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ARTICLE

Te Tiriti o Waitangi: The Treaty of Waitangi, Principles and Other Representations

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Abstract

This article draws attention to shifting educational discourses on the two texts of the 1840 treaty: te Tiriti o Waitangi and the Treaty of Waitangi. Policy and resource conversations in education reveal subtle strategic shifts in use of an invented idea of "treaty principles"—from standing in for and attempting to reconcile the two language texts, to a focus on the specific language of te Tiriti o Waitangi with reference to so-called principles to support contemporary application. Tracing these changes assists our teachers and educators in developing a critical understanding of the language employed in education policy and teaching resources. Examining these shifts with students also provides "teachable moments" about the politics of treaty discourse.

Keywords New Zealand curriculum · Te Tiriti o Waitangi · Aotearoa New Zealand histories curriculum · Treaty principles · Waitangi Tribunal · Education policy

The first draft of the refreshed New Zealand curriculum, *Te Mātaiaho* (Ministry of Education, 2022c), was released in September 2022. It stated: "Te Tiriti o Waitangi | the Treaty of Waitangi is a central pillar of *Te Mātaiaho*" (p. 5). A footnote to that sentence sought to provide a firm foundation for this "central pillar": "Te Tiriti is used to refer to both the Māori and English texts of Te Tiriti o Waitangi | the Treaty of Waitangi, as set out in the Treaty of Waitangi Act 1975" (p. 5).

The footnote was removed in the second draft released in March 2023 (Ministry of Education, 2023b), along with any direct explanation of what is meant by "Te Tiriti". Throughout the revised document, the construction "Te Tiriti o Waitangi | The Treaty of Waitangi" was replaced with "Te Tiriti o Waitangi".

This example reveals there are, at least, ambiguities (strategic or otherwise) in education about references to te Tiriti o Waitangi and the Treaty of Waitangi.

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Furthermore, the footnote clarification in the early draft of *Te Mātaiaho*, as well as the final document's wording, contrast with recent educational resources in which "Te Tiriti o Waitangi" refers specifically to the Māori language text (Calman et al., 2021; Orange, 2022).

Similar tensions are evident in the Education and Training Act 2020 which addressed a perceived system-wide need to make it easier for the education sector to understand their obligations and rights under "Te Tiriti o Waitangi" (Ministry of Education, 2021b). In the Act, the phrase "Te Tiriti o Waitangi" includes a link to the Schedule 1 of The Treaty of Waitangi Act 1975 which provides the texts of the Treaty of Waitangi (the English language text), *and* te Tiriti o Waitangi (the te reo Māori text). In both the 2020 Act and at least the first draft of *Te Mātaiaho*, therefore, "Te Tiriti o Waitangi" is used to refer to *both* language texts, and requires them to be read as one, regardless of their troubling differences. For reasons of space, we do not rehearse the important differences between the texts of te Tiriti o Waitangi and the Treaty of Waitangi, which have been canvased widely elsewhere (see, for instance, Mikaere, 2011; Orange, 2015).

This article tracks some interesting discursive shifts in how the treaty is named in educational contexts, and how the differences between its two texts are avoided or blurred by a strategy called "principles". To illustrate, we refer to three popular teaching resources: a collection of Treaty of Waitangi booklets produced as part of a government initiated public information programme (Horomia, 2003), a School Journal Library text *Te Tiriti o Waitangi* (Calman et al., 2018, 2021) and Claudia Orange's *The Story of a Treaty/He Kōrero Tiriti* (Orange, 2022). These resources are selected due to their widespread use and the historically contingent language they employ to describe the treaty, the relationship between the two language texts, and their use of the phrase "treaty principles".

We address teachers called to "give effect to Te Tiriti o Waitangi" (Ministry of Education, 2022b) in their practice and to teach students about the history and contemporary relevance of the treaty in the *Aotearoa New Zealand histories* (ANZH) curriculum (Ministry of Education, 2022a). Educators can be expected to question what can be meant (and potentially misunderstood) by the joined phrase "Te Tiriti o Waitangi/The Treaty of Waitangi" or the increased use of "Te Tiriti o Waitangi" alone.[1]

We draw attention to discursive shifts that are uneven and contradictory but that also reveal a broad trend. Earlier resources referred to a single treaty embodied in two language "versions", with "treaty principles" as a mechanism to establish some middle ground between the two "versions". More recent resources describe two distinct (and at times irreconcilable) texts, with "principles" used largely as a flexible

