



Human Rights
Commission
Te Kāhui Tika Tangata

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Tēnā koe Claire

SUBMISSION BY NEW ZEALAND HUMAN RIGHTS COMMISSION

UN Expert Mechanism on the Rights of Indigenous Peoples: Consultation on the role of languages and culture in the promotion and protection of the rights and identity of indigenous peoples (AK/ST/cc)

In response to the Office of the United Nations High Commissioner for Human Rights' email of 11 November 2011, the following information is provided by the New Zealand Human Rights Commission (the Commission).

Summary of submission

The Commission promotes the right to language as affirmed in Article 27 of the International Covenant on Civil and Political Rights and in the Declaration on the Rights of Indigenous Peoples. Language and culture are indivisible, as language contains, and allows for the expression of culture.

The Commission believes that the effective promotion and protection of languages requires four components:

1. A clear strategy agreed between indigenous peoples and the State
2. Indigenous community commitment and action
3. State financial support and a legislative and institutional framework; including official recognition of indigenous languages
4. Wider community acceptance and recognition of the right to language

It is important for National Human Rights Institutions to promote the right to language for indigenous people as an integral part of their general advocacy for human rights.

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Toi te kupu, toi te mana, toi te whenua¹

Without the language, without prestige and without land, Māoritanga will cease to exist. These three: language, prestige and land are the life of Māoritanga.²

Thank you for the opportunity for input into the study on the role of languages and culture by the Expert Mechanism on the Rights of Indigenous Peoples. The Commission recognises the vital importance of language to culture and indigenous people's economic and social wellbeing. Language is culture. It embodies the history, values and traditions of a people and expresses their worldviews. It binds people together and binds them to their environment. Māori culture and its expression through te reo Māori (the Māori language) is the primary source of identity, and of self-esteem for an individual and a community.

In 2008, the New Zealand representative at the United Nations General Assembly recognised the link between te reo Māori and the well-being of Māori. She stated that the Government agreed with Māori, 'that growth in use of the indigenous language contributes to the wellbeing of Maori, both individually and as a community.'³ Two years later, the New Zealand Government expressed its support for the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

Article 13 of UNDRIP states that indigenous peoples 'have the right to revitalize, use, develop and transmit to future generations their...languages', and that States 'shall take effective measures to ensure that this right is protected'. Article 11 states that indigenous peoples 'have the right to practise and revitalize their cultural traditions and customs.' The Commission promotes public awareness of UNDRIP, including those particular articles, through facilitated discussion and advice for Māori and government agencies on ways to implement UNDRIP in policy and practice.

As a National Human Rights Institution, the Commission recognises that it has a responsibility to promote and protect the right to language. The Commission believes that New Zealand has a particular responsibility under the Treaty of Waitangi⁴ and international law to protect and promote te reo Māori as the indigenous language of New Zealand. New Zealand also has a special responsibility to protect and promote other languages that are indigenous to the New Zealand realm:⁵ Vagahau Niue, Gagana Tokelau, Cook Island Māori, and New Zealand Sign Language.

¹ This proverb has been attributed to Tinirau from the Whanganui district. See *Te Ao Hou: The New World* magazine (1957), p 42.

² This explanation of this proverb is given by Sir Kingi Ihaka, in *Te Ao Hou: The New World* magazine (1957), p 42. *Te Aka Māori-English, English-Māori Dictionary* defines Māoritanga as "Maori practices, traditions and beliefs".

³ Statement by Ms Nicola Hill, Representative of New Zealand, 20 October 2008 at UNGA Third Committee, Item 64 Indigenous Issues.

⁴ *Te Tiriti o Waitangi* (Māori language Treaty) and the Treaty of Waitangi (English language Treaty) were signed in 1840 between the British Crown and some Māori rangatira (leaders).

⁵ The Realm of New Zealand includes New Zealand, the territory of Tokelau, and the self-governing states of the Cook Islands and Niue. See the website of the Governor General of New Zealand at <http://gg.govt.nz/role/constofnz.htm>

Evolution of te reo Māori

Communication in te reo Māori has declined since the colonisation of New Zealand in the 19th century. Use of te reo Māori was actively suppressed and discouraged until the later half of the 20th century. The 1970s saw an increase in vocal concern by Māori for the decline in the use of te reo Māori. Māori began to take more concerted actions to voice their concerns at State policies and practices, and to establish Māori ways of learning and teaching te reo Māori.

