



- improved support for rongoā Māori (Māori traditional healing), te reo Māori, and other aspects of Māori culture and Māori traditional knowledge
- amendments to laws in areas including Māori language, resource management, conservation, cultural artifacts, environmental protection, and patents.

### Constitutional Review

In August, the Government announced the make-up of the 12-person constitutional review panel set up to look at issues including the size of Parliament, the length of the electoral term, Māori representation in government, the role of the Treaty of Waitangi and whether New Zealand needs a written constitution. The panel will be chaired by Sir Tipene O'Regan of Ngāi Tahu and Emeritus Professor John Burrows. It will report to ministers in September 2013.

### Māori seats in local government

Under the Local Electoral Amendment Act 2002, local councils have the option of voting to establish Māori seats two years before each triennial local body election. The deadline for the 2013 elections was 23 November 2011 and 49 of the 78 councils discussed the issue of Māori seats, with some engaging in consultation with their communities. However, only two councils – Waikato Regional Council and Nelson City Council – decided to establish Māori seats. Two others – New Plymouth and Wairoa Councils – will have a poll on the issue at the next election. Environment Bay of Plenty Regional Council has already established Māori seats.

### UN Special Rapporteur reports

The United Nations Special Rapporteur on the Rights of Indigenous Peoples, Professor James Anaya, published his report on the situation of Māori in February, having visited New Zealand in July 2010.

In his report, formally presented to the United Nations Human Rights Council in September, Professor Anaya praised New Zealand's significant strides to address concerns raised by the former Special Rapporteur, including: support for the UN's Declaration on the Rights of Indigenous Peoples; repeal of the 2004 Foreshore and Seabed Act; and efforts to carry out a constitutional review process. He noted the Treaty settlement process, despite its shortcomings, is one of the most important examples in the world of addressing historical and ongoing grievances. However, he noted the extreme disadvantage in the



United Nations Special Rapporteur James Anaya  
NZPFA/Ross Setford

social and economic conditions of Māori in comparison with the rest of New Zealand.

His recommendations to the Government include:

- focus on increasing Māori participation in local governance, and guarantee Māori seats on the Auckland Council
- ensure adequate funding for the Waitangi Tribunal and make sure the 2008 deadline for lodging historical claims with the Waitangi Tribunal does not prevent legitimate claims being lodged
- accompany any acts against the recommendations of the Waitangi Tribunal with a written justification. Consider forming an independent commission or tribunal to review Treaty settlements
- reconsider the decision not to return Ngāi Tūhoe their traditional lands within the Urewera National Park
- consult widely with Māori to address any remaining concerns about the Marine and Coastal Area (Takutai Moana) Act 2011
- overcome the shortage of teachers fluent in te reo Māori.

### Urgent hearing for Te Kōhanga Reo National Trust

In October, the Waitangi Tribunal granted an urgent hearing in response to an application from the Te Kōhanga Reo National Trust. The Trust is the governing body for a total immersion Māori language pre-school programme with almost 10,000 enrolled children. The Trust applied for an urgent hearing against the Crown because it was concerned about the Early Childhood Education Taskforce's June report and how the Government might respond.

In its Statement of Claim, the Trust alleges it has not been provided protection and autonomy by the Ministry of Education and is forced to fit within mainstream early childhood education frameworks. For example, Kōhanga Reo are required to employ qualified early childhood educators and funding is allocated on the basis of the number of qualified teachers. This conflicts with the qualifications devised by the Trust specifically to provide for the kaupapa of parents and whānau learning alongside children.

The Trust also says it has not been given sufficient priority in consultations and Government ignored its requests to participate in the Taskforce research.

The hearing is expected to begin in March 2012.

### Public awareness

In a poll conducted by UMR Research for the Human Rights Commission, almost half (49%) of respondents said they had good knowledge of the Treaty of Waitangi. Half felt they had good knowledge of human rights and 36 per cent said they had good knowledge of indigenous rights. Those results are the highest since the questions were first asked, in 2007, and up 7-10 per cent on 2010.

However, a significant proportion (48% of Māori respondents and 36% of respondents) rated the Crown/Māori relationship as needing improvement. Also, fewer people than last year agreed the Treaty is New Zealand's founding document (5% fewer, at 55%); that the Treaty is for all New Zealanders (1% fewer, at 50%) or that the Treaty relationship is healthy (1% fewer, at 25%).

