

Case Study: Te Tiriti o Waitangi

Background

In 1840, the signing of Te Tiriti o Waitangi established principles that affirmed the rights and interests of Maori, particularly in relation to property and resource management. These principles have developed over time to provide a framework for how the Crown must engage with Maori and uphold its obligations.

Principles of Te Tiriti

Several core principles guide the interpretation and application of Te Tiriti:

1. Principle of Rangatiratanga

- Recognition by the Crown that hapu, as the primary resource managers, hold enduring rights and interests.
- These rights must be protected and respected in governance and decision-making.

2. Principle of Active Protection

- Places a positive duty on the Crown to ensure that Maori rights and interests, guaranteed under Te Tiriti, are not undermined.
- Requires that Maori provide prior and informed consent before changes are made that could negatively impact their relationships with taonga and rights.

3. Principle of Options

- Between 1840 and 1870, Maori sought to organise collectively as trusts or incorporations.
- This allowed Maori to manage rights and interests in ways consistent with Te Tiriti, without surrendering protections or tino rangatiratanga.

Evolution of Practice

By the mid-to-late 19th century, Maori began forming collective structures such as trusts and incorporations. These became vehicles for exercising rangatiratanga in line with active protection obligations.

Over the past 40 years, the Treaty Settlement process transformed Crown–Maori relationships. Settlements, focused on large natural groupings, addressed historical and contemporary breaches of Te Tiriti obligations. These groups are not the owners of the rights.

Today, numerous Maori organisations, including trusts, incorporations, and marae, continue to operate under tikanga Maori principles such as ahi kaa, which have existed since before 1840. Alongside these enduring practices, new governance and relationship tools, such as joint management agreements in areas like water management, have emerged. Maori have consistently adapted to develop structures and vehicles that safeguard and manage taonga in ways that give practical effect to the guarantees of Te Tiriti o Waitangi.

New relationship mechanisms

New governance and relationship mechanisms, including joint management agreements in areas such as water management, have emerged. These developments demonstrate how Maori have consistently adapted to changing contexts, creating structures and vehicles to protect and manage taonga in ways that uphold the guarantees of Te Tiriti o Waitangi.

Conclusion

This case study demonstrates that Te Tiriti o Waitangi continues to shape the recognition and protection of tikanga Maori. From the principles affirmed in 1840, through collective organisation in the 19th century, to Treaty settlements and contemporary governance arrangements, Maori have consistently and actively looked to protect their taonga. The challenge today lies in ensuring that decision-making processes are inclusive, uphold tikanga, and reflect the enduring promises of Te Tiriti.

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