

IN THE WAITANGI TRIBUNAL

Wai 2490

IN THE MATTER OF The Treaty of Waitangi Act 1975

AND

IN THE MATTER OF The Ngāpuhi Mandate Inquiry

**BRIEF OF EVIDENCE OF TITEWHAI HARAWIRA
DATED 20 NOVEMBER 2014**

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I, Titewhai Harawira, state:

Executive Summary

1. My name is Titewhai Harawira, and I provide this evidence in support of Te Rōpū o Tūhoronuku Independent Mandated Authority and in opposition to the applications filed by claimants in the Wai 2490 inquiry.
2. This evidence addresses:
 - (a) my long involvement in fighting for the rights of Ngāpuhi and of all Māori;
 - (b) the origins of Tūhoronuku;
 - (c) settlement and hapū rangatiratanga;
 - (d) who is suffering prejudice;
 - (e) Te Rōpū Whaiti;
 - (f) why I changed from opposing Tūhoronuku to supporting it; and
 - (g) how there is no realistic alternative to Tūhoronuku on the horizon for Ngāpuhi.

Introduction and whakapapa

3. My full name is Titewhai Te Hoia Hinewhare Nehua-Harawira. I reside at 4 Kiritoa Street, Avondale.
4. I am a Ngāpuhi Kuia of Ngāti Hau descent.
5. I descend from Tapua and Te Kawehau of Ngāpuhi. Ko Tapua te tohunga, te rangatira o Ngāti Hao nō Hokianga. Te Kawehau descends from Te Wairua. Their son Patuone, married Te Hoia and had Hohaia who married Kateao and had Te Tawaka.
6. Te Tawaka married Eru Nehua who was raised by Kawiti, a water boy at Ruapekapeka.
7. Their eldest son Hone Nehua married Te Whare Teneti from Aotea, better known as the Great Barrier Island.
8. Hone Nehua and Te Whare Teneti were my grandparents who I fondly refer to as Puupapa and Puumama.
9. Before I begin, I want to acknowledge our Kaumātua and Kuia and especially the few Tohunga left amongst us today.
10. Today, I confirm and declare that our people are not Te Paparahi o Te Raki Māori - we are Ngāpuhi and I am Ngāti Hau me Ngāti Hao, Hapū O Ngāpuhi.

11. I also echo the sentiment of those before me and declare that Ngāpuhi signed Te Tiriti o Waitangi, not the Treaty of Waitangi.

My background

12. I grew up in Whakapara and was raised as a puhi. Throughout my upbringing I was taught to stand up for my beliefs and to fight injustices where I saw them.
13. I started my schooling at Whakapara Native School. At a time when students were being strapped for speaking Māori, Puupapa went to the school and told the teachers they were never to strap me and that protection lasted the whole time while I attended the Whakapara Native School. I watched my cousins being strapped and having their mouths washed out with soap by the Pākehā and Māori teachers. That was the policy of the education system of the time, to force the learning of English.
14. In terms of my early years and education – I remember vividly that Puupapa had strong views about education and the education of women in particular. He considered it to be imperative that women be educated. This is why I was sent to Queen Victoria College in Auckland, where my mum and her four sisters were educated.
15. Puupapa was also keen on ensuring equality between men and women. As such, these values were instilled in me from a young age. So much so that one of the first things I noticed when I was at school was that although all the pupils and teachers were female it was a man who was enlisted to come in and teach us Māori (which was at least taught at Queen Victoria College).
16. I was fluent in the Ngāpuhi dialect at this time and refused to be taught Māori by a man at an all-girls school where all the rest of the staff were female. Naturally I was punished for my defiance. I was made to polish corridors, the chapel, and the cross on the chapel altar. In this way the school authorities tried to make me subservient to this male. The school even contemplated expelling me.
17. However, I was staunch because Puupapa instilled in me that I was special and that nobody had a right to punish me. The school finally accepted my position. This was the first time that I had taken a stand. And in this way my first taste for civil disobedience came as a petulant teenager at an inner-city boarding school.
18. I returned to Whakapara after Queen Victoria College.
19. I married after my husband-to-be returned from the Second World War after serving in the 28th Māori Battalion. We became part of the forced relocation or urban drift to the city of Auckland. We left our tupuna whenua and went in search of employment in Auckland.
20. In Auckland we became founding members of the Ngāti Rahiri Māori Committee in Avondale. We did this because we found it had become necessary for us to become involved in community issues while raising a young family.