Around 4000 Year 9 students were surveyed as part of the International Civic and Citizenship Education Study. Two thirds said the Treaty held personal importance for them. Broken down by ethnic group, the Treaty was personally important for 84 per cent of Māori students, 75 per cent of Pasifika students, 60 per cent of Pākehā/European students and 53 per cent of Asian students.

Visit the Commission's website and keep up-to-date on developments in the Treaty relationship through our newsletter, *Whitiwhiti Kōrero*. Visit the Commission's website for more information about Race Relations Day events, resources about the Treaty, information about structural discrimination and sign-up to other e-newsletters.



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# The Treaty Relationship 2011

## Te Hononga Tiriti i te tau 2011

A summary



Cover image: Whare Rūnanga in the Treaty Grounds, Waitangi. Jim Harding/hedgehoghouse.com



Human Rights Commission



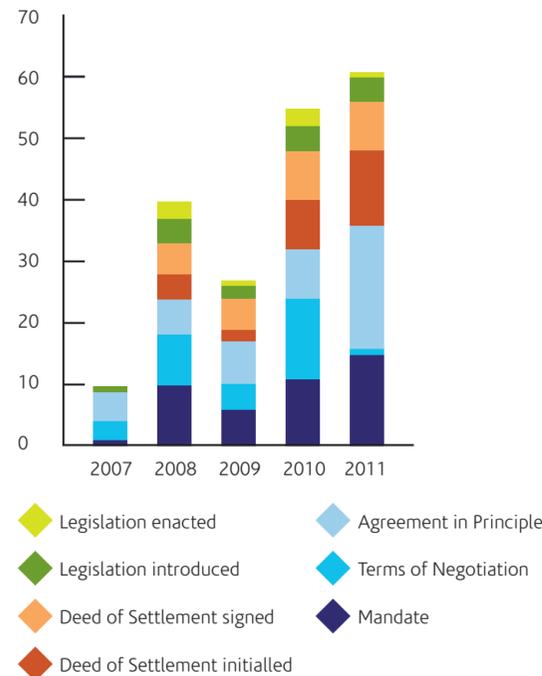
## Priorities for 2012

- Informed public discussion of New Zealand's constitutional arrangements, including the Treaty of Waitangi
- The Government's response to the Wai 262 report *Ko Aotearoa Tēnei: This is New Zealand*.

2011 was another significant year in terms of the Treaty relationship between the Crown and Māori. This summary outlines some of the most noteworthy developments.

The full chapter is available at [www.hrc.co.nz](http://www.hrc.co.nz). It will form part of the annual report on race relations – *Tūi Tūi Tuitiā: Race Relations in 2011* – that includes reporting on other issues such as discrimination, inequalities, language and media.

## Treaty settlement milestones achieved



## Notable developments

- a significant number of Treaty settlement milestones were reached, including eight deeds of settlement and agreements in principle with 20 iwi
- the repeal of the Foreshore and Seabed Act 2004 and its replacement by the Marine and Coastal Area (Takutai Moana) Act 2011 brought six years of dispute to a close, for now
- following the 2011 general election, the Māori Party signed a confidence and supply agreement with the National Party, with a focus on effective engagement over land, water, minerals, constitutional reform, poverty, and social and economic inequality issues
- a Māori Economic Taskforce report estimated the value of the Māori economy to be nearly \$37 billion in 2010
- recommendations from the Waitangi Tribunal's *Ko Aotearoa Tēnei: This is New Zealand* report, if responded to positively by Government, could provide an important platform for policy discussion on areas as wide ranging as health, education, intellectual property, conservation, and indigenous flora and fauna
- the Government announced the members of a constitutional review panel due to consider, among other things, Māori representation in central and local government, and the role of the Treaty of Waitangi
- progress towards Māori achieving direct representation in local government was limited. Despite 49 of New Zealand's 78 councils discussing establishing Māori seats, only two actually voted to do so
- the United Nations Special Rapporteur on the Rights of Indigenous Peoples highlighted inequalities between Māori and non-Māori that he said must be addressed in order to achieve true partnership
- the Government's potential response to a report on early childhood education by an independent taskforce caused concern for the Kōhanga Reo National Trust. The Waitangi Tribunal granted the Trust an urgent hearing about their concerns
- a Human Rights Commission poll found increasing numbers of people claim to have a good knowledge of the Treaty of Waitangi, and of human and indigenous rights. However, many believe the Crown/Māori relationship needs improvement.