[1] Te Whāriki, the early childhood curriculum, is an interesting exception to this rule. The 1996 document referred solely to Te Tiriti o Waitangi, while the refreshed 2017 document employs the Te Tiriti o Waitangi | the Treaty of Waitangi construction (Ritchie & Skerrett, 2019). As much as possible, throughout this article, the capitalised phrase te Tiriti o Waitangi (or te Tiriti) is used to refer especially to the te reo text and the Treaty of Waitangi (or the Treaty) to the English language text of the treaty. 'The treaty' (in lower case) is used to refer to instances where the specific text is not defined. Capitalisations are left as per the original in direct quotes.

device to support their application to modern circumstances. This move is perhaps most clearly captured in the shift from reference to "principles of the Treaty of Waitangi" in the existing New Zealand Curriculum (Ministry of Education, 2007, p. 9) to "Te Tiriti o Waitangi and its principles" (Ministry of Education, 2023b, p. 8) in the second draft of the refreshed curriculum.

The Idea of "Treaty principles"

Treaty principles first appeared in New Zealand law in the preamble to the Treaty of Waitangi Act 1975 to refer to the treaty's modern practical application. The Act established in New Zealand law the notion of a single treaty with Māori and English language texts (Orange, 2015; Te Arawhiti, 2022). The Act also established the Waitangi Tribunal and gave it the "exclusive authority to determine the meaning and effect of the Treaty as embodied in the two texts and to decide issues raised by the differences between them" (Treaty of Waitangi Act 1975, 5(2)). The Waitangi Tribunal, particularly after the appointment of Eddie Durie as chair in 1980, was to be instrumental in defining how the treaty was understood as it responded to the governing legislation's instructions to make recommendations based on the "practical application of the principles of the Treaty" (Treaty of Waitangi Act 1975, preamble; Orange, 2015). From 1983 the Tribunal argued that te Tiriti "should be treated as the prime reference" (Waitangi Tribunal, 1983, p.49). This view is based on the role the Māori text played in securing the Māori signatures and the international *contra proferentem* principle that in an instance of ambiguity a treaty is construed against the party which drafted the provision.

The 1975 Act and formation of the Waitangi Tribunal have proved to be hugely significant in the development of Crown-Māori relations (Hamer, 2015). In terms of the relationship between te Tiriti and the Treaty, the 1975 Act established a framework whereby those operating within the Crown sphere could not determine the "meaning and effect" of either the Māori or English language texts without reference to the other. Treaty principles were introduced as a mechanism to apply the treaty to contemporary circumstances and interpret the treaty "as a whole" by considering "the literal terms of both texts, the cultural meaning of words, the influences and events that gave rise to the Treaty" (Te Puni Kōkiri, 2001, p. 77).

By the late 1980s, the phrase "the principles of the Treaty of Waitangi" had been articulated not just by the Waitangi Tribunal, but by the Court of Appeal and in government legislation as well (Belgrave, 2005; Harris, 2018). In 1986 the Labour government issued a cabinet paper that "all future legislation referred to Cabinet at the policy approval stage should draw attention to any implications for recognition of the principles of the Treaty of Waitangi" (quoted in Orange, 2015, p. 236). Resources such *He Tirohanga ō Kawa ki te Tiriti o Waitangi* (Te Puni Kōkiri, 2001) were produced in subsequent years to support "policy analysts who are called upon to formulate policy and advice based on the application of Treaty principles" (p. 2).

However, the principles of the Treaty of Waitangi—a modern invention, not mentioned in te Tiriti or the Treaty—were open to interpretation, and different

bodies applied their own understandings. For instance, in 1989 the government had released the *Principles for Crown Action on the Treaty of Waitangi* which, according to Walker (2004), asserted government sovereignty by "declaring the ascendancy of kawanatanga over tino rangatiratanga", with the latter "diminished from absolute chieftainship (sovereignty) to the *principle* of self-management" (p.299, emphasis added)—interpretations that attribute incorrect meanings to the Māori words. In both legislation and popular use in education the principles were frequently understood as "the three Ps", namely Partnership, Protection, and Participation, a framing derived from the 1988 Royal Commission on Social Policy. The three Ps have been criticised as another mechanism to avoid engaging with the meanings and obligations stated in te Tiriti (Ritchie & Skerrett, 2019) and are acknowledged by the Crown as a "reductionist view of Treaty principles" (Waitangi Tribunal, 2023a, p. 8).

