

**NATIONAL WINNER  
DEMOCRACY MATTERS**



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**SIGNING OF THE TREATY OF WAITANGI**

## Signing of the Treaty of Waitangi

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Modern reconstruction, showing Tāmati Wāka Nene signing the Treaty in front of James Busby, Captain William Hobson and other British officials and witnesses. Some Maori signatories are assembled on the left.

See appendix 1

# The Treaty of Waitangi

## Maori vs. The Crown

### HOW ONE DOCUMENT CHANGED A NATION FOREVER

*Jemima Pinto-Menezes | National History Challenge | 28<sup>th</sup> August 2020*

Imperial protection, recognition of an independent Maori nation based on friendship and strengthening of trade OR transfer of sovereignty & exclusive land rights to the Crown thereby making New Zealand a Crown Colony!  
Lost in translation, perhaps? A deliberate coverup? Highly likely! Contested History? Absolutely!

In the year 1831, a little over a dozen Maori Chiefs requested King William the IV of England for security as they feared of an attack from the French after a warship was spotted in the waters surrounding Aotearoa<sup>i</sup>. “The Colonial Office in London appointed James Busby to the post of British resident in New Zealand. Arriving in May 1833, Busby’s job was to protect traders, settlers and Maori.”<sup>ii</sup> The resulting Treaty of Waitangi has caused contestability from its inception because of the different viewpoints of the treaty and the perceived outcome by both Maori and British. Maori signed the treaty believing that it would lead to shared authority, protection from foreign powers and settlement which would increase the demand for Maori products to sustain the settlements and settlers whereas the Crown saw it as assurance of their imperial status over another colony in the Asia Pacific.

Created to break the Declaration of Independence, the Treaty of Waitangi was born from a Colonially contested beginning. The Declaration of Independence of New Zealand was a document in the Maori language, titled ***He Wakaputanga o te Rangatiratanga o Nu Tirene***. The Declaration was triggered by the activities of an eccentric Frenchman, *Charles de Thierry* who claimed that he would set up a “*sovereign and independent state*”. The Declaration of Independence was initially signed by 34 northern chiefs at Waitangi on 28 October 1835. The Declaration, among other things, declared that all sovereign power and authority in the land resided with the chiefs “in their collective capacity.” This was in return for “friendship and protection” that Maori were to give British subjects in New Zealand.

The chief invited the king, “to continue to be the parent (matua) of their infant state and its Protector from all attempts upon its independence.” Finally, in May 1839, came the news that The New Zealand Company<sup>iii</sup> was going to

buy land for free settlers who would arrive in September 1839. 'This Forced the British Government into action, as they were concerned that violence might break out between settlers and Maori.'<sup>iv</sup>

The Treaty of Waitangi was signed in February 1840 under the pretense of having Britain as an ally. Busby by his own account, saw this as a means to make the country "*a dependency of the British Empire in everything but name*". Whereas the chiefs saw it as a guarantee by the crown of their independence as a strengthening of their relationship with the British crown and a promise of protection. Looking back, Maori have looked to the declaration as British recognition of an independent Maori nation'. 'In the English text of the treaty, Maori leaders gave the queen "*all the rights and powers of sovereignty over their land*"<sup>vi</sup>. 'In the Maori text of the treaty, Maori leaders give the queen "*te kawanatanga katoa*" — *the complete governance over the land*.<sup>vii</sup>

The information in these two versions are vastly different as the English version implies that the Maori are to give over their land to the queen ( i.e. become a colony) whereas in the Maori version, they only give the queen the right to protect their land.

'In the English translation, Maori leaders and people, collectively and individually, confirmed and guaranteed "*exclusive and undisturbed possession of their lands and estates, forests, fisheries, and other properties*".<sup>viii</sup> They agreed to the crown's exclusive right of pre-emption over their lands.

'In the Maori text of the Treaty, Maori were guaranteed "*te tino rangatiratanga*"- the exercise of their chieftainship over their lands "wenua", villages "kainga" and all their property/treasures "taonga katoa"<sup>ix</sup>. They agreed to give the Crown the right to buy land from them should the Maori wish to sell."<sup>x</sup>

Land rights were a big issue between the Maori and Pakeha<sup>xi</sup>, In the British version, the Crown had the most right to buy land i.e. the Crown had the 1<sup>st</sup> opportunity to buy land even if their offer was lower than other competitors. In the Maori version, the Maori agreed that the Crown had the mere right to buy from them **IF** they wished to sell. 'It is significant but a key feature of the treaty of Waitangi was the imposition of crown pre-emption (the exclusive right of land purchase) in New Zealand making it clear that private settlers could not buy land directly from Maori: instead Maori could sell land only to the crown'<sup>xii</sup>. Maori signed the treaty believing that it would lead to shared authority, protection from foreign powers and settlement which would increase the demand for Maori products to sustain the settlements and settlers.