In 1972 a Māori Language Petition asking that te reo Māori be offered in schools was presented to Parliament. Within the next decade, Māori established community-based learning of te reo Māori, and bi-lingual and immersion education at preschool, primary, secondary and tertiary level, and in some mainstream schools including:

- Te Ataarangi: community-based programme for adults. This methodology was developed in the late 1970s to teach te reo Māori to Māori.⁶
- Kōhanga reo: pre-schools to teach te reo Māori and Māori culture to children and their parents.
- Kura kaupapa Māori: immersion schools for primary-aged children.
- Wharekura: immersion schooling for secondary students.
- Wānanga: tertiary institutions. There are currently three wānanga that incorporate Māori ways of teaching and learning for Māori and non-Māori.

Māori have also driven the revitalisation of te reo Māori and Māori culture as expressed through the language of visual arts, including kapa haka,⁷ tā moko,⁸ carving and weaving. Kapa haka festivals of Māori performing arts began to emerge in the 1960s, and have evolved into a National Kapa Haka Festival, Te Matatini o te Rā, which has been held since 1972.⁹ Tā moko has seen resurgence, and a national art organisation, Te Uhi a Mataora, was established in 2000 to oversee the development and retention of tā moko as an art form.¹⁰

The New Zealand Māori Arts and Crafts Institute (now known as Te Puia)¹¹ was established by statute in 1963,¹² to act as guardians for Māori culture, arts and crafts. Te Puia is the home of national schools of carving and weaving. It operates today as a centre of 'knowledge and excellence for the preservation, presentation, education and growth of traditional expressions of Māori arts, crafts and culture'.¹³ Traditional expressions of Māori art are not limited to traditional resources. Te Puia also encourages Māori art expression that maintains its relevance in contemporary times, using contemporary mediums.

⁶ See <http://www.teataarangi.org.nz/>

⁷ Te Aka Māori-English, English-Māori Dictionary defines kapa haka as "concert party, *haka* group, Māori cultural group, Māori performing group".

⁸ Māori facial and body tattooing.

⁹ See <http://www.tematatini.co.nz/>

¹⁰ See http://www.maoriart.org.nz/moko-artists-c-52_71.html

¹¹ See <http://www.tepuia.com/index.htm>

¹² New Zealand Māori Arts & Crafts Institute Act (1963)

¹³ http://www.tepuia.com/about_te_puia_new_zealand_maori_arts_and_crafts.htm

State promotion and protection of te reo Māori

There has been an evolving state response to Māori pressure and initiatives to halt the decline of te reo Māori, and increase its use.

The Māori Language Act 1987 recognised te reo Māori as an official language of New Zealand and provided for te reo Māori to be spoken in certain legal proceedings.¹⁴ It also established Te Taura Whiri i te Reo Māori, (the Māori Language Commission), to protect and foster the use of te reo Māori.¹⁵ The Act was a response to the comprehensive claim to te reo Māori¹⁶ heard by the Waitangi Tribunal¹⁷ in the 1980s, concerning the Crown's failure to protect the language, as required by Article Two of the Treaty of Waitangi.

Broadcasting

The Iwi Radio Network was established in the early 1990s in response to the Waitangi Tribunal's recommendations on a claim to Māori interests in the radio spectrum. The Government reserved the frequencies for the promotion of Māori language and culture. Iwi radio frequency licences are issued to 21 iwi.¹⁸ These licences stipulate that frequencies must be used for the purpose of promoting Māori language and culture and broadcasting to a primarily Māori audience.

The Māori Television Service Act 2003 (Te Aratuku Whakaata Irirangi Māori) established Māori Television as a statutory corporation to protect and promote te reo Māori in broadcasting. Māori Television has two stakeholder interest groups: the Crown and Te Pūtahi Paoho (the Māori Electoral College).¹⁹ In 2008, Māori Television launched a Māori-language-only channel, Te Reo.

Te Reo Māori in 2012

Despite efforts to revitalise te reo Māori, challenges still remain. Special Rapporteur James Anaya has urged the Government to take action to address,

¹⁴ Section 4, Māori Language Act 1987.