He Tirohanga ō Kawa ki te Tiriti o Waitangi (Te Puni Kōkiri, 2001) noted the different ways the Waitangi Tribunal and the Courts interpreted the Treaty principles, particularly with regards to Crown sovereignty. It stated that while the "Courts have consistently stated that sovereignty was acquired by the Crown, and that this includes parliamentary supremacy" and emphasized "the Crown's moral obligation to exercise its unlimited powers honourably and in accordance with the Treaty principles" (Te Puni Kōkiri, 2001, pp. 48–49), the Waitangi Tribunal takes the view that what was "ceded to the Crown" was "a limited form of sovereignty, which requires the Crown to respect Māori authority over their own affairs as much as possible" (p. 49). The Waitangi Tribunal view was further developed in 2014 in their conclusion that rangatira who signed te Tiriti at Waitangi, Waimate, and Māngungu in February 1840 did not cede their sovereignty (Waitangi Tribunal, 2014).

"One Treaty, two texts"

Alongside the development of treaty principles by the Waitangi Tribunal and Courts, school textbooks and other state-provided teaching resources provided an additional means for socialising the notion of principles to the general public.

In 2003, the fifth Labour government allocated $6.5 million to a public information programme on the Treaty of Waitangi (Horomia, 2003). This led to the development of the Treaty of Waitangi Information Programme which aimed to "close the information gap around the Treaty of Waitangi" (Mallard, 2004, para 6). A series of booklets were distributed to schools on the history and contemporary relevance of the treaty (New Zealand State Services Commission, 2005a, b, c) (Fig. 1). These resources drew on the knowledge of a range of (unnamed) historians and experts to provide a "balanced, thoughtful and authoritative account of events, which is easily understood and accessible" (Mallard, 2004, para 30). While acknowledging that "all history is contestable" the booklets sought to "reflect the broadly accepted, current understandings of the Treaty and Crown–Māori relations" (New Zealand State Services Commission, 2005c, p. 3).

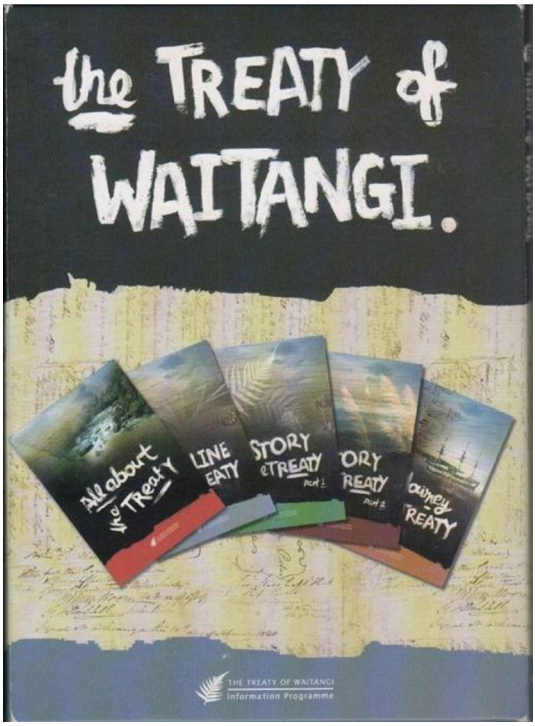

Fig. 1 The 2005 Treaty of Waitangi Information Programme booklets

Like the guidance for public servants, the booklets expressed a high degree of certainty that the two treaty texts can be reconciled through treaty principles. One section explains that:

> some scholars have gone so far as to argue that there are really two treaties, "Te Tiriti", the Māori version, and "the Treaty", the English version. Legally, however, there is certainly just one Treaty, and the textual differences have to be harmonised by means of a number of standard techniques used to interpret documents. Current references to the Treaty in statute seek to bridge the differences by referring to the 'principles' of the Treaty, these being the core concepts that underpin both texts. (New Zealand State Services Commission, 2005b, p. 17).

