

# **"MAORI WOMEN AND THE LAW"**

**REMARKS BY**

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**AT THE ETHEL BENJAMIN COMMEMORATIVE ADDRESS**

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Kei te tu ake, me (whaka) mohio koutou ki tenei, i raro i te ahua a ratou nga whaea, i nga papa kua wehe atu

Ko Tongariro te maunga  
Ko Taupo te moana  
Ko Tuwharetoa te iwi  
Ko te Heuheu te tangata

Tena tatou katoa

I stand to introduce myself in the time honoured manner of those my mothers and my fathers who have passed beyond the veil

Tongariro is the mountain  
Taupo is the sea  
Tuwharetoa are the people  
te Heuheu is the man

Greetings to us all...

I am sure you are all familiar with the Maori custom of identifying oneself by reference to certain places and people, as I have just done.

The saying from my tribe serves two purposes this evening. The first is to identify my background as a member of the Ngati Tuwharetoa people of the Central North Island.

It was they who through their Chief, te Heuheu Tukino Horonuku, gifted those mountains to the nation in 1887, providing the touchstone for the manner in which Tuwharetoa subsequently sought to interact with the Crown.

They sought relationships which would bring mutual benefits, and made accommodations where they perceived they could make a greater contribution to the wider community, thereby securing their equal participation in it.

Though that approach did not always bring the expected results Tuwharetoa maintained that at all times they have sought to deal honourably with the Crown. That is part of my background.

The second purpose is to provide the basis for some comment and discussion on Maori women and the Law.

First, I want to take a moment to pay tribute to two people. This commemoration lecture is the annual tribute to Ethel Benjamin, who showed courage and determination to become the first woman in our country to qualify in law, leading the way for the many others of us who have since followed in her footsteps. It is fitting that the first of our number should be honoured in such a tangible way. I am deeply privileged to be asked to deliver the address on this occasion.

And what better occasion to pay another tribute, again to acknowledge a first in relation to a very recent appointment. To another of our fraternity of course, a woman who although she is not Maori is much admired by Maori people for her leadership and vision in the Law.

Chief Justice Sian Elias, our new Chief Justice is viewed as bringing to her role a keen appreciation of the values of both our cultures, regarded by many as critical to the ongoing development of the law in a bi-cultural setting. Of course that is only one of many attributes that the Chief Justice possesses, but Maori generally and particularly Maori women relate very positively to that rare talent which she shows for finding the core essence of an issue, for clearing away what is irrelevant and getting to the heart of the matter (something politicians try to do) (you don't believe me do you?).

As only the second woman in the world to hold this high position, the Chief Justice's achievement like Ethel's, will in my view mark a watershed for the law in New Zealand.

I am pleased to join you tonight in my capacity as a member of the legal fraternity and a descendant of Maori women, who during Ethel's time championed the causes of my tribe, Ngati Tuwharetoa in the Maori Parliament, the kotahitanga and the Maori Land Court.

At the turn of the century there were no women of my tribe or indeed any tribe, who were members of the legal profession. (For that matter, very few women had made it into the profession by the turn of the century).

Workforce and educational barriers combined with the diminution of the traditional role of Maori women effectively guaranteed that they would have little opportunity to enter the profession and in fact this did not occur for another 80 years.

Despite this, Maori women were active participants in the justice system anyway, as advocates and individuals who sought legal recourse for their concerns, particularly those related to land ownership and the impact of land loss on families, whanau and traditional structures.

Ethel Benjamin was interested in how the justice system served women and men alike. Many Maori women were equally interested and as advocates for their families and tribes, they were generally more experienced and knowledgeable about the workings of the justice system than non Maori women.

The Native Land Act 1865 prescribed a system of individualised land ownership and imposed upon Maori women the need to spend lengthy hours in court pursuing their land interests. After all unlike their British counterparts they were acknowledged as owners of Maori land under Maori law and custom.

There is a well known photograph in the Harding Denton collection at the Alexander Turnbull Library. It features a large gathering of Maori women sitting out in the chilly open waiting for a Land Court hearing in Wanganui in the late 1860's. Wrapped in their blankets, the bite of the winter wind would have been insignificant compared with the imminent swallow (of their land) by the Native Land Court; against which there was no protection.

The economic survival of nineteenth century Maori women and their families was directly related to their ability to retain and regain land. This was no easy task given the Liberal Government's preoccupation with land acquisitions from Maori through massive law and administrative reforms.

Between 1890 and 1930, approximately seventy percent of the remaining 10 million acres of Maori land had been lost. Much of the land that remained (3.6 million acres) was useless for commercial farming; Maori were rendered economically and culturally impoverished. The creation of the modern New Zealand state (1891-1912) caused severe hardship for Maori.

For Maori women, problems of access meant that political instruments were of limited value. The Electoral Act 1893 had given Maori women the right to vote but they could not stand as members of the New Zealand Parliament. The Maori institution Te Kotahitanga (Maori Parliament) however provided them with a forum to organise and put their concerns regarding land before the tribes and government.

Involvement in Kotahitanga resulted in the formation of Maori women's committees (nga Komiti wahine). In 1898, the women's committees of Ngati Tuwharetoa helped to raise funds for the conveyance of two petitions to the British Crown. The petition essentially outlined Crown breaches of the Treaty. Although Ngati Tuwharetoa did not sign the Treaty of Waitangi in 1840, they nevertheless took one of the leading Treaty cases to the Privy Council in the 100<sup>th</sup> year of the signing of the Treaty, and have remained at the forefront of treaty debate.