¹⁵ Section 6, Māori Language Act 1987.

¹⁶ WAI 11. Report of the Waitangi Tribunal is accessible online at <http://www.waitangi-tribunal.govt.nz/scripts/reports/reports/11/2580F91B-5D6F-46F4-ADE0-BC27CA535C01.pdf>

¹⁷ The Waitangi Tribunal was established as a permanent commission of inquiry by the Treaty of Waitangi Act 1975. The Tribunal can examine claims by Māori who may have been prejudiced by actions or omissions of the Crown that are inconsistent with the principles of the Treaty of Waitangi. The Tribunal makes findings on whether a claim is well founded, but does not have the jurisdiction to settle claims.

¹⁸ Te Aka Māori-English, English-Māori Dictionary notes that iwi often refers to "a large group of people descended from a common ancestor."

¹⁹ The Crown is represented by the Minister of Māori Affairs and the Minister of Finance. Te Pūtahi Paoho (Māori Electoral College) comprises Te Kōhanga Reo National Trust, Te Ataarangi Inc, Te Rūnanga o Ngā Kura Kaupapa Māori, Te Tauihu o Ngā Wānanga, Ngā Kaiwhakapūmau i te Reo Māori, National Māori Council, Māori Women's Welfare League, Māori Congress, Te Whakaruruhau o Ngā Reo Irirangi Māori, Kawea Te Rongo and Ngā Aho Whakaari.

“the shortage of teachers fluent in the Māori language and to continue to develop Māori language programs.”²⁰

The state of te reo Māori has also recently come under scrutiny in two major reports: the Waitangi Tribunal’s report on te reo Māori as part of the WAI 262 claim in 2010,²¹ and a Ministerial task force’s review of the Māori Language Strategy and Sector, Te Reo Mauriora in 2011.²² New Zealand is currently at a turning point of policy decisions being made as a result of this review, and therefore a new Māori Language Strategy has yet to be developed in response to these reports and other findings.

An emerging language maintenance issue is the significant proportion of Māori who live in Australia, estimated at around 20 per cent of the global Māori population.²³ A similar situation is faced by significant proportions of people from small Pacific Island States, who have migrated to New Zealand.²⁴

New Zealand Human Rights Commission

In accord with its recognition of the vital importance of language to culture and to the wellbeing of Māori, the Commission has worked actively for the past decade with Te Puni Kōkiri (the Ministry of Māori Affairs) and Te Taura Whiri i te Reo Māori on the promotion and recognition of te reo Māori by the Government and in the public sphere. As a result of this work, we have seen much wider recognition of, and some use of te reo Māori in the media and the commercial sphere over the past five years, particularly as a result of the annual Māori Language Week promoting wider use of te reo Māori in public and community life. An example of this are the significant initiatives run by Progressive Enterprises Limited, New Zealand’s largest single grocery company, to promote Māori Language Week to its customers and introduce bilingual signage in its stores.

In 2007 the Human Rights Commission published a statement on language policy that called for, among other things, a national languages policy and specific strategies for te reo Māori.²⁵ The call was renewed in the Commission’s Review of human rights in New Zealand 2010.²⁶ To support discussion on language strategies, the Commission facilitates a language policy network, publishes a monthly newsletter and hosts an annual language policy forum.

²⁰ Report of the Special Rapporteur on the rights of indigenous peoples: The situation of Māori people in New Zealand (2011), para 80.

²¹ Commonly referred to as the flora and fauna claim, the WAI 262 claim was lodged in 1991 and the Waitangi Tribunal released its report in 2011.

²² The Review is available at <http://www.tpk.govt.nz/en/newsevents/news/launch-of-te-reo-mauriora/>

²³ Gaining an accurate figure of the number of Māori in Australia is problematic. Some commentators place the proportion of Māori in Australia at between 14 and 16% of the global Māori population. See for example <http://ips.ac.nz/events/downloads/2008/Paul%20Hamer%20MLC's%20Australian%20Clients%20-%20presentation%20to%20MLC%2011%20June%202008.pdf>

²⁴ An example of this is the geographic location of Niuean people. It has been suggested that in 2006, Niueans born in New Zealand accounted for 74 per cent (16,275) of the total Niuean population, see <http://www.niuenews1.com/interesting-statistics-about-nz-niueans/8076/>

²⁵ See Appendix 1

²⁶ Available online at <http://www.hrc.co.nz/resources/>

While this proposal has not been taken up by the Government, there have been important developments over the past five years such as the introduction of a separate curriculum area for languages in the New Zealand Curriculum; the production of a Māori Medium Curriculum (Te Marautanga o Aotearoa) and curriculum guidelines for Māori in the mainstream. The question of whether all New Zealand children should be taught te reo Māori at school is a current topic of public debate.

