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**Christopher Finlayson and James Christmas, *He Kupu Taurangi: Treaty Settlements and The Future of Aotearoa New Zealand***

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Christopher Finlayson and James Christmas, *He Kupu Taurangi: Treaty Settlements and The Future of Aotearoa New Zealand* (Wellington: Huia, 2021), 296pp. Hardback. NZ\$60.00. ISBN: 978-1-7755-0615-7.

Twenty-five years on from the Ngāi Tahu Treaty settlement this book authored by Former Minister for Treaty of Waitangi Negotiations Hon. Chris Finlayson QC and Senior Ministerial Advisor James Christmas seems timely to capture the modern history and processes of the Treaty Settlement here in Aotearoa New Zealand. After all, the effects of these settlements is driving change economically, socially, environmentally, and politically, not only within hapū and iwi but nationally.

### Treaty of Waitangi and Treaty Settlements

This book is in four parts. The first part opens with a brief history around 'The Treaty of Waitangi' and Treaty Settlement. Chapter One briefly covers the main points around the development of government policy and history that led to the development of Treaty Settlement. A general approach to Treaty Settlement Negotiation is provided for in Chapter Two. The chapter provides a good broad overview of historical developments of successive governments and their approaches to Treaty Settlement. The last section of the chapter outlines the process of Treaty Settlements.

### Essential Components of Settlements

In the second part, the Authors' contextualise the processes towards achieving Treaty Settlement. In the third chapter there is a discussion about mandate with particular reference to the Ngāpuhi and Te Whakatōhea claims and the issues faced by the Crown in engaging with these hapū and iwi.

Chapter Four emphasises the importance of history and apology. The primary example used is the apology to Ngāi Tāmanuhiri. The remainder of the chapter explores the passage of the Parihaka settlement. I find it interesting as to why an iwi like Waitaha and their refusal to accept an apology and a history recorded by a Crown-appointed historian was not included.

Chapter Five discusses the nature of the financial redress component of the Treaty Settlement process. Cultural and Relational Redress are discussed in Chapter Six. The authors provide good examples of what this constitutes in regards to Treaty Settlement. These include: Restoration of Traditional Place Names, Cultural projects and funding with particular reference to the Hauraki Reo revitalisation project, and Ngāti Mākino's marae projects, Restoration of Taonga with a focus on Te Hau ki Tūranga, The Motunui Epa, and Ngāti Toa's haka, 'Ka mate'. The authors' provide backgrounds on the relational redress for Ngāi Tūhoe and the Te Hiku iwi via the Te Hiku Social and Wellbeing Accord.

### Natural Resources

This section of the book address issues in relation to Treaty Settlement and natural resources. Chapter Seven deals with issues around land and conservation redress in Treaty Settlement. The issues covered are broad including vesting of land fees and the conservative approach taken by the Department of Conservation. The authors discuss the policy reform undertaken by the then John Key National government.

Reserve status on land returned and more interestingly the vesting and gifting back of land to the Crown are discussed. Issues around redress of Flora and Fauna and relationship agreements for conservation and co-management are also addressed. In Chapter Eight the authors have chosen to write about co-governance with local government authorities. The authors describe the concept as responding ‘...to the wish from many iwi to have greater participation in the management of the environment.’ The authors have chosen to utilise the Waikato and Waipā Rivers as a key case study to demonstrate the policy development. The Hawke’s Bay Regional Planning Committee, Taranaki Local Government Participation, Co-Governance Boards, Tūpuna Maunga o Tāmaki Makaurau Authority, Te Oneroa-ā-Tōhē/Ninety Mile Beach, Harbours. Overall, the chapter gives a very good understanding of co-management and its development in the Aotearoa New Zealand context.

In line with the previous chapter, an in-depth outlining of legal personality in the area of co-governance is provided with two case studies focusing on being Te Urewera and The Whanganui River Settlements are found in Chapter Nine. The final chapter in this section discusses issues to do with The Marine and coastal areas, particular attention is paid to the events in 2004 when the Labour government introduced the *Foreshore and Seabed Act 2004* nationalising ‘the foreshore and seabed, extinguishing the unexplored property rights of Māori.’ (p. 187) The issues with *The Marine and Coastal Area (Takutai Moana) Act* are also explored.

### The Crown-Māori Relationship

The last section of this publication is a short section that begins with examining the need to ‘safeguard’ Treaty Settlements in Chapter Eleven. The phrase, ‘There is no appetite from the public or from iwi for the re-opening of settlements in the future’ (p. 204) reflects a Crown view of the situation. A case study of the Kermadec Ocean Sanctuary is explored as a key example in recent years of how not to approach Māori issues and to highlight the caution required in public policy moving forward into the future. Additionally, the future of the Māori-Crown relationship and the ‘partnership’ that has been established over the past thirty-five years are discussed in Chapter Twelve. There is a focus on the future of this ‘partnership’ and two topical issues relating to this being Māori Land Reform and Freshwater issues.

