation at a later battle. The results of his expertise are said to have given Ngati Toa, Ngati Koata and others a distinct advantage resulting in a successful outcome in their favour.

Example V

- 136 The Raupatu of another area again resulted in a captive High Chief in the knowledge no doubt that his possessions were totally lost to him, handing his greenstone mere to his captors with a request that he be killed with it. This act of humility whether intended or not, resulted in his life being spared and at a later date his daughter, by mutual tribal arrangement, being married to a chief from the invading force.
- 137 There are many like examples, and our elders when referring to land or weapons etc relinquished in this way would say:

“he koha whakaora mo [name confidential] te take.”

“A consideration received, for the reason of [name confidential]”

- 138 There are many such examples and all may have quite different conditions for a number of reasons.
- 139 Land or property ceded as exemplified above, may, but not necessarily, be quite different to the same just forcibly taken. Other factors would be taken into consideration.

140 The action of ceding ones property both tangible and intangible was not necessarily a plea for consideration or mercy. A chief requesting to be killed would have already resolved himself to accept death, rather than live in the hope of sometime in the future reversing the situation, or being subjected to the possible humiliation and stigma of captivity and defeat. Even after consideration was demonstrated many are known to have taken their own lives.

141 Therefore the following is just but a small part of the custom of Raupatu:

“To show compassion or consideration to a person”

“Te whakaora i te tangata”

Take Whenua – Right or Reason to Land

142 Some customary and descriptive examples of the way in which our people identified their rights follows:

- Take tupuna Ancestral right, by reason of ancestry
- Take taunaha Bespeak, right through oral claim
- Take tuku Ceded, given, right given
- Take noho Occupation, occupation right or reason of
- Take rahui Reservation by reason of reservation
- Ahi ka Describes occupation fires
- Ahi ka roa Describes occupation fires over a long period

143 Notwithstanding the above, the following examples do not of course indicate any right:

He ahi pakaurere = Describes the evidence of fires lit by fugitives Pakaurere a species of locusts always at risk of predation

He ahi mawhitiwhiti	=	Describes the evidence of fires left by fugitives mawhiti = escape mawhitiwhiti = a species of grasshopper always at risk of predation
He ahi maueue	=	Describes the evidence of fires left by fugitives maueue = tremble Describes the remains of very small fires built or used by fugitives to ward off the cold and deliberately very small to avoid

144 Our elders would sometimes make the following comments if the fire was small and the heat was not as intense as they expected:

“Your small fire no one is going to kill you”

“E tama to ahi, kaore he tangata hei patu i a koe”

“Your fugitive fire, are you mistakenly expecting to be murdered”

“To ahi maueue, i pohehe pea koe, kei kohurungia koe”

145 Usually large fires were lit at night especially during winter in front of the temporary shelters used for tangi, a practice still used by some tribes, essentially to provide warmth. It is on these occasions one would hear these comments, when it was being lit or when its intensity and heat began to wane.

146 The relevance of these examples is that some of those who claim “Ahi ka” or “Ahi ka roa” might more correctly be described as Ahi Pakaurere, Ahi Mawhitiwhiti or Ahi Maueue. These are the terms used by our elders of Ngati Toa and Ngati Raukawa when orally recounting the history of their occupation and settlement as a consequence of their Raupatu.

Occupation and Use

- 147 Raupatu as described above meant just that, with all its far-reaching parameters. Much has been made in my view, through a non-Maori mindset of a requirement insisted upon, particularly by the Maori Land Court in the late 1800s, of the need for Maori to prove occupation and or cultivation or other usage, as evidence supporting claims of ownership or right. An absolute nonsense in our opinion and according to Maori custom. The notion that if you didn't occupy or use your land you didn't need it or own it is a nonsense.
- 148 The lands set aside by the Maori Land Court (and some have yet to be realized) seemed to take no consideration of Maori population growth. Those lands barely provided for that period. It would seem Maori were expected to die out as a race or through these tactics be starved into obscurity. Dr Featherston, Superintendent of the Wellington Provincial Government 1853 - 1871 was clearly convinced of this. In 1886 Featherston stated at an election meeting that "our chief duty [is] to make the dying couch of the [Maori] race as easy - as comfortable as possible." (Ross Galbreath, *Walter Buller The Reluctant Conservationist*, Wellington, GP Books 1989, p 138 – attached).
- 149 Occupation would certainly give a group of individuals the right to use any resources in an area and even the most senior or prominent chiefs would acknowledge that. They needed these people. They needed them to maintain a presence and of course to maintain their own strength for the sake of the whole tribe when the need arose. Such groups often provided portions of their harvest to the chiefs of the main settlements, to be used or stored in the tribal larder.
- 150 Other groups who may have no blood line at all to the tribe, but may have been part of the larger captive labour force, could be placed at strategic locations to protect land and resources or prepare flax, some to actually do the weaving, maintain gardens, catch and preserve or dry fish or birds and a host of other things. Their dwellings may not, because of their social status, have been worthy of mention, so history has not recorded them.
- 151 To position people all over one's territory, for most, was impossible. In the case of Ngati Toa who we know claimed Raupatu from the Whangaehu river

to Nelson and beyond in fact to the Arahura area, for a small group such as they were – even if one was to include their Taranaki and Raukawa kinsmen – would have been impossible to physically occupy this entire area.