Conclusion

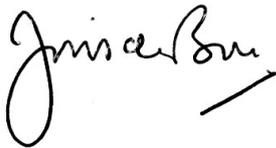
The Commission believes that the effective promotion and protection of languages requires four components:

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It is important for National Human Rights Institutions to promote the right to language for indigenous people as an integral part of their general advocacy for human rights.

Please do not hesitate to contact me if you would like further comment on the above. I wish you all the best in developing your report.

Nāku noa, nā

A handwritten signature in black ink, appearing to read 'Joris de Bres', with a diagonal line extending from the bottom right of the signature.

Joris de Bres
Race Relations Commissioner
Kaihautū Whakawhanaunga-ā-Iwi

Appendix 1

Languages in Aotearoa New Zealand

Te Waka a Reo - Statement on Language Policy

New Zealand's Language Diversity

The 2006 census figures show that after English, Māori is the most commonly spoken language in New Zealand, followed by Samoan, French, Hindi, Yue and Northern Chinese. The numbers of speakers are:

English 3,673,626

Māori 157,110

Samoan 85,428

French 53,757

Hindi 44,589

Yue 44,154

Northern Chinese 41,391

Other 509,358

Census data also show that the majority of New Zealanders continue to be monolingual, with 76.6% speaking only one language.

Foreword

The need for a national languages policy was identified in a landmark report published by the Ministry of Education in 1992. The Aotearoa report by Jeffrey Waite was the product of a National Languages Policy Task Force.

Unfortunately it did not get further political traction at the time. The call for a national languages policy was renewed in the New Zealand Action Plan for Human Rights and at the New Zealand Diversity Forum in 2005. By then a number of the language issues raised by Jeffrey Waite had assumed even greater urgency with the increased ethnic diversity in New Zealand, the decline in the use of some community languages and the onward march of globalisation.

The absence of a national languages policy has not prevented some very positive initiatives from occurring in particular areas. The lack of an overall strategic framework however has meant that these initiatives have been piecemeal and that some key issues have been overlooked or insufficiently addressed.

The Statement on Language Policy, developed through the national language policy network of the New Zealand Diversity Action Programme, is intended to provide an elementary framework to prioritise, implement and monitor language policy development in New Zealand pending the development of a more substantial strategy. Hopefully it will stimulate further debate and action.

This booklet contains the Statement, the language priorities from the New Zealand Action Plan for Human Rights and details of Te Waka Reo, the national language policy network. It is published as a contribution to the United Nations International Year of Languages.

Joris de Bres
Race Relations Commissioner
Kaihautu Whakawhanaunga a Iwi

Statement on Language Policy

Introduction

New Zealand is a diverse society in a globalised international community. It has an indigenous language, te reo Māori, and a bicultural Māori and Anglo-Celtic foundation. It is located in the Asia Pacific region and many people from the Pacific and Asia have settled here. Languages are a valuable national resource in terms of our cultural identities, cultural diversity and international connectedness. They are vitally important for individuals and communities, bringing educational, social, cultural and economic benefits. They contribute to all three national priorities of national identity, economic transformation and families young and old.

English is the most widely used language in New Zealand and the ability to communicate in English is important for all New Zealanders. Te reo Māori and New Zealand Sign Language are recognised by law as official languages. The number of speakers of te reo Māori is now increasing but much remains to be done to secure its future as a living language.

A majority of New Zealanders currently speak only one language. There are however significant communities that have a heritage language other than English. New Zealand's Māori, Pacific and Asian communities alone make up nearly a third of the population. The most common community languages other than English are te reo Māori, Chinese languages, Samoan, and Hindi.

