

Sir John Key Destroyed 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, Rosemary Banks, New Zealand's Permanent Representative to the United Nations had explained to the United Nations the reason why New Zealand could not sign the Declaration of the Rights of the Indigenous People, 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. We believe 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; (What law states, Maori have a distinct and special status as the tanga whenua or indigenous people of New Zealand), is refused under section 18(e) of the Act as the document alleged to contain the information requested does not exist”*. Hon Pita Sharples lied to the United Nations.

By their own admission, the tangata Maori arrived in New Zealand by canoe in the 14th century to find New Zealand already inhabited by the tangata whenua.

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, why it could not be signed.

The National Government then spent \$7.2 million of taxpayer's money to build the He Tohu Exhibition to house the Declaration of Independence and the Treaty of Waitangi to mislead the people, stating, "*The Declaration of Independence and the Treaty of Waitangi are Iconic constitutional documents that shaped Aotearoa New Zealand*". The Declaration of Independence was a complete failure as James Busby could only entice 52 chiefs to sign it, and the Treaty of Waitangi only referred to the tangata Maori making them British Subjects with, "*The same rights as the people of England if they gave up their kawanatanga/governments to the Queen*". **In fact, the Treaty of Waitangi is not a treaty as it was only signed by one Sovereign Nation, Great Britain.**

Queen Victoria's Royal Charter/Letters Patent date the 16 November 1840 is New Zealand's true Founding Document as it 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, a British Colony under one flag and one law, irrespective of race colour or creed. See:

There is no other document in our history that comes anywhere near to a Founding Document than Queen Victoria's Royal Charter/Letters Patent dated 16 November 1840!

The Government has no other option now, than to inform the United Nations, New Zealand does not have a definition of, "*The Indigenous people or tangata whenua of New Zealand*", and they were informed in 2007 by Rosemary Banks, New Zealand's Permanent Representative to the United Nations, "*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 dated 16 November 1840, New Zealand true Founding Document.

Ministerial Statements on the UN Declaration on the Rights of Indigenous Peoples.

Tuesday, 20 April 2010

HON RODNEY HIDE: (Act Party Leader)

The ACT Party is both shocked and appalled to find itself supporting a government that has **covertly** given recognition to the United Nations Declaration on the Rights of Indigenous Peoples. The declaration asserts that Māori have rights and privileges not enjoyed by other New Zealanders. The declaration is the very antithesis of ACT's policy of one law for all New Zealanders. It is the antithesis of the policy that we should have one law regardless of people's religion, their race, the colour of their skin, their ethnicity, their culture, or indeed their degree of indigeneity. The declaration is divisive and is a further step for New Zealand down the path towards being a divided nation. **The declaration clearly splits New Zealand into two rather than bringing New Zealand together as one.**

For many the former Prime Minister, Helen Clark, refused to ratify the declaration. At the time, the Hon Parekura Horomia said that the declaration was incompatible with New Zealand's laws and democratic processes and that it ignored reality and would be difficult to implement.

I am very disappointed that the Prime Minister, John Key, has covertly foisted the declaration on New Zealand, and I

consider the statement that the recognition of this declaration has no practical effect to be naive in the extreme.

Hon JIM ANDERTON (Progressive Party Leader)

Well, which meaning did the Government sign up to? Did it not know? Has the Government read it? Does it know what it means? The answer to all those questions is no. It has nothing to do with it. It is to do with the deal between National and the Māori Party to get the Māori Party to run alongside and support the Government.

Hon Phil Goff (Leader Labour Party)

The declaration was signed in secrecy when Dr Sharples had “sneaked off” to New York. New Zealanders should have been told first that this was the intention of the Government, they should not have been told afterwards. There was a conflict between Dr Sharples’ view of the declaration and the Government’s position about it not making any practical difference. Labour had opposed the declaration which had unrealistic goals such as returning all land back to indigenous people. I could not see the point in signing up to a declaration that the Government did not intend to fulfil. Why would you sign up to something you never intended to act on, and you don’t believe in. He signed up to something they do not believe in and never intend to implement. **Prime Minister Helen Clarke, Labour, refused to sign the Declaration in 2007 as it contravened our Constitution, but John Key was quite happy to destroy our democracy as long as he could become, Prime Minister, “Sir John Key”.**

New Zealand does not have, A Definition of the Indigenous People of New Zealand.