- 152 Raupatu and the rights acquired through it, or as a consequence of it, was simply dependent on your ability to hold and defend whatever you may consider that to be. Be it land or other spoils as a result of such Raupatu.
- 153 The criteria that the Maori Land Courts of the late 1800s seemed to have focused on and had a fixation and mindset about were namely:
1. occupation;
 2. cultivation; and
 3. other examples of usage.
- 154 As far as Maori custom is concerned these criteria are open to question. These three factors, while they might be related to Raupatu, need have nothing to do with right of ownership.
- 155 Rights of ownership were absolutely dependent on a tribe's physical ability to hold what they owned or acquired. The customs were in fact very much a case of 'might was right' remembering that this was still very much the Maori world.
- 156 The example of this Maori demonstration of their belief in ownership and right is exemplified in the Wairau affair. Ngati Toa and even Te Rauparaha had begun to feel the pressure of pakeha influence and its effect on his people. It played on what might be described as a human failing of self-preservation and personal gain. However, he left the North Island with no intention of war. Most of his people had no arms. The pakeha record supports this view. He put aside the pakeha possessions and destroyed only what he considered to be his as of right. Maori did not commence the physical engagement and violence that eventuated. Our elders used to describe the commencement of this action in the following way:

“I te mea kei te komikomi te tou a te pakeha ka puhia mai ka hinga a Rongo ka mate”.

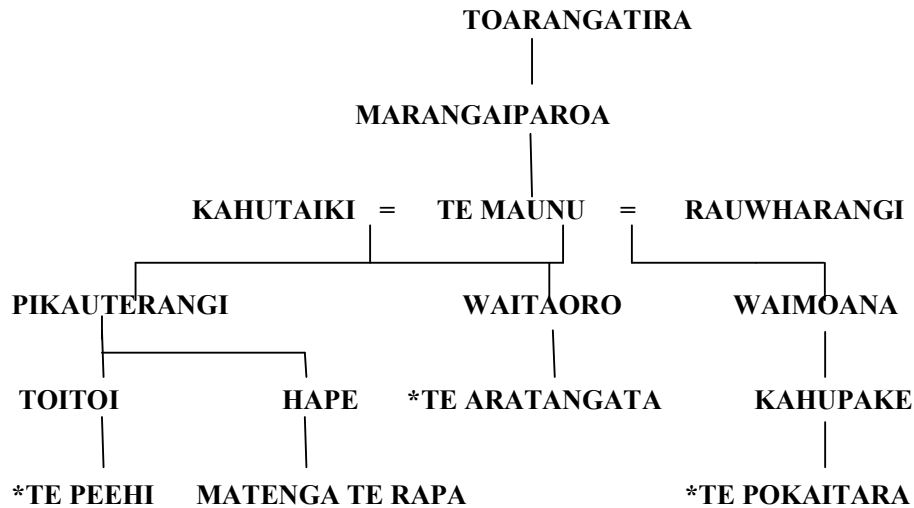
“because the Pakeha experienced the spasm and contraction of the rectum, he fired and Rongo fell and died”.

- 157 This statement illustrates the Maori deeper understanding of the human anatomy and body reflexes under certain conditions. The quote actually describes a natural human reflex when one is overcome with fear or frightened so this quote might be interpreted as follows - “because the pakeha was overcome by fear, he fired and Rongo fell and died”. I challenge any readers to test for themselves, this body reaction. If you get a sudden fright or start, or become tense, you will no doubt in my mind, have this experience, and try as you might, I doubt you will be able to suppress it.

