AHI KAA

MAORI FISHERIES

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As we head in to the 1990's, the broad spectrum of issues raised by 150 years of rascist opression are brought to a head in the current dispute over Maori fisheries. This paper presents a Maori point of view of their fishing rights and what has happened to them.

The Maori Nations, or iwi, have always held the mana over their territorial seas. Mana embraces absolute or sovereign authority. To the Maori their collective authority extends over the whole of the sea, which is known to them as Te Moana Nui A Kiwa, the domain of their foremost seafaring ancestor, Kiwa.

The Maori believe their mana is derived ultimately from Tangaroa, the God of the sea. Maori were given the responsibility as guardians of the children of Tangaroa, the multitudes of fish and shellfish in the sea. The mana entrusted in them is primarily the authority to protect and conserve their fisheries in their natural abundance, and for the use of future generations.

For over a thousand years they were able to manage their fishing activities so that their fisheries remained a rich and plentiful resource, that was never in danger of depletion. Fishing methods were carefully controlled, and fish were only taken in the right seasons when they were in prime condition. Quantities were monitored and if depletion seemed possible areas would be closed from use until they were fully restored. Fish were never cleaned at sea to avoid polluting the grounds and there were many rules that ensured conservation and the avoidance of waste. Maori were taught as children to respect the sea, and that respect was ingrained in their whole way of life.

The success of Maori fisheries management was such that early Pakeha observers were astounded at the abundance and variety of life in the seas around Aotearoa. The sea would shimmer with the movement of immense schools of surface fish such as kahawai, mullet, parore, kingfish, herring and trevally. Shellfish were plentiful including mussels, oysters, pipi, cockles, pupu, karahu, toheroa, paua and kina. Fishing grounds were well stocked with crayfish, shark, groper, bass, maomao, moki, and many other species of fish. Seaweed was harvested, as were the many species of eels and freshwater fish.
In 1807, Savage noted that:

> "This Bay (Bay of Islands) abounds in fish of all descriptions...The snapper and bream are uncommonly fine- the crayfish and crabs excellent, and the oysters...well flavoured and...in great abundance...The colonists will find the greatest abundance of fresh and salt water fish."

The ability of iwi to conserve their seafoods had enabled them to develop and sustain extensive fishing that provided for the needs of each community, as well as for trade with other iwi.

Their knowledge and technology was superior to that of the early Europeans who witnessed their fishing. Deep sea fishing was common, with hapuku and moione caught at depths of 500 metres, as was the use of nets of far greater dimensions than anything ever seen in Europe. Pakeha observers noted the use of deep seine nets exceeding one kilometre in length.

When Maori agreed to let the Pakeha settle in New Zealand it was clear they would only do so with the assurance that Pakeha would not infringe upon their fisheries. That assurance was secured in the Treaty of Waitangi.

In the Treaty, Maori gave the Queen the right to govern her own people in New Zealand and also the right to buy land for them from Maori, if there was an agreed price. However the Queen was not given the right to govern Maori, and she was not given any rights at all in respect of the sea or fisheries.

Maori sovereignty over the seas was retained, and was expressly guaranteed in Article II of the Treaty. In the English translation Maori were guaranteed the "..full, exclusive and undisturbed possession of their..fisheries."

Maori assumed that the English were an honourable people, who would adhere to the terms of the Treaty. However, when the settlers gained a numerical majority in New Zealand they usurped Maori sovereignty and imposed their own form of Government on the Maori people. These actions were in fundamental breach of the terms of the Treaty of Waitangi.

The political subjugation of the Maori people was followed by the legalised theft of their economic resources, including their fisheries.

The first fish law of the settler Government was the Oyster Fisheries Act 1866. At that time Maori had developed a thriving trade in oysters, supplying the Auckland markets. The settler Government responded with a series of Acts which prohibited Maori from taking their oysters commercially, and licenced Pakeha to take over the oyster industry. The Oyster Fisheries Acts were merely the first in a history of racist legislation and policies that were to exclude Maori from their own fisheries.

The Crown arrogantly claimed that the fisheries were theirs, and assumed the unquestioned right to plunder those fisheries in the interests of short term profits for Pakeha. The underlying philosophy was well stated in Parliament in the 1880's:

> " Our waters are replete with gold sovereigns, and we have only to take them out and they will fill the Treasury."

