

Bureaucratic Tribalism

Kenneth Minogue, Waitangi: Morality and Reality, New Zealand Business Roundtable, Wellington, 1998

Reviewed by Roger Sandall

NEW ZEALAND'S 1840 Waitangi Treaty seemed a good idea at the time. In the preceding 20 years guns with new firepower had intensified the usual warfare between the Maori tribes, the behaviour of whalers and sealers and Maori women in the fleshports of the North had become intolerable, and land-hungry settlers were beginning to arrive *en masse*. What better than a treaty establishing British sovereignty? It would nicely impose the *pax britannica*, make Maori and settler alike coequal under law, and the Crown responsible for cleaning things up, maintaining order, and managing the sale of land.

But that was 1840. One hundred and sixty years later, it all looks rather different. After long years of rising prosperity, peace, and no more friction than could be found in most Western democracies, deep divisions are once more tearing the country apart. Equality before the law has given way to retributive justice, ethnic politics-style, administered in a 'come hell or high water' spirit by a haughty judiciary. At the same time a minute and vengeance-ridden reconsideration of the Treaty, under the delusory rubric of 'reconciliation', aiming to compensate Maori for a variety of real and imaginary injuries and creating hostility and hatred where there was merely tolerable grievance before, now occupies half the nation's waking hours.

It is Kenneth Minogue's main thesis in *Waitangi: Morality and Reality* that all of this illustrates the shortcomings of the politics of abstract moral ideals. Born in New Zealand, and formerly Professor of Political Science at the London School of Economics, he notes that the word 'justice' is now on everybody's lips: an influential body of idealists, lawyers, politicians, and enthusiastic Maori opportunists find the slogan 'Let justice prevail, though the heavens fall!' all too appealing. Noting drily that 'many people, however, would understandably prefer a bit of injustice to the fall of the heavens, or even a fall in prices' (p. 4), the author brings a most welcome humour to a subject which badly needs it. Yet this is no laughing matter. And by the end of his review of the situation he soberly warns of outright anarchy. Around the world there are numerous cases of once stable and orderly societies, containing disparate groups with assorted grievances, now fallen into murderous dissension — Sri Lanka being only one of many. 'Sustaining the unity of a civil society must be recognised as a very difficult business. And nothing in politics is more dangerous than taking difficult achievements for granted' (p. 88).

Aside from taking far too much for granted, how did New Zealanders get themselves into this mess? Minogue considers three main issues: the historical and legal context, the rhetoric of 'cultural politics', and certain realities of New Zealand society which should be taken into account in its politics, but too rarely are. The his-

torical context is confusing. If the 19th century had seen a straightforward military conquest the situation might have been clear enough. Maori understand victory and subjugation (the tribes were good at that) and, as de Gaulle said, 'blood dries quickly'. But instead of a war followed by a treaty, there was a treaty bestowing full British citizenship on Maori (and intended to pre-empt a future war), followed by a land war against these self-same citizens, their defeat, and large-scale confiscations. This led to 'entrenching in Maori a sense of grievance which bubbled away' (p. 15). It was basically to address this that the first Waitangi Tribunal was established in 1975 in the hope of achieving 'reconciliation'. It has in fact done nothing of the sort: the dredging up and dramatising of so-called historic injustices, done with all the colour and emotionalism that modern media command, serves merely to 'poison relations between present groups' (p. 18). Each party, Maori and white, now dwell obsessively on the more contemptible aspects of their fellow New Zealanders, look askance, and fear the worst.

