

# The Treaty is NOT our Founding Document

**There is nothing in the Treaty of Waitangi that could be taken as a "Founding Document".**

The Treaty of Waitangi had absolutely nothing to do with setting up our political, legal or justice systems or that Maori must be consulted, it only asked tangata Maori to give up their individual kawanatanga/government and in return, Queen Victoria would give them the "*same rights as the people of England*". No more – No less. Tangata Maori became British subjects and a British subject cannot be in, "*Partnership with the Crown*". Fact!

The One New Zealand Foundation Inc is concerned that the Government makes no mention of Queen Victoria's Royal Charters/Letter Patent of 1839 and 1840, New Zealand's true Founding Documents and first Constitution. Both these Royal Charters were issued by "*Victoria by the Grace of God*" under, "*The Great Seal of the United Kingdom of Great Britain and Ireland*". **The Treaty of Waitangi was not!**

Queen Victoria or the British Government had no idea of what the Treaty said until it had been signed at Waitangi on the 6 February 1840. Even then, Britain received an unauthorised English version compiled by Lt. Governor Hobson's Secretary, James Freeman from James Busby's rejected notes and was not a translation of the Tiriti o Waitangi that over 500 tangata Maori chiefs signed in 1840. The 500 chiefs who signed the Treaty of Waitangi in 1840 were tangata Maori, **NOT** the tangata whenua or the Indigenous people of New Zealand. Fact.

In fact, in 1877 Chief Justice, Sir James Prendergast ruled the Treaty of Waitangi, "*A simple nullity because no political body existed capable of making cession of sovereignty*". This

ruling has never been over-ruled and remains in force today but is completely ignored by governments and the Waitangi Tribunal. Fact!

### **Royal Charter/Letters Patent of 1839.**

The Royal Charter/Letters Patent dated the 30 July 1839 placed New Zealand under the laws and dependency of New South Wales. Britain had already gained sovereignty under the **Law of Nations**.

### **Royal Charter/Letters Patent of 1840.**

The Royal Charter/Letters Patent dated the 16 November 1840 separated New Zealand from New South Wales on the 3 May 1841 and made New Zealand into a British Colony with a Governor and Constitution that set up New Zealand's political, legal and justice systems under one flag and one law, irrespective of race, colour or creed. Fact!

Both these Royal Charters/Letters Patent have been completely ignored by Governments. In fact, on the 17 April 2017 the Government allowed Archives New Zealand to dismantle the Constitution Room and place the Royal Charters of 1839 and 1840 in Archives Repository amongst the other 6 million documents and out of the public's view. To research these documents now, researchers must order them, that is, if they know they exist. Do you?

The Treaty of Waitangi was placed in the new \$7.2 million **He Tohu** exhibition at the refurbished National Library, Wellington as, "*As an iconic constitutional document that shaped Aotearoa New Zealand*". There is no evidence in the Treaty of Waitangi that it was a Founding or Constitutional Document. This is just another lie by government to elevate the Treaty of Waitangi to something it was never intended to be by those who signed it in 1840. Fact!

Prepared for the One New Zealand Foundation Inc.

# Customary Rights to Indigenous People But Maori are not Indigenous to New Zealand

The Ministry of Justice book entitled, "Recognising Customary Rights" is based on Maori being the Indigenous people or tangata whenua of New Zealand but there is no explanation or definition of these people in the Glossary.

The Glossary on page 24 states, "*Customary marine title (CMT). Comes from a common law concept that recognises property rights of indigenous people that have continued since or before the acquisition of Crown sovereignty to the present day. It is inalienable – the land cannot be sold – and cannot be converted to freehold titled Recognises the relationship that exists, and will continue to exist, between iwi, hapu and whanu and common marine and coastal areas*".

After many years of research by the One New Zealand Foundation Inc and many others, we can find no information to support Maori are the indigenous people or tangata whenua of New Zealand. In fact all the information and evidence we have on file confirms Maori were not the indigenous people of New Zealand.

The evidence we have on file that Maori are not the indigenous people of New Zealand or tangata whenua.

1. When Rev Henry Williams and his son Edward translated Lt. Governor Hobson's final English draft of the Treaty into the Maori language, they use the term, "tangata Maori" to define the people that sign the Tiriti o Waitangi. Both Rev Henry Williams and his son must have known after living in New Zealand for 23 years, that Maori were not the indigenous or tangata whenua. All 500 plus chiefs that signed the Tiriti o Waitangi as tangata Maori as they knew they were **not** tangata whenua! This is only a modern concept by part-Maori to claim Customary Rights!
2. In the, "**1986 New Zealand Year Book**" on page 18, Professor Ranginui Walker, past head of Maori Studies at Auckland University had this to say about the canoe people that arrived in the 14 century, "*The traditions are quite clear on one point, whenever crew disembarked there were already tangata whenua (prior inhabitants). The canoe ancestors of the 14-century merged with these tangata whenua tribes. From this time on the traditions abound with accounts of tribal wars over land and its resources. Warfare was the means by which tribal boundaries were defined and political relations between tribes established. Out of this period emerged 42 tribal groups whose territories became fixed after the signing of the Treaty of Waitangi and the establishment of Pax Britannica*". (Pax Britannica – British Peace). While Professor Walker make a clear distinction between the canoe people of the 14 century and the tanagat whenua, he makes no mention of who the tangata whenua were for the simple reason, we are not allowed to know!

