
International Treaty Examination of the Trans Pacific Partnership Agreement (TPPA)

Modern day Colonialism of Maori

Submission

The closing date for submissions is Friday 11th March 2016

Name or Group	Marise Lant on Behalf of Claimants Wai 2478 of the Te Ture Whenua Maori Reforms and Bill.
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I give permission for my name to be listed in the published summary of submissions

I would like to be given the opportunity to speak to my submission.

We make this submission under the 1835 Declaration of Independence and
Te Tiriti O Waitangi

I am Marise Lant lead claimant Wai 2478 of the Te Ture Whenua Maori Reforms Waitangi Tribunal Claim. I make this submission on behalf of my Tamariki and Mokopuna with regard to my Tipuna. My Hapu/Iwi affiliations as Mana whenua ki Aotearoa are Ngati Porou, Uepohatu, Ruawaiapu, Te Aitanga A Hauiti, Ngati Patuwhare, Te Aitanga A Mahaki, Ngariki Kaiputahi, Rongowhakaata, Te Whanau A Apanui, Tuhoe, Te Arawa, Tuwharetoa, Ngati Kahungunu, Rongomaiwahine, Tainui, Te Whanau A Kai.

The Trans Pacific Partnership Agreement (TPPA) was negotiated under a shroud of secrecy with New Zealand, United States, Japan and 9 other countries.

1. I am the lead claimant in the WAI 2478 claim which contests the implementation of a new Maori Land Bill to replace the *Te Ture Whenua Maori Act* (1993). I consider that the Government's signing of the TPPA is just another attempt to pursue its own agenda and to align the current and any future iteration of the *Te Ture Whenua Maori Act* (1993) with the TPPA. In short, Maori Lands are being put at risk for the benefit of corporates.
2. We strongly oppose the TPPA Agreement as a Treaty Partner with the Crown. This Government by signing the TPPA agreement on the 4th of February 2016 has failed in its role to honour the clear intent of the Te Tiriti O Waitangi to consult with Maori on matters which affect their health, wellbeing and economic destiny .
3. We strongly oppose the TPPA agreement because it is contrary to the Te Tiriti/Treaty of Waitangi. This Government had no mandate to sign this corporate benefit agreement without the free and prior consent of Maori. Accordingly, this unilateral action is in breach of Te Tiriti O Waitangi.
4. We strongly oppose the TPPA agreement because it's signing to the exclusion of consultation with Maori mirrors the same disregard for the Crown's Treaty obligations as recently found by the Waitangi Tribunal in the WAI 2478 claim. In the preliminary release of Chapter 3 of WAI 2478 the Tribunal find that "*the Crown will be in breach of the Treaty principles if it does not ensure that there is **properly informed, broad-based support** (from Maori) for the Te Ture Whenua Maori Bill to proceed.*"

5. We strongly oppose the TPPA agreement because on the 20th of April 2010, this Government attended the United Nations Assembly and signed the Declaration on the Rights of Indigenous Peoples which intent is to eliminate human rights violations against indigenous peoples and to assist them in combatting discrimination and marginalisation. This Government in signing the TPPA is in flagrant breach of the Declaration by excluding Maori from any direct involvement in the negotiation process at every level.
6. We strongly oppose the TPPA agreement because it also contradicts the NZ *Bill of Rights Act* (1991) and the *Human Rights Act* (1990). There have been numerous trade agreements around the world that have had devastating effects on Indigenous peoples, who have had their rights to their lands and resources removed and ignored and in consequence have become marginalised.
7. We strongly oppose the TPPA agreement as it is a Trojan horse to carry the neoliberal capitalistic agenda which embraces Governance models that diminish and extinguish indigenous rights. The TPPA will do the same with Maori, by putting corporate interests and priorities ahead of a quality and sustainable lifestyle for Maori, also including all other citizens that reside here.
8. We strongly oppose this Government's approach to use corporate Maori forum like FOMA to negotiate or speak on our behalf. They do not hold the mandate for Maoridom nor should they. Any organisation that would allow foreign companies to sue our Country for taking measures to protect the environment or public health because of the potential to damage their profits cannot purport to be representative of Maori aspirations and views across the spectrum on the TPPA. We are a people of manaakitanga, whakawhanaungatanga, and kaitiakitanga; however, these 3 principles are contradicted in the actions that FOMA has taken to support the TPPA. It goes against our own beliefs and customs, therefore their support for the TPPA has another agenda and it is not for Maori or in the best interest of Maori.