To this end the Crown dismissed Maori controls on fishing and imposed their own forms of fisheries mismanagement. A Pakeha fishing industry was promoted by Government and overfishing

was encouraged. The problem became most noticeable from the 1950's as a growing fleet of trawlers creamed the inshore fisheries. Traditional crayfish grounds were littered with commercial crayfish pots, while licenced divers cleaned out the paua beds and the kina. Commercial excesses were exacerbated by a lack of control of amateur fishing.

The law removed the authority of the elders to control their fisheries. They were ignored by the Pakeha and their knowledge was lost to some Maori who began to emulate the Pakeha. They felt that if they did not take what they could get the Pakeha would take the lot anyway.

By 1980 inshore fish stocks had become severely depleted. The survival of some species was in jeopardy.

This, however, did not stop the fishing industry from teaming up with the Japanese, Koreans and other foreign nations to pillage the deep sea fisheries as well. The survival of the orange roughy came under threat due to over exploitation.

The Government continued to allow over-fishing and in 1986 a Ministry of Agriculture and Fisheries representative had to admit that:

> " After a century of fisheries management it had become clear that a range of fishery management techniques had all ultimately failed."

This, of course, was not news to the Maori. For over 100 years the Maori had campaigned for the recognition of the Treaty of Waitangi, and the restoration of responsible fisheries management under Maori law.

However, the Government continued to ignored Maori protests and implemented its latest brain-child, the quota management system. Under the quota management system, fisheries were privatised and commercial fishermen given a set quota or tonnage in particular species. The quota system was touted as a conservation measure because it restricted the amount of fish that could be caught, but it caused new forms of waste including the large scale dumping at sea of fish for which fishermen had no quota. The underlying goals of the quota system were to promote the interests of the big players in the fishing industry.

The quota was allocated on the basis of 3 year catch histories. The multi-national companies who had been most responsible for pillaging Maori fisheries in recent times were given millions of dollars worth of quota. The quota was a valuable asset used by them as security so they could borrow money to expand their fishing fleets. They had nothing to lose because if they had to get out of fishing the Government would buy back the quota which it originally given to them for free. Alternatively they could sell their quota on the quota exchange.

Small time fishermen received small time quota that were uneconomic and so they had to sell out to the larger companies who soon secured a monopoly on New Zealand's fisheries. Seven companies now own 80% of fish species under quota.

To the Maori, the quota system represented the final step in the confiscation of their fisheries. The justice of their claim was finally recognised in the Waitangi Tribunal and the courts. The Tribunal found that Maori fisheries were guaranteed under the Treaty of Waitangi and that Government should negotiate an agreement with Maori. The Government ignored the Tribunal's advice.

The Maori took the Crown to Court and the High Court issued an injunction restraining the extension of the quota system to further species, and said Government should negotiate with Maori. Only then did Government negotiate, but instead of allowing Maori to chose their own representatives the Government appointed 4 Maori to represent 40 independent Maori nations, all of whom had their own distinct fisheries.

The negotiations took place amid a rising tide of white racism. Pakeha extremists were enraged that Maori had the affrontery to claim the fisheries that were guaranteed to them by the Crown in the Treaty of Waitangi. They foamed at the mouth when Maori used due legal process to claim their lawful rights.

A Welsh immigrant, Bob Martin, established a racist lobbying group to oppose Maori claims, The One-NZ Foundation. It's philosophy is essentially that we are all New Zealanders and so Pakeha are entitled to keep everything that they have stolen from the Maori. Because we are New Zealanders, Maori must learn to forgive and forget. They must happily watch the trawlers rake their destruction across fishing grounds that their ancestors had treasured and protected for centuries.

Bob Martin was also the president of the Commercial Fishermen's Association. When the quota system was implemented he was given a small fortune in snapper quota which he promptly sold.

Meanwhile Maori, who had yet to receive one cent from their fisheries, were being scapegoated for the "hardships" facing the Fishing Industry.

White rascism pressured the Government. The fisheries negotiations broke down because Government abandoned any intention it might of had of honouring the Treaty of Waitangi. It would not even consider the generous proposal of the Maori negotiators that the Crown keep half of the fisheries they had stolen from Maori, so Maori could at least take back the other half. With the fisheries in their depleted state, the 50% that the Maori negotiators asked for would be only 1% of what Maori had once possessed.