This extract suggests the differences between the two texts cannot be tolerated and "have to be harmonised" through "standard techniques", most significantly the idea of treaty principles. However, the statement that principles "seek to bridge the differences" between the two treaty texts has several contradictory effects, *all of which* can be read into the statement. It:

- hints that the texts may be irreconcilable in important ways,
- distracts from the idea that they might be irreconcilable,
- suggests they might be conciliable (through "principles"),
- assumes that they *should* be conciliable.

In fact, the booklets use the apparent (unquestionable) authority of Western law to legitimise the view of cession of sovereignty by rangatira to the Crown. The introduction for each book states that "the promises that were exchanged in 1840 were the basis on which the British Crown acquired New Zealand" (New Zealand State Services Commission, 2005a, p. ii), which reinforces the Crown's own positioning as the authorised and unchallenged sovereign. In this way, the booklets suggest that the only role available for Māori in this relationship is to participate in democratic citizenship as subjects of the Crown. One booklet states that "the words 'kawanatanga' and 'tino rangatiratanga' contributed to misunderstanding by the chiefs as to how much authority they would retain" (New Zealand State Services Commission, 2005a, p. 3). The notion that rangatira beliefs that they would retain their authority were a "misunderstanding" is reiterated in the claim that the "Treaty principle" of "active protection" expresses "the fundamental exchange recorded in the Treaty" as "the cession of sovereignty for the promise to respect Māori authority" (New Zealand State Services Commission, 2005a, p. 15). And in describing the principle of partnership, the booklets are clear that "the Courts have found that Treaty partnership does not necessarily describe a relationship where the partners share national resources equally" (New Zealand State Services Commission, 2005a, p. 14).

"Middle ground"

If one of the state-supported aims of treaty principles was to serve as a discursive mechanism—on one hand to unify, whilst on the other to slide over the significant differences between the texts of te Tiriti and the Treaty—it is unsurprising that the mechanism could not withstand the complexity it was meant to contain. The 2014 Waitangi Tribunal report for part one of Te Paparahi o te Raki inquiry revealed a key problem inherent in the idea of principles and understanding the two texts "together". The report stated that claimants "saw the English text as irrelevant, in that the rangatira did not draft it, read it, or sign it" (Waitangi Tribunal, 2014, p. 521) at Waitangi in February 1840. (They might have added that the rangatira did not draft, read or sign "principles" either.) The Tribunal members concluded that while they were "bound by our legislation to regard the treaty as comprising two texts […] we are under no obligation to find some sort of middle ground of meaning between the two versions" (Waitangi Tribunal, 2014, p. 522).

Part two of Te Paparahi o te Raki inquiry (Waitangi Tribunal, 2023b) addressed the idea of principles again, returning to the rangatira and 1840. It emphasised the need to consider how "our understandings of treaty principles may evolve" to ensure they are "based on the actual agreement entered into in 1840 between Te Raki rangatira and the Crown, rather than in an assumption that sovereignty was ceded by Māori" (p. 22). This included greater emphasis on the "Crown's duty to give effect to the guarantee of tino rangatiratanga" (p. 71). The Tribunal (2023b) added that "any discussion of ngā mātāpono o te Tiriti/the principles of the treaty […] must start with the words of te Tiriti" (p. 38) and, therefore, any principles must be complementary, and perhaps secondary to the actual text of te Tiriti. They reiterate the

point that principles are not a means to reconcile the Māori and English language texts.

The untenability of the idea that the two treaty documents can be collapsed into common principles can be seen in the declining reference to treaty principles on their own, notably in educational resources. Changes to the Ministry of Education's Māori education strategy is indicative of this trend. In 2013, the Ministry of Education referred extensively to the application of "the principles of the Treaty of Waitangi (the Treaty)" (Ministry of Education, 2013), but by 2020 the language had changed to giving "practical effect to Te Tiriti o Waitangi" (Ministry of Education, 2020).

For some, specific reference to te Tiriti o Waitangi is an assertion that it is the te reo Māori text that must be counted as *the* treaty for many of the reasons cited by the Waitangi Tribunal in 1983 (NZSTA, 2022). However, as discussed in the opening of this article, such an understanding is rejected explicitly in the first draft of *Te Mātaiaho* and the Education and Training Act 2020.