### Discussion

The word used by Tā Tīpene O’Regan, in the forward, to describe this style of book as an ‘apologia’ – a record of contribution by a former politician to the political life and history of the country is very accurate. As such the book is reflective of a Crown point of view. Interestingly, the authors do not take a critical analysis of the issues involved. For example, the presentation of Captain Cook, the ignoring of text and implications of Te Tiriti o Waitangi and contra preferentum. From the outset this book sets an agenda that is made clear by the statement that:

...there has been rigorous debate over the meaning and effect [of The Treaty/Te Tiriti], the intentions of those that signed it and how the English version differs in meaning from the Māori version. An analysis of these arguments is beyond the scope of this book, but there is general consensus that the Crown acquired sovereignty. (p. 14)

However, a consideration of Finlayson's actions towards the Waitangi Tribunal report, *Te Paparahi o Te Raki* that if a hapū signed the Treaty they still maintained mana motuhake. and his denial of the report findings would contradict the authors' statement. As this publication is about Treaty Settlement, Finlayson's denial centred on the importance of Treaty Settlement, in which Simon comments that:

Minister Finlayson's focus on settlement is important as it removes the moral argument from Māori and positions the government as virtuous, suggesting that we are moving forward as a country and being progressive. Therefore, it could be considered that a treaty settlement is merely a device for placation. It ignores the illegal formation of the state...and makes us, as a [non-signatory] iwi, continue to operate as if we were captive and othered in our own rohe. Settlement is a concern, as it allows the Crown to apologise while continuing unhindered or unchanged in the way things are done.<sup>1</sup>

Subsequently, the role of invader/settler colonialism in the construction of the state and Treaty Settlement is disappointingly absent but expected in this book. In particular recent research by Mutu<sup>2</sup>, Wynyard<sup>3</sup>, and Simon<sup>4</sup>. This book in that regard is political in that it is important to note that what is included as much as what is excluded.

Given this is an apologia for the work of Rt. Hon. Chris Finlayson QC it is not a definitive academic monograph on the topic or something that is reflective of Kaupapa Māori research. The book's stance ignores key issues around Treaty Settlement and Māori and Pākehā relations by the likes of Ani Mikaere, Margaret Mutu, Matthew Wynyard, Evan Poata-Smith, Veronica Tāwhai, Juan Tauri or my own. Do not expect critical analysis or insightful Indigenous perspectives. If you are after a book that provides background to Treaty Settlement from the perspective of the Crown and a former Minister, this publication will provide you with what you require. For the disciplines of Law, Political Science, Indigenous Studies, Public Policy, Sociology, and Geography this will be an excellent book to provide the general public and undergraduates with a good understanding of issues like Treaty Settlement in these disciplines. Additional perspectives in another volume are needed to be inclusive of Indigenous perspectives. This book does not give voice to the Indigenous experience of Treaty Settlement or other topics covered by the authors.

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<sup>1</sup> Hemopereki Hōani Simon, 'Te Arewhana Kei Roto I Te Rūma: An Indigenous Neo-Disputatio on Settler Society, Nullifying Te Tiriti, "Natural Resources" and Our Collective Future in Aotearoa New Zealand', *Te Kaharoa* 9, no. 1 (2016): 88, <https://doi.org/10.24135/tekaharoa.v9i1.6>.

<sup>2</sup> M. Mutu, 'Behind the smoke and mirrors of the Treaty of Waitangi claims settlement process in New Zealand: No prospect for justice and reconciliation for Māori without constitutional transformation', *Journal of Global Ethics*, 14, no. 2 (2018): 208-221, <https://doi.org/10.1080/17449626.2018.1507003>.

M. Mutu, 'The treaty claims settlement process in New Zealand and its impact on Māori Land', 8, no. 10 (2019), <https://doi.org/10.3390/land8100152>.

M. Mutu, "'To honour the treaty, we must first settle colonisation" (Moana Jackson 2015): the long road from colonial devastation to balance, peace and harmony', *Journal of the Royal Society of New Zealand*, 49, sup 1 (2019): 4-18, <https://doi.org/10.1080/03036758.2019.1669670>.

<sup>3</sup> M. Wynyard, "'Not One More Bloody Acre": Land Restitution and the Treaty of Waitangi Settlement Process in Aotearoa New Zealand', *Land*, 8, no. 11 (2019): 162, <https://doi.org/10.3390/land8110162>.

<sup>4</sup> Simon, 'Te Arewhana Kei Roto I Te Rūma'.

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