Through their efforts in the Native Land Court, Maori women also became more familiar with government processes. They exercised their democratic rights by petitioning central and local government. Petitions are the most common form of political checks on government which were utilised by Maori women. In addition to land, the women extended their focus and concentrated on solutions for domestic violence, smoking and alcohol abuse, solo parenting and the retention of cultural skills. The women's organising abilities were outstanding considering their economic and social impediments.

Last week the Waitangi Tribunal released its report of the Wanganui River Claim. During the 1890's the women of the Wanganui River were staunchly opposed to the Government's plan to open up the river for trade. Led by their rangatira Mere Rangingainga, the Wanganui women bravely presented their opposition in the courts and before government. Many of the difficulties which they experienced in advocating their concerns in those fora, are still those of Maori women today.

Despite the active involvement of Maori women in championing the causes of their people, neither their efforts nor the combined leadership of men and women could prevent the devastating impact on Maori social organisation, of land alienation and laws affecting women and their families.

The disintegration of the basic social unit had a profound effect on Maori women, undermining their traditional leadership and nurturing roles which were complementary to the roles of men.

And yet for all that, women leaders have remained at the forefront of tribal and national endeavours, both political and legal, to maintain the Maori position, notwithstanding their lack of formal qualifications, for much of the past 160 years.

To acknowledge but four of many:

- Topeora of Raukawa who by virtue of rank and position signed the Treaty of Waitangi on behalf of her hapu as one of at least 13 or more women to do so, but maintained a strong Maori position for her people.
- Te Paea of Waikato, who negotiated with Government for the return of land on which to build her meeting houses at Turangawaewae and who also provided hope and the ability to rally her people to a single purpose.
- Dame Whina Cooper of the North who led the Maori land march to Parliament to mark a new era of Maori and Crown interaction, one that eventually required government to consider its past breaches of the Treaty.
- Dame Te Atairangi Kahu, Maori Queen, of Tainui, Waikato who led her people to a settlement with the Crown after they had carried for 130 years the devastating aftermath of Raupatu or confiscation of their land, without just cause.

The focus for these activities and those of countless other Maori women who have exercised leadership throughout our history has been the maintenance and support of Maori communities.

For those of us Maori women who have pursued careers in law over the past 25 years, the efforts and sometimes extraordinary achievements of our earlier female leaders is both stunning, and humbling.

Stunning, because they stood firm to their position for their rights and dignity of their peoples, and the Treaty of Waitangi, at a time when there was little or no support either politically or legally for either.

And humbling, because knowing what has been achieved in the past, and what still has to be done means that we have a responsibility to make our contribution, however great or small.

We inherited their work and became part of it in a different way but always for the same cause, the wellbeing of our people. Our female ancestors were active in and around our legal and political system long before we made our formal entry into those systems, and we salute them.

Which brings me to the reasons I pursued Law in the late 60's, early 70's at a time when there were few women, few Maori men, and no Maori women.

There were I think a range of reasons, some superficial, in fact most were.

- I was flattered my friends thought I could do it - ("Why not? men do")

- I liked the get up, and fancied myself as Shakespeare's Portia in the "Merchant of Venice". It never really turned out that way.
- In the late 60's there were major Maori Land reforms occurring and a discussion about this clearly indicated the need for qualified people with both an interest and experience in this area.
- I liked the challenge of succeeding in a largely male dominated arena.

The real reason has emerged over the last 15 years and it has to do with making the most of your potential in order to make a contribution to your community and your country. It also has to do with families and our country.

I cannot say I did Law because I wanted to be a Cabinet Minister but now that I'm one, I'm glad I pursued a career in law first. That background has shown clearly the need at all times for lawyers and politicians to be diligent about upholding our democratic conventions, and respecting the rule of law.

The thing that motivates me is New Zealand, such a great country. I'm a family person and I believe in strong families building strong communities, strong communities building a strong nation, a nation that is building a shared future.

My background and upbringing instilled this notion into my thinking probably at a very early age. Growing up in a small forestry township beneath the mountains, as one of a family of eight, presided over by parents who committed themselves totally to our education and wellbeing, I enjoyed what I consider, an almost idyllic upbringing.

No one in the township knew wealth in financial terms but rather in the sense that there was a surplus of work in the mill and the forest, a first class country school headed up by a truly dedicated headmistress, and an environment that promoted small town rural community values, we considered we had wealth in abundance. The values learned in those early years are values of family, community, strong tribal identity and tribal endeavour, of individual and collective responsibility, of service to the wider community and of fairness and equity.

Maintaining and supporting strong families and communities (including iwi, hapu and whanau) is what our female leaders in the past were striving for and I believe is what motivates my Maori sisters in Law, and what motivates you all as well, such a simple notion, a challenge to achieve but in my view the key to our future! It's likely that that is what motivated Ethel Benjamin, and I am sure what motivates our new Chief Justice.

A capacity in the Law is both a privilege and a responsibility. At times like this I'm reminded of the legal jurist, Hoefield who said, "for every right there is a duty and for every privilege received there is a corresponding responsibility."

Women in the law especially have a responsibility to lead our country in ways that promote the notion of strong families strong communities, building a strong nation, contributing to our collective security and wellbeing. Politicians have that responsibility also.

I wish you well in the future, our shared future.

**Kia tau te rangimarie kia tatou katoa.**

May peace be with us all