"Versions" and "Translations"

As well as treaty principles, other discursive strategies gloss over, ignore or minimize the differences between the Treaty and te Tiriti. One subtle strategy is the idea of "versions" as in: the English language version and the Māori language version. In the Treaty of Waitangi Information Programme booklets, like most treaty education resources (Kessell, 2010; Ministry of Education, 2023a; Naumann, 2002; Radio New Zealand, 2019) the different language texts are described as different versions. Versions suggest inexact copies, or different forms of a single thing. The two treaty documents are certainly versions of treaty documents, but they are not versions of each other. "Versions" stands in for, and obliterates, difference.

Linked to the idea of treaty "versions" is "translation". Despite the Waitangi Tribunal statement in 1983 that the two language texts are not translations of each other, the language of translation continued to dominate treaty education texts in the following years (Ministry of Education, 2023a; Naumann, 2002; Radio New Zealand, 2019; Werry, 2015). In these materials, the work of Henry Williams and his son Edward Williams in writing te Tiriti is frequently described as an act of translation. In some instances, they are described as translating a "draft" (Naumann, 2002), though others state they translated an "English version" of the treaty (Kessell, 2010; Radio New Zealand, 2019; Werry, 2015). Concerns are raised about the "accuracy" of this "translation" with reference to its hasty production in "just one night" (Ministry of Education, 2023a) and doubts about Henry Williams' skills—and motivations[2]—as a translator

[2] It is worth noting the following about Williams' 'motivation': "Williams, in particular, believed that the treaty was a personal covenant between the Queen and rangatira, with obligations to care for each other's interests. He thus assumed the ongoing authority and integrity of both parties. Unfortunately, Williams proved to be naïve about the capacity of the Crown, either in the person of the monarch or her government, to honour its promised integrity of relationship with Māori. Williams recognised this in his 1847 letter to the CMS, in which he expressed his distress at Earl Grey's 1846 dispatch requiring that the governor take for the Crown all Māori "wastelands": 'I am grieved beyond the power of expression at the attempted violation of the Treaty, and must never again plead the honour and integrity of Her Majesty's

(Naumann, 2002; Radio New Zealand, 2019; Ross, 1973). These arguments in turn suggest that te Tiriti and the Treaty *could have been* (more) accurate versions of each other, if more care had been taken. Questions about their incompatibility are ruled out when we talk about in/accurately translated versions.

When both treaty texts are collapsed into one through sloppy or imprecise language, problems arise inevitably as it becomes necessary for educators (and others) to try and rationalise the discrepancies between them. This is evident in the claim that rangatira "misunderstood" the nature of the agreement in 1840 (New Zealand State Services Commission, 2005a, p.3). When te Tiriti is understood as itself (and not a poor translation of the Treaty), "misunderstanding" by the rangatira does not need to be artificially created and then explained; te Tiriti did not indicate that their rangatiratanga would be restrained by kawanatanga. Many rangatira asked this question during the kōrero at Waitangi; there was no indication from the Crown that tino rangatiratanga was in danger (Salmond, 2022).

Two Texts

Just as references to treaty principles that stand in for the treaty texts are gradually and unevenly decreasing, recent school resources for teaching treaty history have increasingly presented the Treaty and te Tiriti as separate texts, each with a distinct meaning. Here are two examples:

Example One: Te Tiriti o Waitangi: School Journal Story Library

The shifting public discourse on the relationship between the two treaty texts is clear in the different editions of the award-winning graphic novel School Journal Story Library resource *Te Tiriti o Waitangi* (Calman et al., 2018, 2021).

Both editions devote a significant amount of space to outlining the differences between the Māori and English language texts, but with subtly different language choices. The 2018 edition stated that "Henry Williams and his son Edward translated the treaty into te reo Māori" (p. 5), but in 2021 this was rewritten: "Henry Williams and his son Edward wrote Te Tiriti o Waitangi in te reo Māori" (p. 5). This change suggests a significantly different relationship between the two texts, from a view of a single treaty that was translated into te reo Māori, to one that asserts the primacy of the te reo Māori text as *the* treaty that was written, not translated, by Henry Williams and Edward Williams (Fig. 2).

This shift in emphasis is particularly clear in the two-page spread outlining the differences between the two texts. In the revised edition the comparison presents them as the "Te reo Māori text" and "English language text" (2021, p. 8), rather than the "Te reo Māori version" and "English version" (2018, p. 8; 2019, p. 8). Again, "translated"

Footnote 2 (continued)
Government. This appears to have been lost or never to have been possessed'" (Te Kawariki & Network Waitangi, 2012, p. 282).