The Waikato River. Andy Reisinger/hedgehoghouse.com

## Treaty settlements: a busy period

The pace of settlement of historical Treaty of Waitangi claims sped up during 2011, with over 60 milestones achieved, up from 10 in 2007. These include eight deeds of settlement between the Crown and iwi, and 20 iwi signed agreements in principle. Progress was helped by the continuation of the regional approach to progressing negotiations and resolving overlapping claims, for example in Muriwhenua, Tāmaki Makaurau, Hauraki and northern Hawke's Bay.

Combining the first readings of Treaty settlement bills (as was done with the Maniapoto, Ngāti Porou and Ngāti Pāhauwera bills in April) could speed up the progression of settlement legislation and avoid the risk of major delays for iwi in accessing Treaty settlement assets.

A key feature of recent settlement negotiations is agreements giving iwi a partnership role in the management of natural resources. There are examples of this with the co-governance of the Waikato River, Auckland's volcanic cones, and resource management in Hawke's Bay.

Although a significant number of milestones were achieved in 2011, there are currently several issues making the aspirational goal of settling all Treaty settlement claims by 2014 more challenging:

- a Supreme Court decision in July directing the Waitangi Tribunal to urgently inquire into a forestry ownership claim from the Mangatū Incorporation could (depending on the outcome of the inquiry) lead to other similar appeals
- a High Court action where the Wakatu Incorporation is seeking remedies from the Crown over the Nelson Tenth's Reserves land claim has delayed settlement at the top of the South Island and could have ramifications for Treaty settlement policy generally.

## The repeal of the Foreshore and Seabed Act 2004

The Marine and Coastal Area (Takutai Moana) Act 2011 was passed in March with a narrow majority (63 to 56). The Act



Prime Minister John Key with Māori Party co-leaders Tariana Turia and Pita Sharples. NZ Herald/Mark Mitchell



Protest against the Government's Foreshore and Seabed legislation. NZ Herald/Brett Phibbs

repeals the Foreshore and Seabed Act 2004 that provided for Crown ownership and extinguished Māori customary interests. Under the new Act, no one (including the Crown) owns, or can own, the common marine and coastal area, and customary interests are restored. Land that is in private ownership or Crown ownership is excluded from the common marine and coastal area. One unexpected result of the new act was the formation of the Mana Party. Mana's leader, Hone Harawira, left the Māori Party because of his opposition to its stance on the foreshore and seabed issue.

## The National and Māori Parties' relationship

After the general election in November, the National and Māori parties signed a Relationship Accord and Confidence and Supply Agreement. The Māori Party will support the Government on confidence and supply issues, though on a case-by-case basis. In return, National will work with the Māori Party in response to the Land and Water Forum's recommendations and consider engaging with Māori in the review of the Crown Minerals Act 1991. The parties will partner in the review of New Zealand's constitutional arrangements, on developing Whānau Ora, and on poverty and inequality issues. The immediate areas of focus for Te Puni Kōkiri, the Ministry of Māori Development, will shift to improving outcomes for Māori in employment and training, housing and education.

## Economic progress

Research commissioned by the Māori Economic Taskforce from Business and Economic Research Limited (BERL) estimated the

value of the Māori economy to be almost \$37 billion in 2010. An independent panel appointed in September to develop a Māori economic development strategy and action plan will report back to the Māori Affairs and Economic Development Ministers by July 2012.

## Wai 262 report: Ko Aotearoa Tēnei

The Waitangi Tribunal's *Ko Aotearoa Tēnei: This is New Zealand* report, released in July, was the Tribunal's first whole-of-government report, addressing the work of more than 20 government departments and agencies. It considered what the Treaty relationship might become with future demographic changes, and after historical grievances are settled.

It described New Zealand as being at a crossroads in terms of its Treaty relationship and its sense of nationhood. Key recommendations include:

- the establishment of new partnership bodies in education, conservation, and culture and heritage
- a new commission to protect Māori cultural works against derogatory, offensive or unauthorised commercial uses
- a new funding agent for mātauranga Māori in science; and expanded roles for existing bodies including Te Taura Whiri (the Māori Language Commission), and Māori advisory bodies relating to patents and environmental protection