MAORI FREEHOLD LAND

We strongly oppose the Trans Pacific-Partnership Agreement because it threatens to dramatically affect our Maori lands through radical trade and commercial policies which will undermine Maori landowner autonomy. This erosion of tino rangatira exacerbates the already detrimental legislative reforms which are in progress with the current Te Ture Whenua Reforms and Bill. A full rewrite of the current *Te Ture Whenua Maori Act* (1993) will unlock and open further unsanctioned access to Maori Freehold land which would see transnational corporations, for example the Oil and Gas industry, engaging in mineral extraction without the Free Prior and informed consent of the Maori owners and communities affected, and with limited or no consent.

The proposed changes to the Act already force Maori Land Owners to create Corporate Governance Structures over their lands, and include a participatory owner model which imposes a threshold of consent requiring owners to be present at all meetings.

This is totally unacceptable, as Maori Land Owners are normally owners in multiple blocks around the country. Maori Land Owners are generally limited financially and, additionally, it would be very time consuming in travel for Maori to attend all land hui. Clearly this is one of many mechanisms created to stonewall Maori Land Owner's rights over their lands.

This is an attempt by the Government to corporatize Maori Lands in an effort to prepare for a takeover of Maori Freehold land. There are clauses within the latest Bill which have many flaws and backdoors that allow Sale and Purchase of Maori Freehold lands whereas, conversely, the protective mechanisms that enforce Te Tiriti principles to retain "He Taonga Tuku Iho" have been significantly minimised or reduced.

The consultation process has been consistently flawed and an epic failure, where Maori have not been fully engaged, and in consequence there has been little agreement to the radical changes being made to the current *Te Ture Whenua Maori Act* (1993). The reforms have caused controversy within Maoridom, a divide and conquer tactic historically used by Governments to their advantage. There was enough widespread concern amongst Maoridom to spark the WAI 2478 Waitangi Tribunal Claim which was supported by those of us who led the claim, including the Maori Womens Welfare League, the New Zealand Maori Council and Wakatu Incorporation.

The actions of the Crown in light of these procedurally flawed circumstances forced the Waitangi Tribunal to release on the 5th of January 2016 a section of their report (Chapter 3). The report released indicated that the Crown would be in breach of its Treaty obligations and strongly recommended the Crown as a Treaty partner take into consideration the recommendations outlined in the report as to how to adequately consult with Maori over their lands. The Waitangi Tribunal's full report is due out on the 11th March 2016.

In short, the government's signing of the TPPA is just another attempt to fulfil its own agenda to align the current *Te Ture Whenua Maori Act* (1993) changes with the TPPA provisions to the detriment of Maoridom. Maori Lands are being put at risk for the benefit of Corporates.

The Whenua is our Whakapapa, our Mauri, our Wairua and is consistent with Te Ao Maori, it is our Tikanga!

RESOURCES AND MINERALS

We strongly oppose the Trans Pacific-Partnership Agreement policies which align with programs like the Hei Kai Kei Aku Ringa strategy to unlock the utilisation and development of Maori Freehold land being promoted within the Ministry of Primary Industries. The Ministry of Primary Industries encourages oil and gas industry production, an industry which has already severely affected other Native communities around the world. Under the *Crown Minerals Act* (1991) New Zealand Petroleum and Minerals which manages on behalf of the government all oil, gas, mineral and coal resources would approve permits for prospecting purposes. The proposed Te Ture Whenua Maori Bill being introduced to Parliament in March will by this mechanism allow governance structures to be created by overseas corporates and investors which will control the sale and purchase of Maori Land to multinationals and overseas buyers and purchasers. Further, local Councils through the *Resource Management Act* (1991) authorise and grant consent applications for activities being proposed by corporate business, in particular Oil and Gas industries. However, it is presently difficult for Councils to give consent to an application for hydraulic fracturing on Maori Lands, a situation which will be undermined by the provisions of the TPPA. A concerning harbinger is that Oil and Gas companies have already begun encroaching on otherwise off-limit native lands globally.