Marriages and their consequences

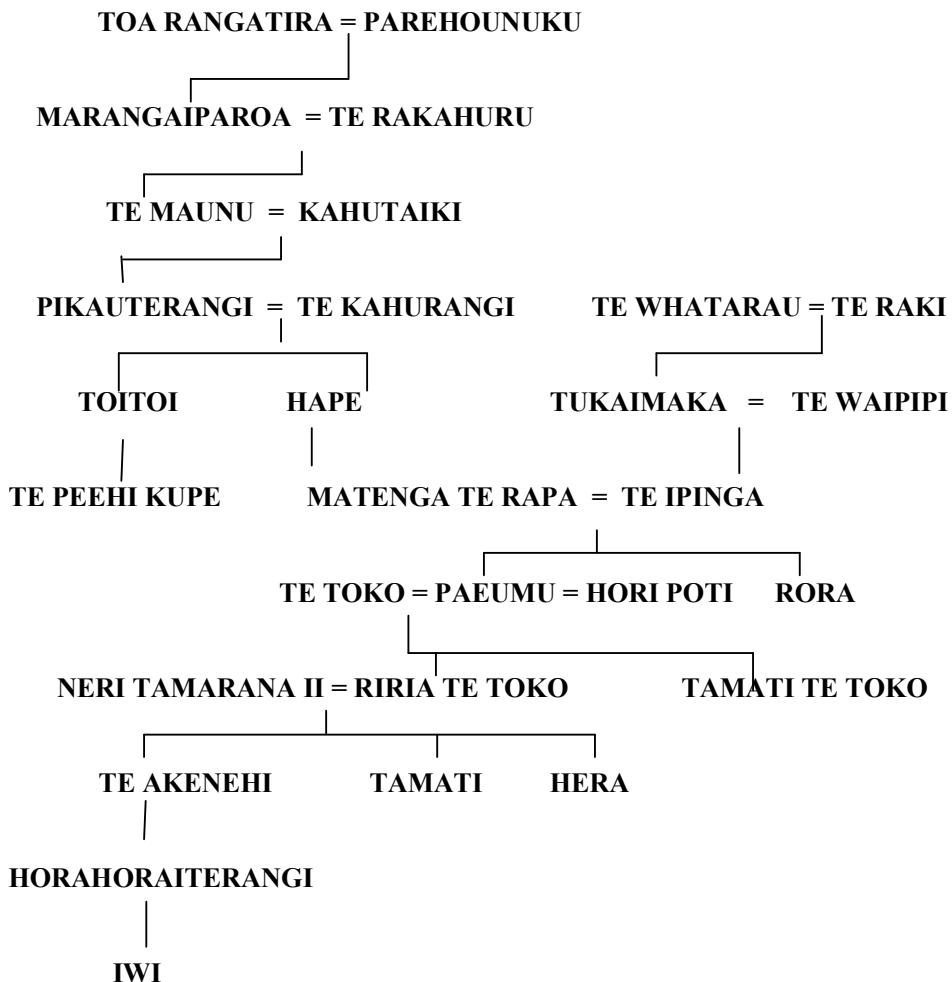
- 158 Some marriages were negotiated to halt the possible outbreak of open warfare. They were always between two persons of status, on both sides, and always with the approval of both tribes.
- 159 Other such unions were to cement peace negotiations to end a battle or after a battle.
- 160 Marriages between male or female captives with their captors was for the purpose of providing takawaenga between tribes, who may have been at war, or intending to engage in such activity.
- 161 The concept of takawaenga marriages demonstrates wisdom of foresight on the part of our tupuna. Ngati Toa chiefs gave their daughters as wives to pakeha traders and gave them land to live on to be able to control trade, goods and certainly guns to assist in the maintenance of their Raupatu. Some of the descendants of those who suffered defeat were to later join forces with the pakeha who by then were forcibly trying to take land with no reason and other land under laws he had devised. The ulterior motive of some of those who did this (ie join the colonists’ militia) was to acquire arms (guns) and they were prepared to support the pakeha in return. Some had been dedicated at birth; a fact recorded in song, to a life ambition to at sometime regain the lands of their ancestors. Some again were made officers in the pakeha militia.

- 162 The aforementioned marriage practices created what our customs describe as “Takawaenga”. They and their offspring became just that (the mediators or buffer states or go-betweens) in times of stress between their tribes. They had an important role of responsibility toward maintaining inter-tribal stability through this, and had a special status of varying degrees, dependent on the circumstances that created them, and of course, their own personal status. War may have had nothing to do with some marriages; nevertheless they all had sound reasoning.
- 163 Bloodline relationships often provided stability between tribes, although the actual link could be several generations removed. The need to maintain these bloodlines were often the reason for other marriages to reunite those blood lines and secure the relationship link for future generations.
- 164 To explain takawaenga marriages in more detail, I need to go back in time to the period when as a result of the battle between Ngati Toa and the Ngai Tahu in the South at Kaiapohia, Ngati Toa returned to Kapiti Island with a large number of prisoners.
- 165 The first taua South against Ngai Tahu was to confront the threat or in Maori terms (kai-upoko) of the Ngai Tahu chief Rerewaka, who had publicly threatened to disembowel Te Rauparaha with his niho-manga. Rerewaka was killed in that battle and the battle is known as Te Niho-Manga.
- 166 That taua went on to Kaiapohia at the instigation of the Ngati Toa chief and Ariki Te Peehi, who had previously had invitations to visit from the Ngai Tahu Ariki Te Maiharanui and Taiaroa. The extended excursion resulted in disaster for Ngati Toa. A number of Ngati Toa were killed including the chiefs Te Peehi, Te Aratangata and Pokaitara.
- 167 The following chart gives the geneology showing the relationship of the principal men killed at Kaiapohia (noted with an asterix *) also, Matenga Te Rapa who was later chosen – because of his relationship to them – to become the husband of the Ngai Tahu woman ‘Te Ipinga’.

