

United Nation's Destroys New Zealand's Democracy

On 13 September 2007, Rosemary Banks, New Zealand's Permanent Representative to the United Nations explained to the United Nations the reason why New Zealand could not sign the Declaration of the Rights of the Indigenous People stating, *"It was fundamentally incompatible with New Zealand's constitutional and legal arrangements"*, but this was completely ignored by the United Nations when the Hon Pita Sharples signed the Declaration on the 19 April 2010. **WHY?**

In 2007, Maori asked Prime Minister, Hon Helen Clark to sign the United Nations Declaration on the Rights of the Indigenous People, but New Zealand does not have a definition of the Indigenous People of New Zealand as well as, *"Four provisions of the Declaration were fundamentally incompatible with New Zealand's constitutional and legal arrangement"*, therefore, she refused to sign it.

In 2010, Prime Minister Hon John Key sent the Minister of Maori Affairs, the Hon Pita Sharples to New York on 19 April to sign the United Nation's Declaration of the Rights of the Indigenous People in secret!

Hon John Key must have known why Hon Helen Clark had not signed the Declaration in 2007 and that New Zealand did not have a definition of the Indigenous people of New Zealand, but he went ahead and signed it in secret without a mandate from Parliament or the people of New Zealand. This was solely for John Key to gain the Maori vote to stay in power as Prime Minister.

You will see from the OIA letter from Hon Pita Sharples below dated 2 April 2012, before he signed the Declaration, he told the United Nations, *"Maori hold a distinct and special status*

*as the indigenous people, or tanga whenua of New Zealand". It is obvious Hon Pita Sharples knew, "Maori are **NOT** the indigenous people, or tangata whenua of New Zealand", otherwise he would have stated, "Maori are the indigenous people, or tangata whenua of New Zealand", but the United Nations accepted it.*

On 21 October 2021 in an OIA letter to the Crown Law Office, 2.4, we asked, *"What law states, Maori have a distinct and special status as the tanga whenua or indigenous people of New Zealand".* The Crown Law Office replied, *"You have been previously advised (by Hon Pita Sharples in 2012 and by Hon Christopher Finlayson prior to that), there is no statutory definition of indigenous people. This part of your request is refused under section 18(e) of the Act as the document alleged to contain the information requested does not exist".* See copy of letters below.

As there is no statutory definition of the indigenous people of New Zealand and the document alleged to contain this information requested does not exist, then the United Nations accepted Maori as the Indigenous People, or tangata whenua of New Zealand, when New Zealand does not have a definition that Maori are in fact, "The indigenous people of New Zealand".

The Declaration on the Rights of the Indigenous People has given Maori special rights over all other New Zealand Citizens, allowing Maori, *"A Partnership with the Crown"* and possibly, *"Co-Governance with the Crown"*, based on the United Nations allowing Hon Pita Sharples to sign the Declaration without a definition of the indigenous people of New Zealand and completely ignoring New Zealand's Permanent Representative to the United Nations, Rosemary Bank's explanation in 2007.

The Government has no other option now, than to inform the United Nations, New Zealand does not have a statutory definition of, "The Indigenous people or tangata whenua of New Zealand" and they were informed in 2007, "It was fundamentally

incompatible with New Zealand's constitutional and legal arrangements", which has completely destroyed New Zealand's democracy as agreed by the Treaty of Waitangi in 1840 and Queen Victoria's Royal Charter/Letters Patent enacted on 3 May 1841, New Zealand true Founding Document.

This article was written from documents held in the New Zealand, Australian and American Archives, plus the British Parliamentary Papers and the Official Information Act letters received by the ONZF.



Office of Hon Dr Pita R Sharples

MP for Tamaki Makaurau
Minister of Māori Affairs
Associate Minister of Corrections
Associate Minister of Education

02 APR 2012

Ross Baker
ONZF@bigpond.com

Tēnā koe Mr Baker

Thank you for your email of 18 March 2012 requesting information under the Official Information Act 1982, about the United Nations Declaration on the Rights of Indigenous Peoples and the New Zealand Government's definition of the indigenous peoples of New Zealand.

I understand that you have previously asked the Attorney General, Hon Christopher Finlayson, for such a definition and were advised that no document exists containing this information. I do not hold a document that defines the New Zealand Government's definition of the indigenous peoples of New Zealand, therefore your request is declined under section 18(g)(i) of the Official Information Act 1982.

However, I would like to reiterate the Government's position of support for the Declaration on the Rights of Indigenous Peoples. This was outlined in my statement to the United Nations on 19 April 2010, whereby I noted that Māori hold a distinct and special status as the indigenous people, or tangata whenua, of New Zealand.

If you are not satisfied with this response you have the right under section 28(3) of the Official Information Act 1982 to make a complaint to an Ombudsman. Kāti mō tēnei wā.

