



A Newsletter on Social Justice Issues

Welcome to the March edition of Do Justice for 2024 as we continue to discuss issues of social justice from a Christian perspective in the tradition of Micah and St Francis.

Te Tiriti o Waitangi – a unique treaty

Te Tiriti o Waitangi is unique; it is the only occasion that an indigenous people has signed a treaty with another country allowing that country to send some of its citizens to its country to settle and for the arriving citizens to continue to be under the legal jurisdiction of the sending country.

This fact of history needs to be remembered when discussing either possible changes to the "principles" or the application of the Treaty today.

Not only was the Treaty unique but the situation faced both by the Māori and the Crown were unusual to say the least. Māori had been living in the islands we now call New Zealand for about one thousand years. They probably arrived before William Duke of Normandy invaded England in 1066.

Māori had lived in relative peace for some 800 years before the first contact with Europeans in 1642 when Abel Tasman, the Dutch explorer, arrived on the West Coast of the South Island. Over the ensuing 200 odd years there were an increasing number of European visitors, mainly from England, including Captain Cook in 1779. The Church Missionary Society of the Anglican Church sent missionaries in 1814. By 1835 the number of European visitors, many who effectively became residents, had grown to the extent that the various iwi chiefs thought it was time to make their position absolutely clear when they signed the Declaration of Independence in 1835. A declaration accepted by the British government by their representative in the country.

By 1840 the number of English people in the country had grown but was still tiny in comparison to the number of Māori, and plans were afoot for many more to come. There was also concern about the unruly behaviour of some of the settlers and the growing number of land transfers to "settlers". In early 1840 the

newly arrived James Hobson appointed by the British government to bring some order over the European settlers, met with a number of Māori chiefs at Waitangi and Te Tiriti was the result.

If we look at what happened in the 15th to 19th centuries when European explorers and then settlers came to "new" lands, we see a series of forcible actions to take control of the countries and to take the countries' resources without any input from the indigenous people who had been there for many many centuries before the Europeans arrived. But in Aotearoa the British sat down and agreed a treaty. Why?

As far as Māori were concerned, an element of trust between themselves and the British, particularly the missionaries, had developed over the previous 25 years. Trust that was to be quickly betrayed within years of Te Tiriti being signed.

As far as the British were concerned there was a government system in London that had gone through major reform in the previous years prior to 1840. Not only had the power of the House of Commons increased very significantly but the makeup of the Commons had been dramatically reformed just a few years earlier, with the passing of the Great Reform Act of 1832 which got rid of the "rotten boroughs" where a member of the Commons could be elected by very few people, in some cases as little as one!

Now we come to today. Te Tiriti o Waitangi is the reason why all of us who are not Māori can live and enjoy Aotearoa. When we or our forebears came to this country we came because Te Tiriti allowed us to come. Just because we are a democracy does not mean that we can rewrite Te Tiriti. We, and our forebears, knew, or should have known, that when we decided to move to Aotearoa that the reason we could was because Māori had signed Te Tiriti. We need to remember this as various right-wing parties try to rewrite history; we are either tangata whenua or tangata tiriti or in many cases a mix of both.

One party to Te Tiriti in 1852 introduced the concept of parliamentary democracy: the "Queen" through an Act

of the British Parliament. Neither the Māori nor the settlers allowed by Te Tiriti had any say in the wording although some settlers wanted local government. The New Zealand Parliament was for the settlers not Māori although Māori were acknowledged in 1867 when the Māori seats were added. The introduction of British parliamentary democracy in 1852 was when there was a large majority of Māori compared to tangata tiriti – 63,100 Māori, 27,633 immigrants.¹ Today, everyone living permanently in New Zealand including registered visa holders, all over 18 years old, and not in prison, has the right to vote. But in 1852 only “men over the age of 21 years, owning freehold estate, living in the district and with a £50 or above income per annum. Since Māori land was owned collectively not on individual title as was required, most Māori could not vote.”² This despite over two thirds of the population were Māori. Four specific Māori seats were introduced in 1867 although the census of that year was unable to count the number of Māori living in the country³. Now there are seven seats (6% of total seats) for 875,300 Māori or 17.1% of population⁴. Māori do have the choice to enrol in a general seat or a Māori seat.