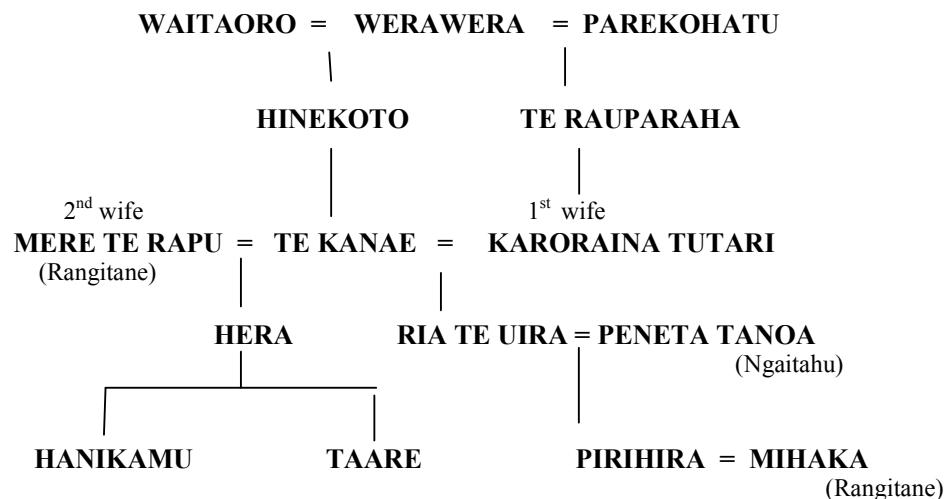


- 168 Ngati Toa withdrew and returned to Kapiti Island with prisoners taken at Kaikoura and elsewhere. There was now a need to seek revenge for those killed at Kaiapohia and in due course they returned and after defeating Kaiapohia continued on to Ripapa and Onawe. They returned with more prisoners.
- 169 It was after these campaigns in the South that in the case of my family Ngati Toa found that they had prisoners who provided them with the opportunity to create relationships which might bring some peace and stabilise relationships for the future. My ancestor Matenga Te Rapa was a chosen participant for the implementation of the custom creating takawaenga.
- 170 There were a number of marriages deliberately arranged, a practice (tikanga) that is common in many tribes. The participants were chosen carefully with a mind to satisfy the aggrieved parties on both sides or of both tribes.
- 171 One of the women taken prisoner was found to be the daughter of Tukaimaka a Ngai Tahu chief and the son of Te Whatarau. Her name was Te Ipinga. She was chosen to become the wife of Matenga Te Rapa who was closely related to those Ngati Toa chiefs killed at Kaiapohia. He was a first cousin to Te Peehi. Their fathers were brothers. Also a cousin to Te Pokaitara and they were all nephews of Te Aratangata. One of the children of this union was Paeumu or Riria Paeumu born at Kapiti. There were other children who died at Kapiti, the only other surviving daughter was Rora, whose descendants are in the South Island with Ngati Irakehu at Wairewa.

- 172 Paeumu was married at a young age to Te Toko of Ngati Rarua to create again takawaenga within those of Rauparaha's allies who by then had taken up occupation in the Top of the South Island.
- 173 When, many years later Ngati Toa allowed these people to return to their homelands Matenga Te Rapa went with his wife and her people and died at Wairewa.
- 174 Te Toko and Paeumu had 2 children, Riria Te Toko and Tamati Te Toko. After Te Toko died, Paeumu was bought back to Porirua and again married to Hori Poti to maintain the links with Ngati Toa and Ngati Rarua. They both returned to Wairewa where they lived most of the time until Paeumu died. Hori Poti came back and remarried.
- 175 Hori Poti was the son of Te Uatorikiriki and Joseph Thoms and hence the grandson of Nohorua, who was an older brother of Te Rauparaha.



- 176 Again during the Tukituki Patu Aruhe battle we have the example of takawaenga being created. Te Rauparaha's nephew Te Kanae, who was also his son in law, was given a Rangitane wife, Mere Terapu (who according to the Rangitane evidence was the daughter of the Rangitane chief Ihaia Kaikoura). Te Kanae and Mere lived at Wairau, their daughter was Hera who begat Hanikamu and his sister Taare.
- 177 Te Kanae by his first wife Karoraina Tutari, a daughter of Te Rauparaha, had a daughter Ria Te Uira who was also married by arrangement to Peneta Tanoa of Ngai Tahu and a daughter of this union was married to Mihaka of Rangitane.
- 178 The practice of matched marriages were not always as a result of war or conflict but all had similar reasons, to create takawaenga and stabilise relationships in the future.



This genealogy shows the marriages to Rangitane and Ngaitahu – as mentioned at paragraphs 175 and 176.

- 179 One could spend the whole day and more explaining the marriages which bind us together. The three Tainui factions involved in these Te Taihu claims have genealogical ties that began before they left Kawhia. They all have strong links to Taranaki Iwi, particularly Ngati Mutunga and Ngati Tama.
- 180 Takawaenga is a responsibility we (my family and many others) have been born into. My grandmother as an example would always ensure that she was present whenever Sir Eruera Tirikatene M.P. came to our district on his

election campaigns or on other visits, not necessarily because she supported the Labour Party but principally because of her takawaenga responsibilities to the respective Iwi. She wanted to ensure he would not be subjected to any abuse because of his Ngaitahu blood. Most people saw him as Ngaitahu.

181 Tirikatene himself was takawaenga being a great-grandson of Niho the Ngati Rarua chief one of those responsible for the conquest of part of the western side of the South Island. The story handed down to us is that the Ngaitahu chief, Tuhuru was defeated and surrendered his mere “Kai-kanohi”. That, as was often the case, was the reason he was not killed, and in further consideration of that his daughter Nihorere was given as a wife to Niho of Ngati Rarua. This marriage produced Wikitoria who had Tini the mother of Sir Eruera Tirikatene.