OFFICE OF THE MINISTER OF MAORI AFFAIRS,
PARLIAMENT HOUSE,
WELLINGTON, NEW ZEALAND

12 May 1995

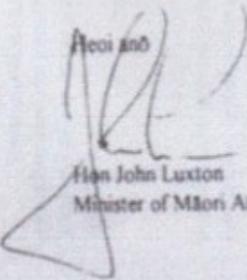
Mr Ross Baker

Tēnā koe

Thank you for your letter dated 29 March 1995 concerning the indigenous people of New Zealand.

There is no *'Government definition of the indigenous people of New Zealand'*. However, as stated in previous correspondence, Māori are defined in a number of statutes. For instance, in *Te Ture Whenua Māori Act 1993* Māori is taken to "mean(s) a person of the Māori race of New Zealand; and includes a descendant of any such person".

The issue of whether the indigenous people of New Zealand were Moriori or Māori is not one which sets a precedent for present government policy. As a general practice the Government does not seek to impose limits upon its ability to treat with groups who claim a particular cultural identity. Thus for the purposes of the Māori fisheries settlement, the term Māori was *'deemed to include the Moriori people of New Zealand'*. A similar position underlies the Government's willingness to consider Moriori claims to the Waitangi Tribunal.


Acoi anō

Hon John Luxton
Minister of Māori Affairs



EXECUTIVE COUNCIL CHAMBERS

12 October 2021

Ross Baker
onzf@bigpond.com

Ref: OIA-2021/22-0307

Dear Ross Baker

Official Information Act request: Part-Māori tangata whenua and Aotearoa

Thank you for your Official Information Act request received on 19 September 2021. You requested:

- "1. Can the government produce forensic evidence and a definition, that part-Maori are the "tangata whenua or indigenous people of New Zealand"?*
- 2. Can the Government produce documented evidence that "Aotearoa" was the name used by the "tangata Maori" for New Zealand before, during or after the 1835 Declaration of Independence or the 1840 Treaty of Waitangi were signed?"*

The Department of the Prime Minister and Cabinet does not hold any specific official information relevant to your request. I am therefore refusing your request under section 18(e) of the Act, as the information requested cannot be found.

In response to the second part of your request, information on the use of Aotearoa in the nineteenth century is available on Te Ara – The Encyclopedia of New Zealand's website: <https://teara.govt.nz/en/nation-and-government/page-9>

You have the right to ask the Ombudsman to investigate and review my decision under section 28(3) of the Act.

We do not intend to publish this response on the Department of the Prime Minister and Cabinet's website.

Yours sincerely

Michael Webster
Clerk of the Executive Council

4442505

CABINET OFFICE, PARLIAMENT BUILDINGS, WELLINGTON 6011, NEW ZEALAND

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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

12 July 2021

Ross Baker

By email only: onzf@bigpond.com

Dear Mr Baker

Official Information Act request
Our Ref: OIA353/1

1. I refer to your email of 8 July 2021 in which you ask the following:

Under the Official Information Act, Was the Declaration on the Right of the Indigenous People illegally signed by the Hon Pita Sharples in New York on the 19 April 2010 under the New Zealand Constitution/law?

2. On 19 (New York time)/20 April 2010 (New Zealand time), the Minister of Māori Affairs Hon Dr Pita Sharples appeared before the United Nations Permanent Forum on Indigenous Issues and announced New Zealand's support for the Declaration on the Rights of Indigenous Peoples.
3. Your request is not one that is cognisable under the Official Information Act 1982. Its substance — was the Declaration **illegally** signed **under the New Zealand Constitution/law** — is for legal advice. Crown Law provides legal advice and representation to the government, not members of the public. It is therefore not appropriate for us to answer your question. You may instead wish to seek advice from a lawyer (<https://www.lawsociety.org.nz/>), Community Law Centre (<https://communitylaw.org.nz/>) or Citizens Advice Bureau (<https://www.cab.org.nz/>)
4. You have the right to seek a review of this decision by the Ombudsman.