Human Rights and Responsibilities

The right to learn and use one's own language is an internationally recognised human right. Human rights treaties and declarations specifically refer to rights and responsibilities in relation to indigenous languages, minority languages, learning and using one's mother tongue, the value of learning international languages, and access to interpretation and translation services. The New Zealand Bill of Rights Act provides that 'a person who belongs to an ethnic, religious, or linguistic minority in New Zealand shall not be denied the right, in community with other members of that minority, to enjoy the culture, to profess and practise the religion, or to use the language of that minority'.

New Zealand has a particular responsibility under the Treaty of Waitangi and international law to protect and promote te reo Māori as the indigenous language of New Zealand. It also has a special responsibility to protect and promote other languages that are indigenous to the New Zealand realm: Vagahau Niue, Gagana Tokelau, Cook Island Māori, and New Zealand Sign Language. It has a regional responsibility as a Pacific nation to promote and protect other Pacific languages, particularly where significant proportions of their communities live in New Zealand.

Economic Development

A significant and growing proportion of New Zealand's trade is with Asia and learning the languages of our key trading partners is an economic imperative.

Languages

English

All New Zealanders should have the opportunity and support to achieve oral competence and literacy in English through school, adult literacy programmes and ESOL (English for Speakers of Other Languages) programmes.

Te Reo Maori

All New Zealanders should have the opportunity and support to learn te reo Māori and use it in the home, in education and in the community. The importance of maintaining te reo Māori as a unique indigenous living New Zealand language should be publicly promoted as part of our national heritage and identity.

New Zealand Sign Language

All Deaf people should have the opportunity and support to learn and use New Zealand Sign Language in the home, in education and in the community and have access to interpreters. Other New Zealanders should also have the opportunity and support to learn and use NZSL.

Pacific Languages

All Cook Island Māori, Niuean and Tokelauan people living in New Zealand should have the opportunity and support to learn and use their heritage language. Other Pacific peoples in New Zealand should have the opportunity and support to learn and use their languages through public and community provision.

Community and Heritage Languages

People whose community or heritage language is other than English, Māori or Pacific should have the opportunity and support to learn and use these languages through public and community provision.

International Languages

New Zealanders should be encouraged and given opportunities and support to learn international languages, including those of New Zealand's key trading partners.

Strategies

Within a general languages policy framework specific strategies are needed for both priority language groups and priority sectors. All such strategies should recognise that:

- New Zealand is a country with a small population and limited resources to support language diversity
- Choices have to be made about the relative priority of providing for the various languages, sectors and objectives based on the degree of endangerment, human rights, government responsibilities, economic benefits and the population base
- Strategies and programmes for these languages and sectors must be coordinated to make the most effective use of available resources.

Language Strategies

There should be specific national strategies for English literacy and ESOL, te reo Māori, New Zealand Sign Language, Pacific languages, community and heritage languages and international languages. Such strategies should address the dual goals of language maintenance and development within minority communities and wider public acceptance of language diversity.

Sector Strategies

There should be sector strategies for languages in the home, the community, education (early childhood centres, schools, tertiary), public services (including translation and interpretation services), business and broadcasting.

Priorities

Priorities in the implementation of a national languages policy are to:

- Establish an appropriate coordinating and monitoring mechanism for language policy and identify lead organisations for specific language and sector strategies
- Develop and maintain strategies for the identified languages and sectors
- Promote cooperation and sharing between agencies and communities in the development of strategies, resources and services
- Promote positive public attitudes to language diversity and increase the number of people learning languages
- Train and support more teachers of languages
- Develop resources to support language learning and use.

Te Waka Reo

National Language Policy Network

Te Waka Reo is a national language policy network facilitated by the Human Rights Commission as part of the New Zealand Diversity Action Programme.

Its purpose is to:

- Connect people and organisations with an interest or practical involvement in language issues
- Keep them informed of initiatives and activities concerning languages
- Provide forums to advance discussion and action on language policy
- Promote the implementation of the language policy goals of the NZ Action Plan for Human Rights
- Encourage the registration of language related organisations and projects with the NZ Diversity Action Programme.

Language News

People on the network receive a monthly electronic newsletter, Te Waka Reo, with news and information about languages and language policy.

Annual Forum

A language policy forum is held as part of the New Zealand Diversity Forum every August. Topics have ranged from the need for a national language policy (2005) to community languages (2006), developments in national language policy (2007) and languages in schools (2008). The focus is on practical action. The 2007 forum resulted in the development of the Statement on Language Policy.