Chiefliness, Rangatiratanga, Chieftainship - Leadership

182 Maori had their own means of determining social status, for example:

Rangatiratanga	=	Evidence of breeding or greatness (Williams p 323)
Ariki	=	Senior or first born
Ariki Taungaroa	=	High chief or chiefs
Ariki Toihau	=	Supreme head
Ariki Kahutaratara	=	High chief of scattered tribes

183 Ariki were all acknowledged through bloodlines, they might develop and devolve into different levels of status according to a number of factors, e.g. seniority through bloodline in relationships to one another, knowledge, ability, character, etc.

Tohunga = Priest

184 The priest usually would descend from this grouping. They too had levels of attainment in their particular field of expertise.

185 It was not possible to be made an Ariki. Although it was possible to create through training someone to be like an Ariki, unless the bloodline was of Ariki lineage the person would be deficient. One had to first be born an Ariki.

Rangatira = Chief

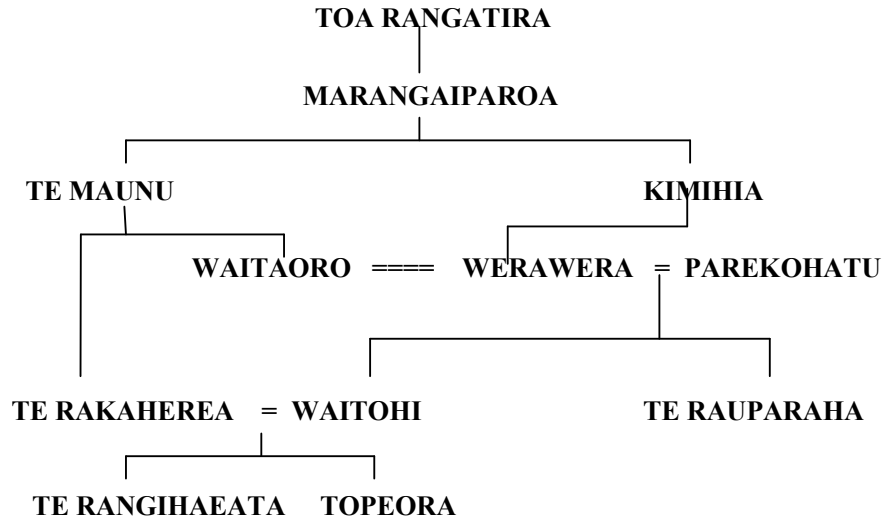
186 One might become the Rangatira over an area of land or other tribal estate both tangible and intangible. Their bloodlines needed to be in some cases senior or descend from a line of warriors, hunters, fishermen, agricultural expertise etc and they had to carry that responsibility demonstrating consideration for all their people. Any failing on their part which might put the tribe at risk economically and socially could result in them being removed by their peers or by veto of the whole tribe. A considerate Rangatira would always be sure his captive workers were cared for, they were important to both him and the tribe. Te Rauparaha was on more than one occasion known to have permitted his workers to eat before the rest of his people. No doubt they would have been mindful of the real possibility of supplementing the chiefs meal if there was insufficient for those who were to eat after them.

187 Unlike Ariki, Rangatira did not necessarily descend from senior or high status bloodlines. Te Rauparaha himself came from relatively junior bloodlines both on his father's and his mother's side. The circumstances of his birth and his later achievements and ability contributed to his elevation and acceptance by the tribe. His mother's people (Ngati Raukawa) have always maintained his coming was predicted and his becoming a leader and Rangatira in the fullest sense was not left to chance. Ngati Raukawa assisted the process as evidenced by his uncle Hape-ki-tuarangi, taking the young Te Rauparaha under his wing. His mother's people have often been credited with being responsible for the cunning he demonstrated at times. Ngati Raukawa simply thank those commentators for the compliment, because it was a quality among many others one needed to achieve to the heights of leadership he attained. Their rejoinder to Ngati Toa excluding them when speaking of Te Rauparaha was:

“and if it wasn't for Ngati Huia, those flashing defiant eyes of your man may never have grimaced at the world”.

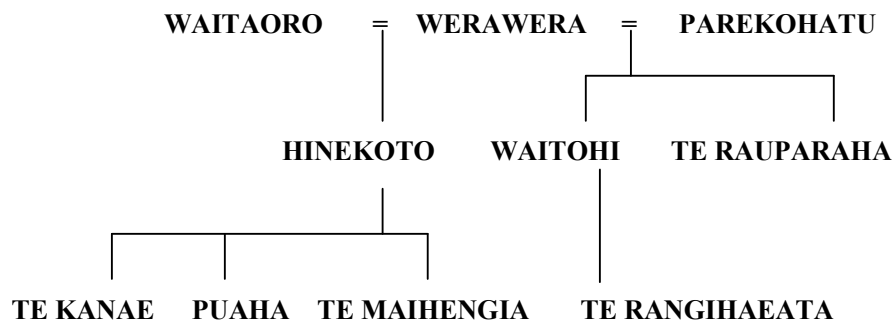
“Kite kaore ahau a Ngati Huia ko nga karu mawhiti o to tangata, kaore ano kia pukanakana mai ki to ao”.

188 An example is Te Rangihaeata, his sister's son. He was actually more senior by bloodline (see Whakapapa Chart I) through his father Te Rakaherea who was uncle to both his mother and Te Rauparaha.