Tangata tiriti has always had the majority of seats in the New Zealand Parliament despite Te Tiriti. Over the last 50 odd years the involvement of Māori in the governance and administration of Aotearoa has slowly been expanded and the failure of the “Crown” to adhere to Te Tiriti recognised. But has it gone far enough? Te Tiriti was between two parties, Māori and the Crown, the Crown is now the “government” of New Zealand and it is through the “Crown” that our present government arrangements have developed. Māori are still Māori with iwi and hapu, and rangatira whose ancestors signed Te Tiriti.

Over the last 170 years since the establishment of the first “parliament” in Aotearoa, governance of the country has developed and evolved and whilst Māori have been involved in this process it is a process that has been designed and organised by tangata tiriti. We can only speculate on what would have happened if tangata whenua had been actively involved from 1852 onwards but it is probably safe to say the outcome would be different although the concept of “democracy” would still be foremost where democracy is defined as the “people” choosing the “government” rather than the rich and powerful governing.

Democracy cannot, and should not, be defined as “one person one vote” As soon as constituencies are used to elect representatives there are going to be differences in the “power” of one vote. To a degree our Mixed

Member Proportional (MMP) system smooths out the irregularities. But democracy was not in the minds of either party signing Te Tiriti, even in Britain you had to be a male of “substance” to vote for a member of the House of Commons and no one voted for members of the House of Lords or the monarch.

Although the rangatira or hapu leaders signed Te Tiriti they signed on behalf of their hapu and iwi. Māori society was very much organised around the marae where adults (in many instances only males) had the right to speak. In some ways the Māori rangatira signing Te Tiriti had a stronger democratic foundation than the representatives of the “Queen”.

Many people in Aotearoa see Te Tiriti as a “partnership” between the indigenous people of Aotearoa and the settlers who live in the country. Hence taking partnership as a starting point, what could our governance arrangements in Aotearoa look like? The partners are tangata whenua and tangata tiriti, each should have an equal share in how we govern ourselves. Maybe this could be achieved by having two “Houses of Representatives”, one for tangata whenua and one for tangata tiriti. All legislation would require both Houses to agree, with the Executive (prime minister and Cabinet) requiring a majority in both Houses. This could be called Partnership Governance or even Te Tiriti Governance.

It is not difficult to see the opposition to such a proposal – it is not democratic, too much power to Māori, forming a government would be impossible, and so on. But Te Tiriti governance would be closer to the partnership of Te Tiriti, it would be democratic as the “people” would choose government, not the rich and powerful. Too much power to Māori, but what about tangata tiriti and the power they have used since 1852? Yes, Māori would have a potential veto, but so would tangata tiriti have a veto. Too complicated, governments would never be formed, but that was said when MMP was first being considered and our politicians have learned how to form governments with more than one party involved.

Te Tiriti o Waitangi was a unique treaty; maybe the time has come to have a unique form of governance that recognises the uniqueness of Aotearoa?

¹ [NZ Population in 1852 - Search \(bing.com\) \[Wikipedia - 1852 in New Zealand - https://en.wikipedia.org/wiki/1852_in_New_Zealand\]](https://en.wikipedia.org/wiki/1852_in_New_Zealand)

² [New Zealand Constitution Act 1852 - Wikipedia](#)

³ [STATISTICS OF NEW ZEALAND FOR 1867 \(stats.govt.nz\)](#)

⁴ [Number of Māoris in NZ - Search \(bing.com\) \[Stats Tauranga Aotearoa, Māori Population Estimates: At 30 June 2021 https://www.stats.govt.nz/information-releases/maori-population-estimates-at-30-june-2021\]](https://www.stats.govt.nz/information-releases/maori-population-estimates-at-30-june-2021)