21. Over the years, we had opportunities to help a number of people, Māori and Pākehā alike. The calls came at all hours of the day and night from people from all walks of life seeking our assistance. They were never turned down. A beaten housewife, a family that needed food or a whānau that was struggling to pay their bills: they were all welcomed in by us and our whānau. Today, many of them have become doctors, accountants and lawyers. I even recall affording an old Pākehā man the dignity to lie in state in our home when he died - he seemed to have no family at all.
22. I want to acknowledge my late husband John Puriri Harawira. His support during the early years helped me become the strong figure I am today. He was the best husband and father – gentle and very supportive of everything I did. He was always there for our children.
23. Throughout this brief I will be drawing on my experiences from my youth right up to the present day and although I understand that there is a legal process involved in these proceedings, my primary concern here is to provide the Tribunal with an account that is real, relevant and honest.

The struggle

24. I wish to speak about the Māori struggle which has long been a passionate fight for me – as I have taken active roles in organisations and movements such as Ngā Tamatoa, the Māori Peoples Liberation Movement, the Waitangi Action Committee, the Bastion Point and Raglan Golf Course protests, the Nuclear Free and Independent Pacific Movement, the New Zealand Māori Council and the Māori Land March to name just a few.
25. Through my involvement in these matters (and others as well) I have had the opportunity to canvas issues on behalf of Māori on numerous occasions. And I now stand before you today in support of my whānau and my people who have waited patiently to have their evidence presented to the Waitangi Tribunal for some time now – to speak on issues that are of immense importance to our people.
26. I have enjoyed the active role that I have played within these various movements. In particular, I enjoyed my role within the movement that changed the term "Nuclear Free Pacific" to "Nuclear Free and Independent Pacific". Within this line of work I have not only spoken on issues of importance but furthermore have formulated many lifelong relationships within the Pacific Independence Movement.
27. Within these movements, people have bravely sought to ensure that our message was heard loud and clear, even when faced with the armed offenders squad, the police or the army.
28. Within this work, I also had the opportunity to mediate disputes amongst mayoralty candidates, gangs, and Government Departments, while at the same time negotiating the provision of food parcels to families in need.
29. We as Māori have challenged many issues of concern to us. For instance issues surrounding women speaking on marae and the Fiscal Envelope.

30. In 1995, on Waitangi Day at the flagpole, looking up and seeing the Kotahitanga Flag raised at the top, with the Tino and Confederation flags flying from the lower staff. I thought, what's wrong with that sight? Nothing - our Māori flags should always be together on the same level with the Kotahitanga flag at the top.
31. Through my involvement in the struggle I have also been privileged to have met great leaders such as Nelson Mandela, Māori Marsden, Simon Snowden, Oscar Te Maru, Charlie Ching, Soli Niheu, Andre McLaughlin just to name a few.
32. Throughout my work I also attended the International Black Women's Conference in Soweto. On that occasion I remember that I had been told by the organisers of this Conference not to talk about Winnie Mandela. However I understood that Winnie had become an example of great leadership for all indigenous women of the world and that Winnie was being ostracised by many of her male comrades – which of course made her job even harder. As such, I stood firm and, as I have always done, I spoke my mind and enjoyed the privilege of speaking about Winnie Mandela and her important work for the freedom of her people that had huge influence on indigenous people throughout the world, especially for the place of women in struggle.
33. I was also a member of the Conference delegation who met with Nelson Mandela at his home. While there I was able to explain the significance of taonga presented to him - the taiaha that my son Arthur had presented to him and the taonga that my other son Hone had made especially for him. I presented these items to him when he came to Aotearoa/New Zealand.
34. We were always encouraged by the knowledge there were others out there that had the same whakaaro, strength and commitment towards the fight for our freedom.