Fig. 2 Comparison of the 2018 (left) and 2021 (right) editions of Te Tiriti o Waitangi

is replaced with "wrote" to avoid the sense that the Māori text was a translation or version of the English text.

Example Two: The Story of a Treaty/He Kōrero Tiriti: Claudia Orange

The work of historian Dame Claudia Orange provides an additional example of the shifts in language. Orange's hugely influential work on the treaty has been published in different texts to appeal to different audiences. *The Story of a Treaty/He Kōrero Tiriti* (Orange, 2022) is primarily aimed at secondary school students. It has been republished in three separate editions, in 1989, 2013 and in 2022 with the bilingual title. The differences between the 1989 and 2013 editions are minor, including some historical updating, the addition of macrons for Māori words and use of an uppercase "T" for Treaty. The only mention of "te Tiriti" in the 2013 edition is in reproductions of the te reo Māori treaty text.

The 2022 edition, however, shows several notable language shifts. In particular, te Tiriti and the Treaty are now carefully distinguished. For example, in describing the initial signing at Waitangi the 2013 edition states that "on the table lay a tidily written copy of the Treaty in Māori" (Orange, 2013, p. 28). In 2022 this is rewritten as "on the table lay a tidily written text in te reo Māori – Te Tiriti" (Orange, 2022, p. 34).

This change reflects a pattern throughout the 2022 text as Orange clearly indicates when rangatira understandings were based on a distinct text, te Tiriti o Waitangi, rather than more general notions of "the Treaty". This distinction is evident in examination of Māori relationships with the colonial government from 1870 where her 2022 text states that "many Māori looked to *Te Tiriti* for support in their conflicts with the government", but that "the *Treaty* could not be completely ignored by government" (p. 81) and that the Native Lands Act 1862 "was seen as a way

to define *Treaty* rights" (p. 82) [emphasis added]. Orange's, 1989 and 2013 texts also state that, in October 1840, Hobson sent "copies of the Treaty, in English and Māori" (p. 32; p. 36) to the British Secretary of State, but her 2022 edition clarifies that he sent "a 'certified' copy of Te Tiriti and an English Treaty copy which was headed 'translation'" (p. 48). This more precise detail reminds that in 1840 te Tiriti was understood as *the* treaty.

As well as distinguishing between the two texts, Orange's, 2022 edition is more explicit in describing the nature of the agreement articulated in te Tiriti o Waitangi. All editions describe Williams's task as: "to translate the Treaty into te reo Māori" (2022, p. 26), having previously established that he was given a "draft". However, the 2022 edition provides more detail about the nature of the "translation" and, in particular, the use of "kāwanatanga" for "sovereignty", "tino rangatiratanga" for "possession", and "hokonga" for the exclusive right of the Queen to buy and sell land. This additional detail is under a sub-heading "Recognition of Two Authorities" which concludes: "Te Tiriti, the te reo Māori translation of the English-language Treaty, recognised two authorities in the country: that of the Crown (the Queen) in a government, and that of rangatira in their customary authority and traditional rights. The reciprocal nature of the agreement, in the wording, made it more acceptable to Māori" (p. 26).

This emphasis on the reciprocal nature of te Tiriti o Waitangi (but not the Treaty of Waitangi) is also clearly expressed in other parts of Orange's text. The discussion on the Kīngitanga movement in the 2013 edition that refers to "the concept of a shared authority or mana, which the Treaty seemed to allow for" (p. 60), was replaced in 2022 with "the concept of a shared authority or mana, which Te Tiriti allowed for" (p. 74). Orange appears unequivocal that te Tiriti o Waitangi establishes a notion of shared power, but that such an understanding is not present in the English text. While Orange still uses the term "translation", her discussion is of two texts with their own distinct meaning, rather than different versions of a single treaty.

The changes in Orange's text reflect and contribute to significant shifts in the dominant ways the treaty is interpreted. An earlier edition of *Treaty of Waitangi: An Illustrated History* (Orange, 2003) described the te reo Māori treaty text as "vague and ambiguous" (Orange, 2003, p. 24), showing the enduring influence of Ross's (1972) characterisation of the Treaty as "ambiguous and contradictory" (p. 154). The revised edition of that text (Orange, 2020) and the 2023 edition of *The Story of a Treaty* suggest that greater clarity on the nature of the agreement can be supported through engaging with the distinct meanings attached to each text.

