Treaty Politics
POLS 319

Semester 2, 2018

Lecture: Tuesday 12–1pm am
Discussion Groups: Friday 10.00–12.00 noon

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Office Hours: Monday, Wednesday and Friday 1.00-2.00pm
## Course Objectives and Outcomes

This paper engages students in contemporary debates about the Treaty of Waitangi in New Zealand politics. Students will familiarise themselves with the Treaty in its historical context to understand the terms of the Treaty, the circumstances leading up to its signing, and the events following after 1840 which breached the Treaty. They will also engage with various theoretical perspectives relevant to the Treaty and contemporary New Zealand politics. Using this understanding of the Treaty, and relevant theory, students will assess the ‘Treaty compliance’ of the Treaty settlement process, the constitution, political representation, and resource and public policy issues.

## Attendance Requirements and Workload Expectations

Each Tuesday (10.00-10.50) there will be a lecture on a particular topic. Each Friday (10.00–12.00 noon) students will work in discussion groups to apply their knowledge to specific issues relating to that topic. **There is a terms requirement for students to attend 10 of the 12 Friday discussion groups. Students who fail terms will not be able to sit the final exam.** Students are required to prepare for lectures and seminars by reading the key readings, and completing research tasks before coming to class. Discussion questions are listed below week by week. It will take approximately four hours each week to prepare for discussion. Students who are not prepared for class will be asked to complete the required reading before joining discussions.

## Extensions, referencing and submitting work

Extensions (for medical reasons or due to extreme personal difficulties) must be arranged in advance with Janine Hayward by completing an Extension Request Form (available from the Politics Office and on blackboard). **Work that is not submitted on time without an extension will be awarded a grade of 0%.** Students are required to submit electronic versions of all assignments through blackboard. These will be subject to a plagiarism check.

The work must be fully referenced with a bibliography. You will find information about different referencing styles at: [http://www.otago.ac.nz/library/quicklinks/citation/](http://www.otago.ac.nz/library/quicklinks/citation/). Please note that assignments that do not contain adequate references and bibliography will be penalised and may (in extreme cases) receive a grade of 0%.

For details about the support services available to students please visit the Department website at: [http://www.otago.ac.nz/politics/study/otago612216.html](http://www.otago.ac.nz/politics/study/otago612216.html)
Course Assessments

- Essay (due 3 August 5pm: 25% of final grade)
- Group Research Project (due 14th September 5pm: 25% of final grade)
- Final Exam (50% of final grade: two hours long).

Essay (due 3 August 5pm: 25% of final grade)

Write an essay of no more than 2000 words on the following topic:

What were the various motivations that Māori rangatira, missionaries and key British officials brought to the negotiations at Waitangi in February 1840, and to what extent are these reflected in the Māori and English language versions of the Treaty of Waitangi?

Your essay will be assessed according to the following criteria: argument, evidence of research, referencing, structure (including introduction, conclusion and paragraphing), written expression and spelling/grammar.

Group Project (due 14th September 5pm: 25% of final grade)

Your discussion group has been assigned a district in New Zealand based on one of the Waitangi Tribunal inquiry districts. (See the map below – it’s your group name!) On 7 September your group will briefly present your key findings to other groups (15 minutes). You will receive feedback from me on your progress before handing in your final project on 14 September.
Answer the following questions in relation to the Treaty in your district:

1. What are the key institutions and processes involved in Treaty settlements? (approx 500 words)
2. What were the key Treaty breaches that impacted on your district? (approx 500 words)
3. Which settlements have been made in your district and what are the key components of those settlements? (approx 500 words)
4. What does the most recent census data say about your district that is relevant to the Treaty relationship between Māori (iwi/hapū) and the Crown? (For example, population demographics, languages spoken, socio-economic indicators etc). (approx 500 words).
5. To what extent do Māori in your district currently have representation in Parliament, and in local and regional government? (approx 500 words)

Your group project will be assessed according to the following criteria: evidence of research, accuracy and scope of research, overall cohesion of the report, referencing and sources, written expression and spelling/grammar.