The Waitangi Day protests of 1968

35. The first act of the Māori protest movement was arguably the boycott of Waitangi Day by a handful of Māori elders in 1968 in protest over the Māori Affairs Amendment Act. A small protest was also held at Parliament and was received by Labour MP Whetu Tirikatene-Sullivan. Although both were reported in the newspapers they made little impact. In 1971 the ceremonies were disrupted by the protest group Ngā Tamatoa (The Young Warriors) who chanted and performed haka during speeches, and attempted to destroy the flag. Protest has been a feature of Waitangi Day ever since.

The Dawn Raids of the 1970s

36. This was the start of challenging our whānau of the Pacific about what was happening to us as tangata whenua of Aotearoa, encouraging them to tautoko Māori kaupapa. We were grateful to Reverend Sio of the Samoan Church, who stood alongside us as we challenged the different Pacific leaders in attendance at Waitangi to come and talk with Māori. Their flag flies proudly and that whānau are still with us today.

The origins of Tūhoronuku

37. I now want to talk about the origins of Tūhoronuku. I do this in response to suggestions that Tūhoronuku was created or hand-picked by background as a “convenient” settlement partner and that Tūhoronuku has not sufficiently consulted with Ngāpuhi about how to proceed.
38. The origins of Tūhoronuku can in fact be traced back to this Tribunal and the start of what is now known as Te Paparahi o Te Raki Waitangi Tribunal Inquiry.
39. At the first Judicial Conference in relation to the Ngāpuhi claim on 16 December 2005, Chief Judge Joe Williams recommended that Ngāpuhi convene a Ngāpuhi-nui-tonu process design group (“**NDG**”) made up of representatives of the various groups within Ngāpuhi. (See pages 3 - 4 of the report by Raniera (Sonny) Tau and others to the Crown Forestry Rental Trust in April - May 2007, annexed to this brief as Appendix “**A**”.)
40. In particular, he tasked Sonny Tau, Patu Hohepa and myself with being the core of the NDG with the role of consulting the wider Ngāpuhi population. Other claimant and cluster leaders were part of the group and had a responsibility to keep their constituents informed and to seek their direction and guidance.
41. The mahi of the NDG included (see Appendix “**A**” to this brief):
- (a) consulting with Ngāpuhi Kaumātua and Kuia, claimants, and the wider Ngāpuhi population;
 - (b) developing Terms of Reference which were ratified on 7 July 2006 (annexed to this brief at pages 27 - 44 of Appendix “**A**”);
 - (c) liaising with the Waitangi Tribunal and the Crown Forestry Rental Trust;
 - (d) developing a Communications Strategy (adopted 22 September 2006); and
 - (e) inviting iwi leaders from Tūhoe, Gisborne and Rangitāne ki Te Tau Iho o Te Waka o Maui to kōrero about their experiences in going forward with Te Tiriti claims.
42. I always saw the role of the NDG as being to “ask Ngāpuhi what Ngāpuhi wants”.
43. Although Sonny Tau was the chair of Te Rūnanga-ā-Iwi o Ngāpuhi at the time, this was not a Rūnanga initiative, let alone a Crown initiative.

44. The role of the NDG was focussed on finding a process for the hearing of Ngāpuhi claims by the Tribunal, but it was the predecessor to Tūhoronuku. When it was first formed, Tūhoronuku enjoyed the infrastructure and support of the Rūnanga, but I want to stress that the same spirit that directed our work on the NDG – the spirit of inclusiveness and asking Ngāpuhi what Ngāpuhi wants – has been central to Tūhoronuku as well. In particular, the desire to go to direct negotiations with the Crown did not come from Tūhoronuku, the Rūnanga, me or anyone else. It came from the people of Ngāpuhi from dozens of hui over years of consultation.
45. I can contrast this with my more recent experience with Te Papanui o Te Raki Waitangi Tribunal Inquiry where I have found the process lawyer-driven and selective about who they want involved.
46. In my view, the opposition to Tūhoronuku has come from a relatively small number of people and has been driven by personality and power struggles. Throughout this process, I have said to these people “Do you have a plan? If you have a plan, let’s share it and I will work with you because we need to work together.” Although vocal in opposition, they have not put forward a constructive alternative for Ngāpuhi.
47. I see the work towards settlement as the continuation of the protests and land marches of the 1970s and 1980s which created an awareness and an environment in which settlements were possible. Those protests led to an atmosphere where the fisheries, language and airways issues could be addressed, as well as the individual iwi settlements.
48. I have worked hard for the recognition of Ngāpuhi rights and Ngāpuhi sovereignty. I have worked for the recognition that the Ngāpuhi/Crown relationship is one between two sovereign entities. That’s the background to my commitment and goes back well before Tūhoronuku. This requires going direct to the Crown to negotiate our issues. This made my choice to support Tūhoronuku easy in the end, as they wanted to go direct to the Crown. This was the direction given by the Kuia and Kaumātua of Ngāpuhi.
49. This current work has been the hardest thing I have done. I have been called a liar, a cheat and a thief. Like other supporters of Tūhoronuku, I have been threatened and harassed. What keeps me going is the belief that settlement is what Ngāpuhi wants to restore its mana and for the integrity of our tupuna. I have the drive to see Ngāpuhi succeed based on He Wakaputanga o te Rangatiranga and Te Tiriti o Waitangi.
50. I find the idea that Tūhoronuku was hand-picked by the Crown as being easy to deal with as laughable and inconsistent with the history of the NDG and Tūhoronuku which I have just addressed.