The changes also reflect an evolving use of the notion of treaty principles. Orange (2020, 2022) refers to a 2019 Cabinet office circular instructing policy–makers to "consider the Treaty of Waitangi/Te Tiriti o Waitangi in all policy development and implementation" (2022, p. 211). She notes the inclusion of the treaty texts in the circular, both English and Māori, and argues "this move to acknowledge the texts of the Tiriti/Treaty is an interesting shift in the focus of official discourse" (Orange, 2020, p. 363), in which the principles and texts "complement" (p. 363), rather than stand in, for one another. Such an approach, however, still ignores the incompatibility of the two treaty texts.

These two examples of shifting treaty discourses provide, for both teachers and students, interesting ways to learn how meaning works in political and social contexts, particularly related to te Tiriti o Waitangi and the Treaty of Waitangi.

Why Does the Language Matter?

The aim of this article has not been to describe a specific goal or ideal, but to chart the different directions of discursive travel and their implications for understanding. As O'Sullivan (2020) highlights, "while the Treaty 'always speaks' it does so in evolving fashion" (p. 116) and, therefore, a "definite and ideally permanent statement of what the Treaty means may only serve to constrain people's thinking in future and unpredictable contexts" (p. 117).

Teachers need to be reassured that, if they are confused when addressing the treaty (or treaties) in their practices and curriculum, the confusion is not uncommon, or a "bad thing". Complexity is part of this territory. Part of the job is to be aware of the discursive (and political) complexities, both in the imprecise use of titles for the two language texts and in the use and effects of the modern notion of treaty principles.

Paying attention to language and discursive shifts over time will give teachers and students a more critical perspective on how political debates work in and through educational resources. In terms of titles, Orange's most recent (2022) practice is close to that of the Waitangi Tribunal (2014) who explicitly state they use "te Tiriti o Waitangi" or "te Tiriti", to refer to the text in te reo Māori—and "the Treaty of Waitangi" or "the Treaty" to refer to the text in English (p. 2). The lower case "the treaty" is used "to refer to both texts together, or to the event as a whole without specifying either text" (p. 2). In both instances, the language supports a deep engagement with the specific meaning that can come from each text. In this light, joining these names with a slash, as in the Treaty of Waitangi/te Tiriti o Waitangi, to refer to both is barely meaningful. And it conveys a false sense of specificity about what is being discussed. In addition, as Mika (2022) has pointed out, use of te Tiriti o Waitangi to refer to both language texts can be viewed as a tokenistic use of kupu Māori by government agencies.

Teachers should note that principles—while seen by some as a device to help "give effect to Te Tiriti o Waitangi", rather than harmonise the two language texts—were nowhere mentioned in 1840. The rangatira debated and signed up to a political relationship that would benefit them. As Mikaere (2011) argues, mechanisms like treaty principles provide a means to "neutralise the threat posed by Te Tiriti" (p. 139) and in the process it is "the essence of Te Tiriti, te tino rangatiratanga, that has been sacrificed at the altar of Crown sovereignty" (p. 142). Indeed, we have shown that "principles" have become a poor strategy because they are open to (deliberately or otherwise) uninformed interpretation by passing politicians or policymakers. Any attempts to form fixed principles will not only run into the problems we have discussed here, but distract from the practices of the living, contingent relationship between hapū and the Crown.

For teachers, the recent work of law historian Fletcher (2022) deserves attention, to deepen informed conversation about the underexamined drafting of the English language Treaty. Fletcher persuasively argues that the differences between the two historical texts are not as great as has previously been assumed. He shows that the form of governance in the minds of those who framed the Treaty in English was a limited form of sovereignty that largely aligns with the expectations of rangatira. Therefore *in 1840*, "the implications of the English text were understood [by the English drafters] in the same sense as the division between 'kāwanatanga' and 'rangatiratanga' in the Māori text" (Fletcher, 2022, p. 529). Fletcher suggests that problems arose once governors and then settlers took over politically and interpreted kāwanatanga as an absolute condition, over-riding rangatiratanga. Thus, he draws attention to the significance of the political practices that followed the signing to find "the meaning" of the Treaty as far as the eventual settler government was concerned.