3. After the Minister of Maori Affairs, the Hon Pita Sharples had signed the Declaration on the Rights of Indigenous People on behalf of the people of New Zealand, the One New Zealand Foundation Inc. wrote under the Official Information Act to the following Ministers asking them for the official document defining, "Who are the indigenous people of New Zealand.
4. I have attached the replies from the Prime Minister, Hon John Key; the Attorney General, Hon Christopher Finlayson; the Minister of Maori Affairs, Hon Pita Sharples; the Minister of Foreign Affairs, the Hon Murray McCully and a letter from the Attorney General in response to our OIA request to the Minister of Justice, Hon Simon Power.
5. When the Hon Pita Sharples signed the Declaration on the Rights of Indigenous People in New York, he stated to the United Nations, "*Maori hold a distinct and special status as the indigenous people, or tangata whenua, of New Zealand*", but when asked, he could not supply a definition of who these people where.
6. We are extremely concerned that the Ministry of Justice has taken for granted that Maori are the Indigenous People of New Zealand or the tangata whenua when all the evidence we have on file, including the Tiriti o Waitangi and the attached Minister's letters say the Government does not have a definition of the Indigenous People of New Zealand or tangata whenua.

If Maori were the Indigenous People of New Zealand, which

there is no evidence to prove they were, how can they honestly claim to be today when they have continued to intermarry with other race of their own free will until most now only have a minute trace of Maori ancestry and no longer live by their Maori culture?

**Before the Customary Rights debate proceeds, the people of New Zealand must have an "official" definition of the Indigenous People of New Zealand, supported up with forensic evidence.**

Compiled by Ross Baker, One New Zealand Foundation Inc.  
[www.onenzfoundation.co.nz](http://www.onenzfoundation.co.nz) (12/8/2015)



## Office of the Prime Minister

Prime Minister  
Minister of Tourism

Ministerial Services  
Minister in Charge of the  
NZ Security Intelligence Service  
Minister Responsible for the GCSB

15 MAR 2010

Ross Baker  
Researcher  
One New Zealand Foundation Inc.  
Email: [rossbaker@austarnet.com.au](mailto:rossbaker@austarnet.com.au)

Dear Ross Baker

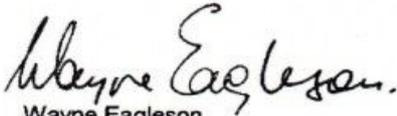
### Official Information Act Request Relating to Legal Definition of Māori

I refer to your email correspondence of 14 February 2010 in which you requested *"the 'legal' (The ACT) definition of a Māori person today."*

I am not aware of any information held by this Office that is within the scope of your request. In addition, all New Zealand Acts, Bills and Regulations are available publicly at the website produced by the Parliamentary Counsel Office at: <http://www.legislation.govt.nz>. Accordingly, your request is declined under s 18(d) of the Official Information Act as it is publicly available, if in fact such information exists.

You are entitled to ask the Ombudsman to review this response, under section 28(3) of the Official Information Act.

Yours sincerely

  
Wayne Eagleson  
Chief of Staff



## Office of Hon Christopher Finlayson

Attorney-General  
Minister for Treaty of Waitangi Negotiations  
Minister for Arts, Culture and Heritage

3 June 2010

Mr R Baker  
by email: [rossbaker@austarnet.com.au](mailto:rossbaker@austarnet.com.au)

Dear Mr Baker

I write in response to your request under the Official Information Act 1982 received by email on 7 May 2010.

Your request states:

"Could you please supply the Government's official definition of the Indigenous People of New Zealand referred to in the Declaration on the Rights of Indigenous People that the Crown has just signed with the United Nations"

I am declining your request under section 18(e) of the Official Information Act 1982 as this office holds no document that contains this information.

Under section 28(3) of the Act you may, if you wish, write to the Ombudsman seeking an investigation and review of this decision.

Yours faithfully

R.F. May  
Senior Private Secretary



**Office of Hon Christopher Finlayson**

Attorney-General  
Minister for Treaty of Waitangi Negotiations  
Minister for Arts, Culture and Heritage

7 April 2010

Mr R Baker  
by email: [rossbaker@austarnet.com.au](mailto:rossbaker@austarnet.com.au)

Dear Mr Baker

I write in response to your request under the Official Information Act 1982 sent to the office of Hon Simon Power on 2 March 2010, and transferred to, and received by, the Attorney-General's office on 8 March 2010.

Your request states:

"Please supply the "official" definition used by Government today to define who is "Indigenous" to New Zealand to claim against the Crown – the people of New Zealand for alleged injustices."

I am declining your request under section 18(e) of the Official Information Act 1982 as no document exists that contains this information.

Under section 28(3) of the Act you may, if you wish, write to the Ombudsman seeking an investigation and review of this decision.

Yours faithfully

R.F. May  
Senior Private Secretary



**Office of Hon Murray McCully**

Minister of Foreign Affairs

24 June 2010

Ross Baker  
Researcher, One New Zealand Foundation  
rossbaker@austarnet.com.au

Dear Mr Baker

**Official Information Act Request**

I refer to your email of 13 June in which you requested the following under the Official Information Act: *"on what grounds, documented or otherwise, did the National Government give Maori the status of being the indigenous People of New Zealand?"*

I am declining your request under section 18(e) and 18(g) of the Official Information Act, on the basis that this office holds no such information, and I have no grounds for believing this information is held by another Minister or department.

Under Section 28(3) of the Act you are entitled to request the Ombudsman to investigate and review the decisions to withhold this official information.

Yours sincerely



Hon Murray McCully  
Minister of Foreign Affairs



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