Settlement and hapū rangatiranga

51. Settlement for Ngāpuhi is an iwi wide issue. Hapū must be involved, but at the end of the day it is a matter for the collective will of Ngāpuhi. People will of course disagree, but once a fair and transparent process has been followed the collective will must prevail.

52. Based on my knowledge of Ngāpuhi tikanga, Tūhoronuku has followed an appropriate process and has secured the mandate of the people of Ngāpuhi to lead settlement discussions with the Crown. This does not undermine hapū rangatiratanga.

Who suffers the prejudice?

53. I am a claimant who is involved in the Te Paparahi o Te Raki Waitangi Tribunal Inquiry. I also support the mandate Ngāpuhi gave Tūhoronuku to negotiate a settlement on behalf of Ngāpuhi.
54. I have 'suffered prejudice' in the hearings process. I have been provided very little opportunity to participate and if not for my dogged persistence, I would have been excluded altogether.
55. There is a difficulty being included with the 'in claimant' personalities. That is, if you are a claimant and have a different view to that of those who are organising these hearings, you are more likely to be excluded than invited to participate. I have had my own battles with claimant counsel about the right to give evidence on the Record of Inquiry for Te Paparahi o Te Raki. I've never seen this sort of behaviour within Tūhoronuku.
56. On 16 December 2010 I was one of the signatories to a Memorandum to the Tribunal regarding Stage Two hearings, annexed to this brief as Appendix "B". The points I want to emphasise are that:
- (a) Tūhoronuku has supported a parallel process for hearings and settlement; and
 - (b) I have continued to be concerned about the domination of this process by lawyers at the expense of the voice of the tangata whenua.

Te Rōpū Whaiti

57. This working group was about exploring options to see if both processes (Tribunal hearings and negotiations) were able to co-exist and what that might look like.
58. While there was no agreement, there was enough discussion and reporting to demonstrate that both processes were able to co-exist.
59. Tūhoronuku agreed to engage in this process to develop options that might be considered by Tūhoronuku and Te Kotahitanga.
60. There was no agreement to say that this needed to be taken back out to Ngāpuhi. There was no need to talk to Ngāpuhi again. Tūhoronuku did their homework and consulted with Ngāpuhi about settlement negotiations.

From opposing Tūhoronuku to supporting it

61. I've thought long and hard about the prejudice that is being suffered.
62. When first starting on this journey, I opposed Tūhoronuku. I considered Te Kotahitanga to be the right and proper vehicle to see us

complete hearings and negotiations. It became apparent very quickly that there was no strategy, no funding, no sound administration base and no leadership. Hui after hui talked about the same thing.

- (a) hearings and negotiations can't co-exist – hearings are taking place;
- (b) funding will be tagged for negotiations not hearings – that hasn't happened.

63. Hui talked about the fact that hapū weren't properly represented – in the original mandate there were only 11 places for hapū kaikorero. Four places were left for Kotahitanga, not to any specific hapū and the requirement was to use the same process as the current mandate hapū kaikorero. Kotahitanga declined these seats. Those four places remained until Tūhoronuku agreed to holding nominations and elections for hapū kaikōrero.
64. I am pleased that the amended mandate increased representation for hapū, and that a parallel process can proceed with the jurisdiction of the Tribunal remaining unimpeded by the Ngāpuhi negotiations and settlement process.