189 Custom (tikanga) demanded that the near relationship of his mother takes precedence and he must respect his uncle.

190 The relationships of the key players during this period of our history has been, for the most part, overlooked. For example the brothers Te Kanae and Tamaihengia were said to have been taken prisoner by Te Rauparaha. They were not only Generals in his fighting force, but the sons of his sister; he was their uncle. Puaha, who has been recorded by some non-Maori commentators, as a Pakeha sympathizer. He was the brother of those two previously mentioned. He was also one of his uncle's generals.



191 **Te Rauparaha was the undisputed leader of the people and all those who came with him.** Wise decisions made by him had not needed to be questioned. On the other hand if there was some doubt the other chiefs, his seniors and elders would deliberate to reach consensus and then he would

deliver the collective decision. History and historians have attributed such decisions to Te Rauparaha solely, which in many instances might be quite wrong. The Maori Rangatira regime simply did not operate in that manner absolutely. Certainly not within Ngati Toa and we doubt it happened elsewhere. Ngati Toa customs do not substantiate that view.

- 192 Te Rangihaeata, the nephew, is known to have challenged his uncle's plans on more than one occasion and due to further consideration no doubt by a wider collective of chiefs caused a change in plans.
- 193 Ngati Toa say that Te Rauparaha had promised the people a new home, some of which had already been secured under a customary (tikanga) right but with a view to extending to Te Waipounamu. The goal was agreed before they left Kawhia. The final consent to it must have been a traumatic decision for them to make. They decided how to deal with those still living who were too old to travel, too weak and may have been too ill for such an undertaking. It is a matter which remains to this day confidential to Ngati Toa. He and his people planned the strategies to achieve their goal and they achieved it. We know there were battles where he was not physically present, but his warriors were aware of the goal, which was: rights of ownership and occupation, social and economic stability such as the Maori world, their Ngati Toa world, might allow.
- 194 The custom (tikanga) or right of Raupatu was established completely by Ngati Toa and their kinsmen of Ngati Koata and Ngati Rarua, Ngati Raukawa (there were some present with the initial arrivals) and their Taranaki whanaunga (relations), forcefully suppressing any resistance. Later arrivals of their Raukawa and Taranaki whanaunga (relations) helped to support, to fight and maintain the Raupatu custom (tikanga). They all have a Raupatu right – it is for that collective to reach consensus as to the extent each of them should be entitled and what the entitlement is to be. They must as a matter of custom (tikanga) recognise one another's contribution in having achieved the goal.
- 195 This Tribunal must not follow the bad precedents set by the Crown and Maori Land Courts of the past, and ignore Maori custom; it is in fact what this case is all about.

- 196 For instance there are recent examples like the Railways Land Settlement where payments were made to to claimants who had lost their ancestral right.
- 197 This as far as we, Ngati Toa, and we might also presume others are concerned, was wrong (he). This Tribunal since its role is to remedy wrong might consider recommending the Crown pay those amounts again but to those who are correctly entitled according to custom (tikanga).
- 198 We ask this Tribunal to give recognition to Maori custom (tikanga) and remind particularly all Maori members of the Tribunal that any compassion they may experience or feel must not influence their decisions. To deny custom in this hearing may impact or set precedents affecting their own tribes at some time in the future. If there is reason for compassionate consideration then Ngati Toa and others need to be able to, and given the opportunity, to express their Rangatiratanga by making that decision themselves. This Tribunal must not pre-empt that custom (tikanga) and presume to exercise Tribunal Rangatiratanga in place of that which is the right of those tribes concerned.

People of the Land -Tangata Whenua

- 199 One often hears people referring to themselves or others as tangata-whenua or the tangata whenua. Some examples, which are in relatively common use today, follow:

Tangata whai mana	Person of authority
Tangata kaha	People or person of strength (strength or influence) (authority, character)
Tangata kainga	People or person of a place, pa or place of occupation

- 200 Other iwi have made tangata whenua claims in Te Taihū. Ngati Toa has the understanding that to claim tangata-whenua status in every sense of the word one has to be able to prove not only ancient occupation, but that you have consistently maintained your occupation and exercised control, at least until the time of laying claim to such status.

- 201 The custom (tikanga) of Right or Reason (whai take) meant you had to, not only claim to have maintained your “Right”, and occupation, but be able to prove or show and demonstrate that to have been the case.
- 202 You have to prove you have had the ability to defend that status from those who may encroach, squat, or challenge your right of ownership through war or any other possible means.
- 203 Being unable to do this meant you lost all rights including, all of the following:
- Tangata Whenua status
 - Mana Whenua
 - Take Tupuna
 - Ahi Ka
 - Ahi Karoa
 - Take Taunaha
- 204 Your rights were extinguished by anyone able to suppress and dominate all forceful resistance you may have been able to muster.
- 205 The dominant oppressors as a matter of custom (tikanga) would acquire by their actions all of those rights under the same conditions until those who have been oppressed are able to or have the power to reverse such a situation.
- 206 Ngati Toa and the Taranaki tribes did suppress all forceful resistance many years ago, and have established Ancestral Rights (Take Tupuna), Tangata whenua status, Ahi Ka, Ahi Karoa etc, and have maintained those customary rights by the customs (tikanga) described. They had support from Ngati Raukawa in later engagements towards the maintenance of these traditional customary practices. Ngati Toa and the Taranaki tribes who occupied Te Taihu and surrounding area can rightly claim they have never been displaced by anyone but the Crown.