Yours faithfully
Crown Law



Daniel Perkins
Crown Counsel
Constitutional & Human Rights Team

9 August 2021

Ross Baker
One New Zealand Foundation Inc.

By email: onzf@bigpond.com

Dear Ross

Official Information Act request

Our Ref: OIA353/1

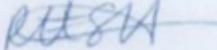
1. On 19 July 2021, by email, you asked Crown Law for the following official information:
 - 1.1 Did Prime Minister Hon John Key seek advice from the Crown Law Office before he sent the Minister of Maori Affairs, Hon Pita Sharples to the United Nations to sign the Declaration on the Rights of Indigenous Peoples ("UNDRIP") on the 19 April 2010 and if so, why did the Crown Law Office change its advice to Hon John Key in 2010, compared with the advice given to Hon Helen Clark in 2007?
 - 1.2 What were the four provisions in particular that were, fundamentally incompatible with New Zealand's constitutional and legal arrangements?
2. Under section 18(e) of the Official Information Act 1982, we refuse the first part of question 1 of your request. Crown Law Office has not been able to find any request for legal advice from Prime Minister Hon John Key in 2009-2010 (the relevant time period) in respect of UNDRIP.
3. However, throughout the relevant time period, Crown Law gave legal advice to government on UNDRIP. That advice is subject to legal professional privilege, a good reason for withholding information under section 9(2)(h) of the Act that is not outweighed by other considerations which render it desirable in the public interest to make that information available in these circumstances. We refuse this part of your request under section 18(a) of the Act.
4. To the extent that your second question asks for the content of legal advice provided by Crown Law, that advice is privileged and, as above, that privilege is not outweighed by other considerations which render it desirable in the public interest to

make that information available. We therefore refuse this part of your request under section 18(a) of the Act. However, we draw your attention to the following public statements:

- 4.1 Rosemary Banks, New Zealand diplomat, at the United Nations General Assembly in 2007 <https://www.un.org/press/en/2007/ga10612.doc.htm>; and
 - 4.2 Pita Sharples, Minister of Maaori Affairs, at the United Nations Permanent Forum on Indigenous Issues in 2010 https://www.parliament.nz/en/pb/hansard-debates/rhr/document/49HansD_20100420_00000071/ministerial-statements-un-declaration-on-the-rights-of
5. You have a right under section 19(b) of the Act, by way of complaint to the Ombudsman under section 28(3), to seek an investigation and review of the refusal.

Yours faithfully
Crown Law


Kim Laursen
Crown Counsel


Bex McMenamin
Assistant Crown Counsel

3 September 2021

Ross Baker
One New Zealand Foundation Inc

By email only: onzf@bigpond.com

Dear Ross

Official Information Act Request
Our Ref: OIA353/1

1. We have received your reply dated 9 August 2021 asking for an explanation of the good reason for refusing your request dated 19 July 2021 under s 18(a) of the Official Information Act and attaching an Official Information Act reply to you from Hon Dr Pita Sharples on 2 April 2012.
2. To clarify, we were unable to find any advice from Crown Law specifically to the Rt Hon Mr Key. However, as we indicated in our letter to you dated 9 August 2021, Crown Law did advise the government more generally on the UN Declaration on the Rights of Indigenous Peoples.
3. That advice is withheld under s 9(2)(h) of the Official Information Act as it is legally privileged. The maintenance of legal privilege is a good reason to withhold official information and while we acknowledge there is some public interest in the New Zealand's international treaty making process, we do not consider that withholding of that information is outweighed by other considerations which render it desirable, in the public interest, to make that information available.
4. We again remind you of your right under s 19(b) of the Official Information Act, by way of complaint to the Ombudsman under s 28(3), to seek an investigation and review of the refusal.

Yours faithfully
Crown Law



Kim Laursen
Crown Counsel

21 October 2021

Ross Baker

By email: onzf@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, "Maori 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 Laursen
Crown Counsel

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

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