TREATY PRINCIPLES

The Government, the courts, and the Waitangi Tribunal are each developing their own set of "Treaty principles"; thus, one must inquire as to what exactly is meant when the term is used - it is not defined in legislation.

The following are the Treaty principles and associated descriptions announced by the Labour Government in 1989:[1]

1. The Kawanatanga Principle The Principle of Government

The Government has the right to govern and to make laws. The first Article of the Treaty gives expression to the right of the Crown to make laws and its obligation to govern in accordance with constitutional process. This sovereignty is qualified by the promise to accord the Maori interests specified in the second Article an appropriate priority.

2. The Rangatiratanga Principle The Principle of Self-Management

The iwi have the right to organise as iwi, and, under the. law to control their resources as their own. The second Article of the Treaty guarantees to iwi Maori the control and enjoyment of those resources and taonga which it is their wish to retain. The preservation of a resource base, restoration of iwi self-management, and the active protection of taonga, both material and cultural, are necessary elements of the Crown's policy of recognising rangatiratanga.

3. The Principle of Equality

All New Zealanders are equal before the law.

The third Article of the Treaty constitutes a guarantee of legal equality between Maori and other citizens of New Zealand. This means that all New Zealand citizens are equal before the law. Furthermore, the common law system is selected by the Treaty as the basis for. that equality although human rights accepted under international law are incorporated also. The third Article also has an important social significance in the implicit assurance that social rights would be enjoyed equally by Maori with all New Zealand citizens of whatever origin. Special measures to attain that equal enjoyment of social benefits are allowed by international law.

4. The Principle of Reasonable Co-operation

Both the Government and the iwi are obliged to accord each other reasonable co-operation on major issues of common concern.

The Treaty is regarded by the Crown as establishing a fair basis for two peoples in one country. Duality and unity are both significant. Duality implies distinctive cultural development and unity implies common purpose and community. The relationship between community and distinctive development is governed by the requirement of co-operation which is an obligation placed on both parties to the Treaty.

Reasonable co-operation can only take place if there is consultation on major issues of common concern and if good faith, balance, and common sense are shown on all sides. The outcome of reasonable co-operation will be partnership.

5. The Principles of Redress

The Government is responsible for providing effective processes for the resolution of grievances in the expectation that reconciliation can occur.

The Crown accepts a responsibility to provide a process for the resolution of grievances arising from the Treaty. This process may involve courts, the Waitangi Tribunal, or direct negotiation. The provision of redress, where entitlement is established, must take account of its practical impact and of the need to avoid the creation of fresh injustice. If the Crown demonstrates commitment to this process of redress then it will expect reconciliation to result.

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[1] Extracts from press release issued by David Lange. The original also includes several paragraphs of commentary on each of the five principles.

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