Useful sources for research:

- Alan Ward, *An Unsettled History* and other key readings from the course.
- Office of Treaty Settlements, Quarterly Reports
- Waitangi Tribunal Reports (including the National Overview reports which provide district overviews)
- Statistics New Zealand (Census data)
- Local Government New Zealand
- Treaty Settlements Acts
Working well in groups

For the group to function successfully students must:

- Be willing to listen to each other
- Elicit viewpoints from group members
- Provide constructive feedback
- Refrain from derogatory remarks
- Commit to resolve intra- and inter-group conflicts
- Work together to organise the group and run group meetings
- Speak in front of groups
- Generate presentation material

The groups should incorporate the following three principles:

- Equal participation: all students in the group have an opportunity to speak or engage in the project
- Positive interdependence: what benefits one student should benefit the rest of the students in the group
- Individual accountability: each student is responsible for her or his contribution to the group assignment, and their own individual assignments.

Students will be asked to engage in a confidential peer evaluation of each other’s contribution to the group project. Non-performing students will be penalised.

Using the scale below, please rate each of your group members on the following characteristics:

1 = Completely agree
2 = Somewhat agree
3 = Neither agree nor disagree
4 = Somewhat disagree
5 = Completely disagree

The name of the person I am rating: ______________________

S/he was present for group meetings ( )
S/he was prepared for group meetings ( )
S/he fulfilled assigned responsibilities ( )
S/he responded to requests for information etc. ( )
S/he did more than was expected of him/her ( )
S/he kept the group focused on task ( )
S/he took leadership responsibilities for the group ( )
S/he helped foster group morale ( )
S/he worked cooperatively with others ( )
S/he brought energy and enthusiasm to the group ( )
S/he helped the group resolve disagreements ( )

Is there anything else you wish to tell me about this person or their role in the group?
Key Readings and Discussion Questions

Week 1 (9-13 July): The Treaty at Waitangi


Discussion questions:

1. Overall, what are the key arguments or central ideas in each reading?
2. How do Orange and Walker’s accounts of the events and circumstances relating to the Treaty in 1840 differ?
3. How do Orange and Walker’s perspectives and methods as authors differ?
4. Why did the British draft the Treaty?
5. Why did so many Māori at Waitangi and around Aotearoa/New Zealand put their mark to Te Tiriti?
6. What were the circumstances at the time that account for the provisions of the Treaty?
7. What are the significant differences in the Māori and English versions of the Treaty?

Week 2 (16-20 July): The Treaty reconsidered

- Waitangi Tribunal, ‘The making of the treaty’, He Whakaputanga me te Tiriti, 2015, pp. 503–522

Discussion questions:

1. Overall, what are the key arguments or central ideas in each reading?
2. To what extent did the British gain Māori consent through the Treaty?
3. To what extent can Williams’ task in translating the Treaty be evidenced and understood?
4. What do we know about the significance of the oral debates amongst Māori at Waitangi?
5. What is Belich’s key argument, and what does his account add to Orange and Walker’s explanation of events surrounding the Treaty?
6. What does Belich mean by the ‘dog with three tails’ and what does that metaphor add to our understanding of events at the time?
7. What are the most significant discrepancies arising from Orange, Walker, Belich and the Tribunal’s accounts of events surrounding the Treaty?

Week 3 (23 – 27 July): What happened after the Treaty was signed?

Discussion questions:
1. Overall, what are the key arguments or central ideas in each reading?
2. Why did post-1840 settlement not uphold the Crown’s promises to Māori in Article 2 of the Treaty?
3. What were some key laws relating to land after 1840 which breached the Treaty?
4. What were Māori ‘intentions and understandings’ relating to land, post-1840?
5. What is Lashley’s central argument about Treaty settlements?
6. What are ‘historical claims’ and what is the purpose in settling these claims?
7. What sort of justice do Treaty settlements aim to deliver, and why?

Week 4 (30 July – 3 August): The Treaty and the Constitution

• Malcolm Mulholland, ‘The Treaty of Waitangi’ in Janine Hayward (ed), New Zealand Government and Politics (6e), OUP, Melbourne, 2015, pp. 120–130.