Loss of Ngati Toa Rights by Actions of the Crown

- 207 Ngati Toa, claim they were denied by the actions of the Crown through the Crown's actions against Te Rauparaha and Te Rangihaeata.

- 208 We, Ngati Toa, repeat the Crown's actions were deliberate. They were not only premeditated to remove these chiefs but to throw the tribe into a state of trauma, confusion and stress. They were reluctant to show resistance toward the Crown and Crown actions in fear that retribution would be taken against their chief and leader, held prisoner by the Governor.
- 209 Ngati Toa claim to have agreed to other land alienations in the hope and understanding that Te Rauparaha would be released. In fact, they claim in most cases to not even have tried, or shown any resistance and simply refused to be seen to be even involved, out of fear for retribution against their chief.
- 210 Ngati Toa claim this to have been under duress.

The Battle of Waiorua (Te Umupakaroa)

- 211 The last attempt or forceful resistance by resident Tribes and their allies was what history records as the Battle of Waiorua. However, Ngati Toa knows the battle as Te Umupakaroa which commemorates the way the invaders were consigned to the oven.

Umu = oven

Paka Roa = crisps, or cooked consumerables long

- 212 Te Umupakaroa, therefore, describes the ovens, and the crisps from the ovens being eaten for days. Ngati Toa since that time suppressed all forceful resistance and to this day has never suffered defeat.

Mana-Authority, Power, Control

- 213 Williams p 174 gives at least (8) uses for the word mana. There are others or more correctly all of these and others have the potential for far greater application depending on the context in which they are used.
- 214 Mana over all one's possessions both tangible and intangible is extinguished completely by suppression or defeat.
- 215 Mountains, landmarks, sacred sites, burial grounds/caves, every possible asset would be lost to the (mana) authority of the suppressor. Maori would then through the customary practice of

Waerea = 'clearing by removal' or
Whakanoa = 'render common or ordinary'

take absolute authority.

- 216 It needs to be understood these practices are distinctly different. Waerea is used to appease the spiritual influences that might pertain to property, or spiritual protective measures Maori used and applied to some of their personal property. The ritual of 'waerea' does not necessarily change the sacred (tapu) nature of anything. It simply clears away undesirable spiritual obstructions, and seeks to protect the performer or his people spiritually.
- 217 Whakanoa was used for similar reasons but is used to render anything common.
- 218 Ngati Toa oral traditions are that the ritual of Waerea was performed at, for example, the ancient burial caves on Kapiti Island and elsewhere. Whakanoa has never been performed at those burial caves and some of the other places acquired under Raupatu.
- 219 The sacredness of such places from ancient times so far as we Ngati Toa are concerned is intact to this day.
- 220 Ngati Toa knew they too were descendants of Kupe and Whatonga, and have maintained the sacred nature of such burial sites as the burial caves on Kapiti Island by protecting them and providing guardianship over them, e.g. Te Ataotu the highly regarded captive chief. For Ngati Toa to have desecrated particularly Wharekohu would be to offer offence to their own ancestors. Ngati Toa on more than one occasion moved the remains of some of their own dead from other parts of the Kapiti Island to the Wharekohu Caves. They are there to this day.
- 221 Some writers have even suggested Te Rauparaha's remains or in fact his body on the evening after burial in Otaki was secretly removed to Kapiti Island and in fact to the caves at Wharekohu.
- 222 Ngati Toa as far as the whereabouts of Te Rauparaha's remains are concerned neither confirm nor deny they are anywhere but Otaki. Many people witnessed the burial at Otaki. As to what might have happened before or after that burial ceremony and any knowledge they have of the

matter will not be shared with this Tribunal or any other forum and remains confidential to the tribe.

- 223 Ngati Toa did acquire the authority (mana) over the southern end of the North Island and extending to parts of the northern end of the South Island and outlining islands. All by means of and through the application of Maori custom and customs (tikanga). The customs and traditional practices of ritual and ceremony were very much applicable to all tribes and this submission is not intended to belittle the customs of others whose tribal customs may differ.
- 224 Ngati Toa say that we acquired the authority (mana) along with, in the first place, people from the far north. We later extended that authority with the support of some of our Taranaki whanaunga (relations). With extra support of even more Taranaki whanaunga (relations) and Tainui whanaunga (relations) of Ngati Rangatahi and Ngati Raukawa, Ngati Toa, Koata and Rarua were able to maintain their hold on that authority.
- 225 If there is another tribe to be considered as a consequence of Ngati Toa history of Raupatu and occupation then it might be Ngati Raukawa. Ngati Raukawa were strategically positioned by Ngati Toa to guard the northern frontiers of the acquired territory. Primarily because of blood and tribal affiliations they (Ngati Raukawa) brought to the overall alliance.
- 226 This period (1823-1840) saw the arrival and beginning of non-Maori establishing more permanent settlement of which some was approved and encouraged by Te Rauparaha himself. It is said Te Rangihaeata and his sister Topeora were constantly in disagreement with their uncle on the matter and as a display of their sincerity in their beliefs and unwillingness to be marginalised by the Pakeha presence and what they saw as a compromise of their custom (tikanga), adamantly refused to wear European clothing or accept it for themselves when offered. Ngati Toa chiefly women were given in marriage to whalers and traders to encourage settlement and establish trade links and more particularly to control the availability of firearms in order to maintain their Raupatu Right.