Ngāpuhi Kaumātua Kuia

65. From 2010 I represented our Kuia on the Tūhoronuku board and I did so with immense pride knowing and understanding full well the responsibility that came with this representation.
66. The members of Tūhoronuku all gave up their places upon recognition of Tūhoronuku's mandate by the Crown. This again illustrates the inclusive nature and the desire to be a vessel for the will of Ngāpuhi.
67. I never made it through the nominations and election process, but I continue to support the Tūhoronuku mandate – it provides hapū and claimant the opportunity to actively participate in the negotiations and settlement of our historical Te Tiriti claims.

Intimidation

68. I was fortunate enough to be a party on the Information Hui rounds and the mandating hui. My understanding is that anyone or any entity is able to seek a mandate. Tūhoronuku has exercised this right and Ngāpuhi were given an opportunity to participate by a democratic process. The voting process was undertaken by an independent entity.
69. In contrast, the opposition has often been conducted as a dishonest struggle. This has included one of the claimant lawyers – Garald Sharrock – attempting to register as a Ngāpuhi.
70. The mandate rounds themselves were contentious and all were attended by Kotahitanga representatives. There were personal attacks via a website that was put in place for that specific purpose. There were threats of shooting members, marches, protests, and threatening calls. Some hui were cancelled or postponed as a result.

71. People who attended in their areas had difficulty asking questions, or worse still, prevented from having a conversation because Kotahitanga representatives monopolised their time. Regardless, I wish to say here and now, that I have the utmost respect for those who came to listen and did in fact ask their questions, even if it was after the meeting had officially closed.
72. Kotahitanga leadership have allowed intimidation to be the normal modus operandi. Ngāpuhi have heard often of the arguments held in Te Kotahitanga hui about who speaks without regard to whether there is a mandate from respective hapū to do so.
73. So, if there is a prejudice it isn't one created by Tūhoronuku or the Crown.

No Alternative Solution

74. This mandate process was robust and rigorous, concessions have been made and Tūhoronuku has complied with Ngāpuhi tikanga and standard Crown processes which are well known.
75. I am yet to see an alternative solution come from anywhere. It is too easy to lodge an application and plead prejudice, far too easy.
76. Those who oppose the Tūhoronuku mandate do so for no good reason. It is commonly understood that Kotahitanga hui are poorly led, where individuals with no mandate from hapū stand to represent that hapū.
77. There has never been any documentation from Kotahitanga to confirm the hapū they represent and the process they used to achieve that representation. And yet, the Waitangi Tribunal has determined this to be a legitimate entity who provide the opportunity for hapū and claimants to come together.
78. I would like to see the hui resolutions that provided these claimants with the mandate to oppose or to be a party to this process.
79. The motivation to make application to the Waitangi Tribunal needs to be looked at closely. The lead counsel are well practised in these matters.
80. I also want to say what of the duty on the Crown to progress settlements? The applicants say it would breach Te Tiriti to recognise Tūhoronuku's mandate. But, doesn't the Crown have an obligation to right wrongs in a timely manner? And what of the hundred thousand Ngāpuhi who have no interest in these squabbles, but who would benefit from a settlement?

Stage 1 report

81. I acknowledge and welcome the finding by the Waitangi Tribunal that Ngāpuhi rangatira who signed He Whakaputanga and te Tiriti did not cede their sovereignty to the British Crown. This is of course what Kuia and Kaumātua having been saying all along.

82. Until the 1970s korero about Ngāpuhi sovereignty, He Whakaputanga and breaches of te Tiriti was limited to the marae. As part of Ngā Tamatoa, we brought this korero about Ngāpuhi rights to the people and to the Government. It was controversial and met with huge opposition from Ngāpuhi, the Government and the Police.
83. I disagree with comments which have been made disagreeing with the Tribunal's finding or trying to diminish its importance. Ngāpuhi and the Crown will negotiate a settlement as two sovereign entities. We do not come to the negotiation table with a begging bowl.

Dated 20 November 2014



Titewhai Harawira