Annual Review of Language Diversity

The Human Rights Commission publishes an annual review of developments in language diversity as part of its annual review of race relations. The review is published in March. Previous reviews are available on the Commission's website (www.hrc.co.nz).

Action on Language Diversity

Organisations are encouraged to register language programmes, initiatives, projects and events with the New Zealand Diversity Action Programme. The Programme is facilitated by the Human Rights Commission and promotes practical action on race relations and cultural diversity. Registration is free and provides promotion and acknowledgment of projects, sharing of good practice, forums to meet other participants and networks of organisations engaged in similar areas of activity. Projects registered in 2008 include Māori Language Week, International Languages Week, the International Year of Languages, Pacific languages programmes, conferences, workshops, media programmes and the development of new resources.

Languages and Human Rights

The New Zealand Action Plan for Human Rights

The New Zealand Action Plan for Human Rights identifies language as one of the key priorities for human rights and race relations in New Zealand. The Action Plan was developed by the New Zealand Human Rights Commission pursuant to a specific requirement of the Human Rights Act and after extensive public consultation. It was published in 2005.

The outcome for language is as follows:

By the bicentenary of the signing of the Treaty of Waitangi in 2040 New Zealand is well established as a bilingual nation and communities are supported in the use of other languages.

The Action Plan Provides the Following Rational and Priorities for Action:

Language is a critical issue for race relations, both in affirming identity and in fostering understanding of different cultures. New Zealand has a particular responsibility to ensure the protection and use of te reo Māori as an indigenous language and also to ensure the survival of a number of Pacific languages because of the special relationship with some Pacific Island countries and the high proportion of their populations that now live here. English language acquisition is also vital to the successful settlement and integration of migrants and refugees.

Priorities for action:

- Progressively provide opportunities for all New Zealanders to develop knowledge of tikanga Māori and the ability to communicate competently in both English and te reo Māori
- Include te reo and tikanga Māori in teacher education and professional development to ensure their effective use in teaching
- Ensure the continued survival and use of the Cook Island Māori, Niuean and Tokelauan languages in New Zealand and foster the retention and use of other Pacific languages
- Develop a languages policy that encourages the learning of a range of languages and supports community efforts to teach their heritage languages
- Ensure that all new migrants and refugees have access to appropriate English language tuition
- Extend the availability of the Language Line interpreter service to all public agencies.

Current Strategies and Initiatives

There are existing strategies for English literacy, Adult ESOL and te reo Māori. The te reo Māori Strategy is being updated in 2008-09. There are no comprehensive strategies for any of the other languages or sectors identified but there have been a variety of initiatives within these areas. New Zealand Sign Language was declared an official language in 2006. The New Zealand Curriculum adopted in 2007 includes languages as a learning area for all students and a languages in schooling strategy is under development. The Ministry of Education has recently completed curricula for a number of Pacific languages and the Ministry of Pacific Island Affairs has piloted a Mind Your Language programme for the Niuean, Tokelauan and Cook Island communities. There are a variety of supports for Māori, Pacific and other community language broadcasting.

Key government agencies with responsibility for aspects of language policy include the Ministry of Education, the Tertiary Education Commission, Te Puni Kōkiri, the Māori Language Commission, the Ministry of Pacific Island Affairs, the Office of Ethnic Affairs, the Ministry for Culture and Heritage, the Ministry of Social Development, and the Department of Labour. The Human Rights Commission facilitates a language policy network, Te Waka Reo, and the New Zealand National Commission for UNESCO is the lead agency for the United Nations International Year of Languages.

The Diversity Fern is the logo of the New Zealand Diversity Action Programme. It was originally designed for Race Relations Day 2005 by Malaysian-born New Zealand designer Jean Voon. The fern represents the growing cultural diversity of

New Zealand, with baby fronds symbolising new growth, a Middle Eastern (Iranian) motif, a Vietnamese motif from fabric, an Indian paisley design, a traditional Chinese character found on silk cloth, a Samoan tapa cloth pattern, a European Fleur de Lys from the doors of St Patrick's Cathedral (Auckland), and a traditional Māori kowhaiwhai pattern from a painted panel in Manutuke church (1849, Rongowhakaata).

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