The New Zealand Constitution Act 1852 led to the establishment of a parliament by and for settlers and from which Maori were effectively excluded. In response Maori developed their own movements for a separate Maori parliament for a Maori king or for a powerful district runanga (councils). Other acts of defiance were also committed by the Maori e.g. Hone Heke Pokai a Ngapuhi chief, cutting down the British flagpole several times to show that the British were unwelcome and not wanted.

The 1860s was a disastrous decade for the Maori. The crown deliberately used armed force to drive through land purchases, crush Maori autonomy movements and confiscate land. Native land court 1862, while claiming to give effect to the treaty contributed to the process of unravelling many safeguards of the treaty. Maori found that they could not plead the treaty in New Zealand courts in defense of their lands, waters and rights as the treaty was not part of domestic law. The Native land court assisted in the colonization of New Zealand as now Maori land could be sold to settlers with no regard for tribal authority and Maori customs relating to land ownership.

From the 1870s through to the 1970s, there was an increasing demand by Maori for ratification of the treaty to give it real effect in support of Maori rights and to form the basis of compensation for injuries done in breach of its terms or principles. This resulted in the Treaty of Waitangi Act 1975 and its ensuing amendments which set up the Waitangi Tribunal to inquire into treaty claims and to investigate and resolve historical Maori grievances.

Although some historians support the lost in translation theory, there was an element of deception involved in the wording of the 2 versions of the Treaty of Waitangi. The historical events that followed the historic signing of the Treaty of Waitangi such as The Lieutenant Governor Hobson proclaiming British sovereignty over New Zealand in May 1840 (just 3 months after the treaty signing) therefore, making it yet another Crown colony, The New Zealand Constitution Act 1852, The Native Land Court 1862, and the use of armed force to drive through land purchases, crush Maori independence movements and confiscate land. All give credence to the view that the deliberate actions of the Crown led to this tumultuous and much contested era in history.

# Hōne Heke cuts down the British flagstaff - again

19 January 1845



The first Māori to sign the Treaty of Waitangi, Ngāpuhi chief Hōne Heke Pōkai soon became disenchanted with the consequences of colonisation. He expressed his outrage by repeatedly attacking the flagstaff on the hill above Kororāreka (Russell).

Hōne Heke chopping down the British flag is an enduring image in New Zealand history. Traditional Pākehā interpretations portrayed him as a 'rebel' who was finally subdued by 'good Governor' George Grey. In reality, questions of authority in the north remained unresolved well after 1840, years in which the Bay of Islands also lost its political and economic importance.

Te Haratua, Heke's right-hand man, first attacked the flagstaff in July 1844. The British re-erected it, but it was levelled twice in January 1845. A fourth attack on the flagstaff on 11 March signalled the outbreak of war in the north.

The 'Flagstaff War' was no simple matter of Māori versus British – two Ngāpuhi factions squared off against each other. Heke and Kawiti fought both the Crown

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<sup>i</sup> Aotearoa means 'Land of the Long White Cloud'

<sup>ii</sup> Excerpt from THE TREATY OF WAITANGI by ROSS CALMAN. Section II, Before the Treaty, Chapter 8 The British Government Intervenes. Page 18

<sup>iii</sup> Like the East India company

<sup>iv</sup> Excerpt from THE TREATY OF WAITANGI by ROSS CALMAN. Section II, Before the Treaty, Chapter 8 The British Government Intervenes. Page 19

<sup>v</sup> Excerpt from THE TREATY PART 1, INFORMATION PROGRAMME by State Services Commission. Page 8-9. [www.treatyofwaitangi.govt.nz](http://www.treatyofwaitangi.govt.nz)

<sup>vi</sup> Excerpt from, ALL ABOUT THE TREATY, INFORMATION PROGRAMME by State Services Commission. Page 6. [www.treatyofwaitangi.govt.nz](http://www.treatyofwaitangi.govt.nz)

<sup>vii</sup> Excerpt from, ALL ABOUT THE TREATY, INFORMATION PROGRAMME by State Services Commission. Page 6. [www.treatyofwaitangi.govt.nz](http://www.treatyofwaitangi.govt.nz)