Heoi anō

nā Hon Dr Pita R Sharples
Minister of Māori Affairs

21 October 2021

Ross Baker

By email: onzfi@bigpond.com

Dear Ross

Official Information Act Requests

1. This letter is our response to both your Official Information Act requests, emailed on 2 October and 11 October 2021.

2 October 2021 request (transferred to Crown Law from the Attorney-General)

2. On 2 October, you asked four questions, which we have answered below.

- 2.1 *Was it lawful for the Prime Minister of New Zealand to sign UNDRIP on behalf of New Zealand without the above?*

In our 9 August 2021 reply to your 19 July 2021 request about advice Crown Law gave the Hon John Key at the relevant time, we told you that the Prime Minister was not directly advised by Crown Law Office; rather Crown Law gave legal advice to the Government. Under s 18(a) of the Official Information Act, we refused that part of your request on the grounds that the good reason (the maintenance of legal professional privilege) was not outweighed by other considerations in the public interest to make it available. Again, Crown Law does not hold information about the lawfulness of the "Prime Minister's" decision.

- 2.2 *As the Government did not have a definition of the Indigenous People of New Zealand, who legally, under New Zealand law, are the Indigenous People of New Zealand?*

Crown Law has not given advice on this specific question. The information you seek does not exist. We therefore refuse this part of your request under section 18(e) of the Act. To the extent you ask for legal advice as to "who are the indigenous people", as the Government's legal advisors it is not appropriate for us to give legal advice to members of the public.

- 2.3 *Where does our constitutions and laws legally allow Maori, rights and privileges over other New Zealand Citizens?*

Likewise, Crown Law has not been asked (and has not given) legal advice on the specific question you ask and refuse this part of your request under section 18(e) of the Act. In accordance with our duty under section 18B of the Act, we have considered whether consulting with you would assist you to make the request in a form that would remove the reason for the refusal. We do not think consultation would assist as the general premise of your question is expansive. However, you may find the following resources useful:

- The Cabinet Manual for example says in relation to sources of the constitution "The law may sometimes accord a special recognition to Māori rights and interests such as those covered by Article 2 of the Treaty. And in many other cases the law and its processes should be determined by the general recognition in Article 3 of the Treaty that Māori belong, as citizens, to the whole community. In some situations, autonomous Māori institutions have a role within the wider constitutional and political system. In other circumstances, the model provided by the Treaty of Waitangi of two parties negotiating and agreeing with one another is appropriate. Policy and procedure in this area continues to evolve."¹
- The Constitutional Advisory Panel's Report on a Conversation (2013).²
- You may also with interest follow Te Aka Matua o te Ture (the Law Commission's) 2021/2022 work programme, which includes a review of the role of tikanga and te ao Māori concepts in law.³
- Section 19(2) of the New Zealand Bill of Rights Act 1990, which provides that measures taken in good faith for the purpose of assisting or advancing persons or groups disadvantaged because of unlawful discrimination do not constitute discrimination.

2.4 *What law states, "Māori have a distinct and special status as the tangata whenua or Indigenous people of New Zealand"?*

As you have been previously advised (by Hon Dr Pita Sharples in 2012 and by Hon Christopher Finlayson prior to that), there is no statutory definition of indigenous peoples. This part of your request is refused under section 18(e) of the Act as the document alleged to contain the information requested does not exist.

11 October 2021 request

3. On 11 October, you listed ten reasons why you say the UN Declaration on the Rights of Indigenous Peoples should not have been signed. You then asked Crown Law:

¹ <https://dpmc.govt.nz/sites/default/files/2017-06/cabinet-manual-2017.pdf>.

² <https://www.justice.govt.nz/assets/Documents/Publications/Constitutional-Advisory-Panel-Full-Report-2013.pdf>.

³ <https://www.lawcom.govt.nz/news/te-aka-matua-o-te-ture-law-commission-202122-work-programme>.

As the Crown Law Office advised the Government not to sign the Declaration on the Rights of the Indigenous People, why is the Crown Law Office allowing He Puapua to proceed based Maori being the Indigenous People of New Zealand when there is absolutely no evidence?

4. We note that He Puapua was not produced by a government agency and therefore Crown Law had no involvement with the writing of the report. Crown Law has also not provided any advice on the content of the He Puapua report. The rest of the matters 1–10 in your 11 October letter do not appear to be an Official Information Act request and so we make no comment on them. Finally, while your request does not ask for Crown Law advice given to the government about the UN Declaration of the Rights of Indigenous Peoples, we note that privilege over any such advice has not been waived in the past.
5. You have a right under section 19(b), by way of a complaint under section 28(3) of the Act to an Ombudsman, to seek an investigation and review of our refusal to provide you with the information sought.

Yours faithfully
Crown Law



Kim Laurenson
Crown Counsel

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