The conversion of the legal fraternity to American 'legal realism' has also had its effects. Liberated from the tedious technicalities of statute and precedent, answering now to a higher calling, the new judiciary sees itself as an instrument of policy, a major mover and shaker on the political scene. The appropriate role of the state (if any) in seeking the preservation of the Maori language has been much discussed. Recently, a judge opposed the privatisation of media assets, taking it upon himself to argue the 'compelling necessity' for more active state broadcasting policies favouring Maori language use. Indeed, he claimed, wagging his finger, 'there are strong grounds for considering the Crown has not done sufficient in recent years' (p. 25). (It might be noted that the attempt to introduce state-financed Maori-language TV production has been a spectacular saga of mismanagement, waste, and misappropriated funds.) On current judicial developments, Minogue comments: 'It is well known that the *obiter dicta* of judges are commonly indulgences allowed as compensation for the muscular work of close interpretation, but a continuous stream of *obiter dicta* in the Waitangi cases gives the irresistible impression that a new power is stretching and flexing its muscles'. Moreover, 'that power is explicitly disdainful of ... democracy' (p. 27).

The 'cultural question' has an international dimension, with the United Nations' Declaration on the Rights of Indigenous Peoples being much cited in domestic argument. It affirms, *inter alia*, that indigenes are a protected species and that any country fortunate enough to have them must find 'ways and means for financing' their autonomy, thus allowing them to enjoy 'all their traditional and other economic activities'. In the case of the Maori these would include both slavery and cannibalism — and it is encouraging to find that there has been no recent call for their revival. These moral demands and political claims, expressed rhetorically as 'rights', have led to considerable changes in the position of indigenous peoples worldwide, and have also had their own impact on the interpretation of 'justice'. 'Justice for Maori in this context', writes Minogue, 'certainly creates a flow of benefits from the Crown, *alias* the New Zealand economy and its taxpayers, to Maori ...' (p. 30). But it also produces a potentially dangerous dependence. Times change.

Today's fashion in moral sensibility benefits the Maori, but tomorrow's may not. Taxpayers just might get fed up with footing the bill, and 'it would be a misfortune for Maori to become dependent upon a supply of goods which could prove unreliable' (p. 31). Australian parallels come to mind.

One of the peculiarities of multiculturalism is its theory of the state. On the one hand the state is evil: the agency of the dominant western group's hegemonic power, and something which the subordinate group's claims to 'cultural autonomy' are set against. On the other hand it is all too obviously the source of present benefits. This contradiction exists at the psychological level in all those who simultaneously denounce and beg, and means that they are always more or less acting in bad faith. Much the same is true of the doctrine of cultural relativism. 'All cultures are equal — though only one (yours) produces the wherewithal we need for modern life.' Warning against naive zero-sum economics, and the view that Maori are poor *because* the whites are rich, Minogue makes the simple point 'that European wealth is based upon European culture, which turns nature into resources for use' (p. 56). By contrast, no traditional Polynesian culture was rich: a fact somewhat obscured by the kind of utopian pastoralism now popular in Maori circles, which appears to demand 'the protection of [the] static world of subsistence farming' (p. 10). Maori assert that it is the loss of land which has impoverished them: 'land [they say] is the father of money'. With exemplary patience Minogue comments that 'land is not, of course, the father of money, for money requires cultivation and a sophisticated economy' (p. 10) and it is a measure of how far the level of discussion on such matters has fallen that this comment should have to be made at all.

The author makes some interesting observations on the apology industry, which, as he rightly points out, is an exclusively Western phenomenon. He warns of the complexities of demands 'for a public apology as an instrument of converting a misfortune into a political advantage' (p. 44). Much depends on whether the apology cancels the grievance. When it does not — when the apology is linked to demands for restitution or reparation, and the amount yielded is not considered satisfactory — then far from cancelling the grievance the public apology merely ups the ante, and leads to a protracted and embittering exacerbation dangerous to civil life. One thing is clear: the 'financial envelope' within which reparations are packaged needs to be made of something stronger than paper.

Maori and their supporters professing the glories of traditional Polynesian culture have now colonised large tracts of New Zealand's educational and welfare services. Within these establishments they bring together two traditions inimical to modern economic rationality — tribalism and bureaucracy — under a single roof. Whether the organisational pathology this implies is susceptible to treatment, or its potential for corruption and obstruction can even be satisfactorily monitored, remains to be seen. Outsiders can only wish New Zealand the best of Kiwi luck.

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