It is worth noting for teachers too, that straight errors regarding the treaty were apparent in the draft version of the ANZH curriculum, and some remain. By the end of year 3, stated the draft, learners should know "Te Tiriti o Waitangi and The Treaty of Waitangi were first signed on 6 February 1840 at Waitangi" (Ministry of Education, 2021a, 2021b, p. 8)—but only te Tiriti o Waitangi was signed at Waitangi by Māori.[3] The final version was changed to read "Waitangi Day marks the significance of the initial signing of Te Tiriti o Waitangi / The Treaty of Waitangi" (Ministry of Education, 2022a, p. 4). This wording hardly resolves the error, but calling attention to such moves by the Ministry provides an educational moment.

Teachers cannot and should not expect certainty; it may be more important that the questions about the treaty remain open and alive. For some teachers responsible for teaching about the treaty, any such fluidity is alarming and unhelpful. For others, understanding the shifts in language use is an opportunity for more critical and in-depth conversations with students about social–historical changes in thought, and the significance of the words we use.

One very important point we have not yet made, and which should guide teachers and their students: the two texts must be understood through their roots in two different worlds. Te Tiriti is based in te ao Māori and the Treaty reflects a European world view. Through such a lens, "the challenge of te Tiriti is ontological, a clash between different ways of being in the world" (Salmond, 2022, p. 16). From this perspective, an "accurate" translation is simply not possible. Rather than focus on the words themselves, the gaze comes to rest on education about and curiosity about the different meaning-worlds underpinning the texts of te Tiriti and the Treaty. Discourse is not simply words themselves, but words alive in their real and meaningful contexts.

[3] This error was identified in a public submission on the draft from the organisation Asians Supporting Tino Rangatiratanga (2021). However, the error was not mentioned in the Royal Society (2021) response to the draft, the Ministry of Education response or general reporting (Neill, 2022). This example illustrates how the frequent use of imprecise language for the titles of the treaty texts can lead to misunderstanding and simple errors being overlooked.

Conclusion

The changes to school treaty resources such as Orange (2022) and Calman et al. (2021) discussed here indicate wider public engagement with some long-held understandings that had previously primarily circulated in academia and te ao Māori. In Te Paparahi o te Raki inquiry report, the Waitangi Tribunal (2014) stressed that while their argument that te Tiriti o Waitangi is the treaty and that rangatira at Waitangi in 1840 did not cede sovereignty "may seem radical. It is not" (p. 527). As they stated, "New Zealand's leading scholars who have studied the treaty – Māori and Pākehā – have been expressing similar views for a generation" (p. 527). The report also highlights the "long history of [the claimants'] tūpuna protesting about the Crown's interpretation of the treaty" (p. 527).

However, the shift toward such an analysis remains uneven in educational contexts. As the examples from the first draft of *Te Mātaiaho* and the Education and Training Act 2020 demonstrate, the notion of a single treaty expressed in two texts remains the official approach to education policy and legislation. The idea that the rangatira did not cede their sovereignty in te Tiriti o Waitangi is too–hard a political pill to swallow, it appears: the changes to the draft version of the ANZH curriculum content included the removal of content stating rangatira who signed te Tiriti sought to retain their authority (Burns, 2023).

Now, at the very end, we come to perhaps the most important point—some might refer to 'the giant moa in the room'. We have focused here on the shifting language to refer to the treaty texts, from "the Treaty of Waitangi" and "Treaty principles" to "te Tiriti o Waitangi" as the treaty, and "its principles" as a modern political mechanism to gloss over incompatibilities and the fact that Māori did not agree to principles. What we have not done is consider the obvious next question, which must occur to attentive teachers and students: if the treaty is te Tiriti, why is our dominant governing arrangement based in the Treaty? This question underpins current debates about the place of the treaty in Aotearoa. Since this paper was initially submitted, the newly formed coalition government has agreed to support minority populist right-wing ACT Party's Treaty Principles Bill, which seeks to define treaty principles to guarantee Crown sovereignty and supress tino rangatiratanga. This situation is precisely the danger always lurking in the idea of abstract principles, detached from the reality of two different worlds co-existing in Aotearoa and an engaged, living and lively relationship between these, formally agreed in 1840.

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