Tribal Treasures/Valuables-Taonga

- 227 (Taonga) Treasured heirlooms or weapons and other tangible possessions were, and many still are, the prized possessions of those tribes whose history has decreed they should become their possessors and current guardians or owners.
- 228 They were and still are the tangible expression of authority (mana) and symbolise all the history that comes with them.
- 229 Many greenstone mere, for example, can be shown to have been in the possession of several tribes down through time. This enhanced the particular taonga in Maori custom (tikanga) and caused many to be particularly sought after. Added to that, they symbolised the loss of authority in war if taken or surrendered. Surrendering such possessions would usually result in consideration being given, and understandings, or arrangements being arrived at of varying limitations. An example is recorded in other writings of a captive chief at the Battle of Waiorua on Kapiti Island casting his greenstone mere into the sea, trying to avoid its capture or surrender. Unfortunately, he was seen and was made to retrieve the weapon.
- 230 These are some of the reasons why these weapons are highlighted in the letters written by the Ngati Toa chiefs on 11 December 1851 and 29 September 1852.
- 231 These treasures (taonga) might also be exchanged in peace and become the tangible expression of any such transaction as might be agreed to between tribes or chiefs absolutely binding on those concerned.
- 232 They might be described for the non-Maori mind as the equivalent or comparable to a Treaty or Memorandum of Understanding.
- 233 Many such understandings are still in existence today and the conditions while they may now be outdated will be remembered and maintained by the custodians of such taonga.
- 234 Even when reaching agreement with the pakeha over land and other matters, gifts were given. More often than not weapons of immense historical importance to Maori – expressions of sincerity, authority and importance cemented the arrangement and occasion.

- 235 Sadly on more than one occasion the non-Maori party to these arrangements did not abide by the conditions. They either took the taonga out of the country or sold or disposed of it and as far as Maori are concerned trampled the authority (mana) of the whole transaction. We now see such articles appearing in auction sales around the world when most should have been returned to the giver, particularly if one party to the arrangement failed to comply with the conditions.
- 236 The taonga, therefore, are very much a component of authority and all of those things already described.
- 237 Tribal treasures (taonga) used in this way placed the obligation on the receiver to protect them, physically if necessary. They were sometimes used in future arrangements and passed into the possession and custody of others.
- 238 Any such use needed to be of at least equal importance so as not to detract or devalue the status (mana) of their tangible significance to an agreement already made.
- 239 The previous agreements, and there may have been several in which such taonga were used should all remain intact. They would all be enhanced as would the tribe or giver, and add value in Maori terms to future agreements or usage. The historical importance of such taonga for Maori according to custom and tradition was further enhanced.
- 240 Like almost all other customs, the basic requirement was the physical ability of a tribe to protect and maintain control. One Maori descriptive term is strong hand (ringa kaha).

Final Comments

- 241 There are others who claim a right in Te Taihū; this is for them to do. Ngāti Toa, I believe, have an obligation to at least support their Taranaki whanaunga Te Atiawa and Ngāti Tama (and of course Ngāti Koata and Ngāti Rarua) and I expect them to feel a similar obligation.
- 242 The extent of each of the allied groups entitlement is something only they should decide on. I don't believe a court or tribunal is needed or would be

needed if we just took the time to come to a consensus, and to understand some of the customs that governed our earlier existence.

- 243 These statements are not intended to question the ability of qualified judges. I do, however, question the ability of some non-Maori who may be in a position to influence the final outcome, and their competence to ‘understand and feel’ Maori custom. I believe unless you can feel these customs and traditions - the few that I have written about - you will never and can never fully understand them.
- 244 That, of course, would or should not apply to Maori who might be required to judge or give a decision.
- 245 I am sure that at times Maori judges will experience reactions in different parts of their anatomy when some evidence is presented to them. What is meant by ‘feeling’ these things can only be experienced if, in my opinion, one has the ability known to us as ‘Maori spirituality’ – ‘wairua Maori’.
- 246 I doubt if non-Maori who may be involved ever have the experience, certainly not to the same extent that most Maori would.
- 247 I acknowledge the scholarship of non-Maori historians and researchers. We of Ngati Toa are grateful for their overwhelming contributions to our history in this case.
- 248 I am sincere when I say they can’t possibly feel as I do about the imprisonment of Te Rauparaha.
- 249 He was never formally arrested or charged.
- 250 The final settlement and occupation of Te Taiuhu may well have been quite different if Te Rauparaha was free to exercise the rangatiranga (authority) he demonstrated by his appearance at Wairau to stop the surveys.
- 251 Grey himself played on the Maori custom of muru when he asked for land in consideration of his dead.
- 252 The Crown deliberately removed both Te Rauparaha and Te Rangihaeata from all discussions over land which they would have otherwise participated in.

253 I believe anyone can write about these events but I don't believe they can ever hope to feel the pain, the frustration, the anger and all the other emotions we do.

Ngarongo Iwikatea Nicholson

Kaumatua of Ngati Toa and Ngati Raukawa 9 June 2003