“Whatungaro Te Tangata, Toitu Te Whenua”

FRACKING

We strongly oppose the Trans Pacific-Partnership Agreement because it would allow companies to evade financial responsibility for environmental contamination, even when it occurs on Maori lands. Under the TPPA, investors would have the ability to demand taxpayer compensation for imposed fines, effectively burdening the public with the cost of environmental clean-up. This industry practice has a high risk of water and air contamination. New Zealand is not resourced or adequately equipped to deal with an oil disaster the size of the Horizon and consequently Maori and taxpayers would be burdened with this major responsibility and cost. It will potentially cripple our commercial fishing industry along with the aquaculture and marine life, many which are native species and endemic to New Zealand waters. Of greatest concern to Maoridon is that their hunting and fishing grounds would be at risk and the water quality will no longer be the same.

“To change the face of the landscape, would be to change who I am”

NATIVE FLORA & FAUNA

We strongly oppose the Trans Pacific-Partnership Agreement on grounds that the draft article on Trade and Biodiversity recognises the rights of states over natural resources and genetic material. The TPPA would allow for multinational corporations like Monsanto and industries like Big Pharma to benefit enormously by allowing them exclusive rights over things like seeds and traditional plant-based Rongoa medicines found in biodiverse areas managed by Whanau/Hapu/Iwi.

The agreement flagrantly ignores the specific mention of this in the United Nations Declaration on the Rights of Indigenous Peoples which states that native peoples have the right to maintain control, protect and develop the manifestations of their sciences, technologies and cultures including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora (ref. Article 31).

The patenting of plants that have been used traditionally by Maori without their consent or benefit has been called bio-piracy and would snowball given the approval of the TPPA.

This leaves Maori at risk of losing autonomy over their customary knowledge and language, which would become effectively owned by multinational corporations, as would copyright entitlements, an erosion which would have the support of the government and its agencies under the TPPA.

INTELLECTUAL PROPERTY RIGHTS

We strongly oppose the Trans Pacific-Partnership Agreement because it will adversely affect Maori economically and will push them further into poverty, this from an existing base of appalling statistics across the full range of socio-economic indicators.

The TPPA will give multinationals the right to exploit ecosystems and further aid them in acquiring of enforced trademarking and copyrighting of Maori intellectual property and cultural or traditional knowledge.

LAWSUITS AGAINST OUR OWN COUNTRY FOR PROFITS

We strongly oppose the Trans Pacific-Partnership Agreement because aspects of the TPPA in the draft chapter on investment deals with investor state dispute settlements (ISDS). These provisions give corporations the right to sue a government for unlimited cash compensation in private and non-transparent tribunals over nearly any law or policy that a corporation alleges will reduce its profits.

The most likely damages to a country will be in the area of natural resources, especially in Oil and Gas extraction, mining and freshwater quality which all around the world have resulted in billions of dollars of damages against governments. The ISDS does not include any over-riding mechanisms to protect the environment from harm caused by foreign corporations in their voracious quest for profit.

ECONOMIC DEVELOPMENT & ENVIRONMENTAL MANAGEMENT

We strongly oppose the Trans Pacific-Partnership Agreement because the ISDS clause can be used to pressure governments into allowing the continued operation of severely polluting industries simply out of fear of being sued for lost profits. That is, the very presence of this provision will have a chilling effect. Governments around the world are already extremely reluctant to regulate industries like mining and oil, which can bring them large revenues in royalties, or to regulate for water quality which may undermine the viability of economic drivers such as intensive dairying. With the high potential that states could be held financially responsible for reigning in harmful business practices wherever corporate profits are at stake there is every likelihood that international precedents of disenfranchised indigenous peoples living with destructive industries in their backyards will be replicated in New Zealand, to the further detriment of Maoridom.

Naku Noa Na



Marise Lant

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Te Ture Whenua Reforms & Bill

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