<sup>viii</sup> Excerpt from, ALL ABOUT THE TREATY, INFORMATION PROGRAMME by State Services Commission. Page 7. [www.treatyofwaitangi.govt.nz](http://www.treatyofwaitangi.govt.nz)

<sup>ix</sup> Excerpt from, ALL ABOUT THE TREATY, INFORMATION PROGRAMME by State Services Commission. Page 7. [www.treatyofwaitangi.govt.nz](http://www.treatyofwaitangi.govt.nz)

<sup>x</sup> Excerpt from, ALL ABOUT THE TREATY, INFORMATION PROGRAMME by State Services Commission. Page 7. [www.treatyofwaitangi.govt.nz](http://www.treatyofwaitangi.govt.nz)

<sup>xi</sup> Excerpt from, ALL ABOUT THE TREATY, INFORMATION PROGRAMME by State Services Commission. Page 7. [www.treatyofwaitangi.govt.nz](http://www.treatyofwaitangi.govt.nz)

<sup>xii</sup> Pakeha means a white New Zealander opposed to a Maori. — Oxford Languages Online Dictionary

<sup>xiii</sup> Excerpt from THE TREATY PART 1, INFORMATION PROGRAMME by State Services Commission. Page 11. [www.treatyofwaitangi.govt.nz](http://www.treatyofwaitangi.govt.nz)

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Appendix: 1 –

i. Alexander Turnbull Library, National Library of New Zealand Te Puna Mātauranga o Aotearoa, New Zealand History, Updated 18th August 2014, 'Signing of the Treaty of Waitangi', <https://nzhistory.govt.nz/media/photo/the-signing-of-the-treaty>, accessed 12th August 2020

I used this picture as my cover page as it wonderfully depicts this historical moment when one document changed a nation forever.

Appendix 2: -

i. Alexander Turnbull Library, updated 21st January 2020, 'Hōne Heke cuts down the British flagstaff – again', <https://nzhistory.govt.nz/hone-heke-cuts-down-british-flagstaff-for-a-third-time>, accessed 12th August 2020

I used this picture to highlight how the Maori people reacted to this contested document that changed their lives forever.

## SECONDARY SOURCES – BOOKS

i. Calman. R, 2011, The Treaty of Waitangi, 2nd Edition, Libro International, New Zealand

The Treaty of Waitangi by Ross Calman was a main resource for my essay and helped me understand the complex contested history that makes up the Treaty of Waitangi. As per my endnotes, I have used direct quotes to give viewers an insight into the authors' perspective of the events surrounding this infamous treaty. According to acknowledgements in this book the author used pictures from Alexander Turnbull Library of the National Library of New Zealand/ Te puna mātauranga o Aotearoa; Archives New Zealand/ Te whare tohu tūhīhinga o Aotearoa; and the Northern Advocate, therefore showing the reliability of the aforementioned book.

I obtained this book from the State Library of Western Australia.

i. Orange. C, 1990 (March and July), The Treaty of Waitangi, 2nd and 3rd Edition, Allen and Unwin, Australia

ii. Beale. F, 2020, Mission Girl, Scholastic New Zealand Limited, New Zealand

## SECONDARY SOURCES - WEBSITES

i. State Services Commission, published 2005, All about the Treaty, [www.treatyofwaitangi.govt.nz](http://www.treatyofwaitangi.govt.nz), accessed 2nd July 2020

The information and valuable insights I gained from reading this booklet helped me to structure my essay. This booklet provided me with precise historical timelines as well as pictures and quotes for my essay. I obtained these booklets from the official government website [www.treatyofwaitangi.govt.nz](http://www.treatyofwaitangi.govt.nz). This booklet is a part of the series from the Treaty of Waitangi Information Programme.

ii. State Services Commission, published 2005, The Story of the Treaty Part 1, [www.treatyofwaitangi.govt.nz](http://www.treatyofwaitangi.govt.nz), accessed 2nd July 2020

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iii. State Services Commission, published 2005, The Story of the Treaty Part 2, [www.treatyofwaitangi.govt.nz](http://www.treatyofwaitangi.govt.nz), accessed 2nd July 2020

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iv. Orange. C, Te Ara — the encyclopedia of New Zealand, published 20th June 2012, The Treaty of Waitangi, <http://www.TeAra.govt.nz/en/treaty-of-waitangi/print>, accessed 2nd July 2020

This detailed article by Dame Claudia Orange who is a renowned expert on the Treaty of Waitangi provided me with precise historical background, timelines and detailed knowledge from the creation to the implementation and repercussions of this contested document. I accessed this article from the official government website [www.TeAra.govt.nz](http://www.TeAra.govt.nz)