The Government imposed its own settlement by legislation, the Maori Fisheries Act 1989. Ironically, the bulk of the Act sets up a mechanism to over-ride the High Court's decision in favour of Maori, by allowing the allocation to Pakeha of valuable rock lobster quota.

The Act also makes provision for 10% of quota to be allocated to Maori interests. A Maori Fisheries Commission will be set up with $10 million to facilitate the entry of Maori into fishing. Half of the money and quota will be allocated to a national Maori fishing company, and the rest distributed amongst the iwi.

The Government has effectively redefined the Treaty's guarantee of 100% of fisheries to mean 10% of commercial fishing at current levels. Maori have been given the privilege of competing with multi-national giants in the exploitation of their own fisheries. The division of quota among iwi will result in uneconomic quotas, and fishing enterprises doomed to failure. $10 million will buy one fishing boat.

Maori nations will be put in the position of fighting each other for a share of the crumbs that are offered to them, and they will have to pay for that privilege. In order to catch their own fish, Maori will have to pay resource rentals to the Government. The same rentals have already forced other small quota holders out of business.

The Act pays lip service to the mana of Maori to manage and control the use of their fisheries. It provides that the Minister of Fisheries may establish "local fisheries" and appoint local Maori to a management committee for each fishery.

The potential extent of these fisheries is limited to estuarine and littoral coastal waters, in other words, ankle fisheries. If they can be established, local Maori will be no better off because their so-called management committees have no powers of management.

The power to regulate fishing remains with the Minister who will hear recommendations from the Committee. Maori have had recommendations about their fisheries ignored for over 100 years. They have no reason to believe that the Minister will start listening to them now.

The "power" to make recommendations under the Act is in violation of the Treaty of Waitangi. Management committees established under the Act are prevented by the Act from seeking regulations that would exclude anyone from fisheries on the basis of colour, race, ethnicity or national origin. This provision contradicts the Treaty's guarantee to Maori nations of the exclusive possession of their fisheries. The Act compels the committees to act in breach of the Treaty of Waitangi, and to deny the rights of their own people.

The Government has tried to legitimate this farce by inventing a Maori name for it, taiapure. Taiapure has the distinction of

being the first word ever to be added to the Maori language by Act of Parliament.

The Government has said that if the Maori want any greater rights than are provided for in the Act, they will have to prove their case against the Government in the courts or the Waitangi Tribunal. Maori are faced with legal proceedings that they cannot afford, when they consider that they have nothing to prove. The existence and extent of their rights is clearly stated in the Treaty of Waitangi.

Maori believe that under the Treaty it should be the Government that has to prove to Maori that they have somehow obtained a legitimate right within Maori fisheries. The simple fact is that Government cannot legitimate its claims because Maori have never surrendered their mana, and they have never sold their fisheries.

However if Maori do go to court their case is practically lost before it has even started. The Prime Minister has stated that whatever the courts or the Tribunal may decide, the Government will have the last say. If the Government does not like the Tribunal's reccomendations, they will be ignored, if it does not agree with a court decision, it will be overturned by legislation. The Government has ignored established principles of natural justice and set itself up as judge and jury for its own crimes. It has placed itself above its own law so that its rejection of the Treaty may be complete.

The Maori people have suffered enormously from the theft of their fisheries and continue to suffer. They have had their livelihood destroyed and more than that, they have lost a whole way of life. Their seafoods have been polluted, and they continue to witness the destruction of their fisheries by people with no right to be there, acting with complete disregard for Maori rules of conservation. At the same time, Maori are vigorously prosecuted for taking seafood to feed their families.

1990 is not a time for Maori to celebrate 150 years of oppression and blatant denial of the Treaty of Waitangi. Maori will celebrate when their mana is enforced, when they have re-asserted proper fisheries management, and restored their fisheries to their natural state of abundance.

Pakeha should support the Maori, they should not be paranoid about Maori treating them with the same contempt that the Pakeha has shown for his Treaty partner. They should realise that unlike them, the Maori have always been an honourable and a generous people who have shared their fisheries in the past and are prepared to do so again, fairly and equitably.

They should also know that the future of the fisheries will never be safe so long as they are controlled by an incompetent Ministry, pandering to the greed of the Pakeha Fishing Industry.

If New Zealanders knew this they might not celebrate the misdeeds of the past. Maybe they would pay due respect to the mana of te iwi Maori. That is what 1990 should be all about!