Discussion questions:
1. Overall, what are the key arguments or central ideas in each reading?
2. To what extent does the Treaty of Waitangi provide the fundamental principles required of the constitution?
3. What does Mulholland mean by Article 2 as ‘settlements issues’ and Articles 1 and 3 as ‘constitutional issues’?
4. What is the status of the Treaty in international law?
5. How (by way of examples) is the Treaty incorporated into law?
6. How does Palmer summarise the status of the Treaty according to the courts?
7. Is the Treaty a ‘treaty of cession’ or a ‘treaty of protection’? Why does it matter?

After answering these questions, you should spend at least 20 minutes discussing progress on your group project.

Week 5 (6 – 10 August): The Treaty in the Constitution?


**Discussion questions:**

1. Overall, what are the key arguments or central ideas in each reading?
2. How do conceptions of citizenship challenge the traditional debates about rights, the Treaty, and the constitution?
3. How does the concept of ‘differentiated citizenship’ allow room for the practise of tino rangatiratanga in future constitutional arrangements?
4. What rights do Māori have as tangata whenua beyond the rights articulated in the Treaty?
5. How did Palmer and Butler develop their thinking about the Treaty in the Constitution between their proposals in 2016 and 2018?
6. What is the full spectrum of views held about the Treaty and the Constitution?
7. What should be the relationship between the Treaty and the Constitution, and why?

After answering these questions, you should spend at least 20 minutes discussing progress on your group project.

**Week 6 (13 – 17 August): The Treaty and Parliament**

- Parliamentary Library, ‘The Origins of the Māori Seats’, [https://www.parliament.nz/resource/en-NZ/00PLLawRP03141/e27e432e971eb1f60ea75b00e987a39e4b2e62ce](https://www.parliament.nz/resource/en-NZ/00PLLawRP03141/e27e432e971eb1f60ea75b00e987a39e4b2e62ce) (accessed 24 Feb 2017)

**Discussion questions:**

1. Overall, what are the key arguments or central ideas in each reading?
2. To what extent were the Māori seats established due to a sense of British ‘idealism and justice’ for Māori?
3. What are example of the disparities in the historical administration of the Māori seats, and how can these best be explained?
4. What were the implications of the changes to the laws governing the seats in 1975 and with the Maori option?
5. What is the basis of the electoral alliance between the Māori seats and Labour, and how was this alliance disrupted?
6. What does the 2017 electoral result for the Māori party add to Miller’s assessment of Māori electoral politics?
7. What are the arguments for and against the abolition of the Māori seats?

After answering these questions, you should spend at least 20 minutes discussing progress on your group project.
Week 7 (20 – 24 August): The Treaty and Māori representation


Discussion questions:

1. Overall, what are the key arguments or central ideas in each reading?
2. How does Irons Magallanes explain the origins of the Māori electorates?
3. What are the substantial differences between the ways the seats operated historically, and after 1993?
4. What does the law say about who can stand for and vote in general elections in New Zealand in the Māori and general electorates?
5. Do the Māori electorates today marginalise voters on the Māori roll?
6. Are the Māori electorates undemocratic or give Māori special status?
7. How should the future of the Māori electorates be determined?

After answering these questions, you should spend at least 20 minutes discussing progress on your group project.

Week 8 (3 – 7 September) Group presentations

Each group will be asked to give a 10 minute presentation of the key findings of their group project. There will be an opportunity for brief comments and questions, and I will provide each group with some written feedback to consider before they submit their project on 14 September. You can use powerpoint but only for images, graphs and tables, and a maximum of three slides.

Week 9 (10 – 14 September): The Treaty and Fresh Water

- J. Ruru, ‘Indigenous Restitution in Settling Water Claims: The Developing Cultural and Commercial Redress Opportunities in Aotearoa, New Zealand’

Discussion questions:

1. Overall, what are the key arguments or central ideas in each reading?
2. How did the Crown assume rights over fresh water after signing the Treaty?
3. What claims have Māori made to fresh water, and on what basis have they made those claims?
4. What might ‘fair, holistic and complete restitution for water grievances’ look like under the Treaty?
5. How does the Waikato river exemplify the issues relating to fresh water and
the Treaty of Waitangi?
6. To what extent does the Waikato river settlement redress Treaty grievances?
7. To what extent could the Waikato model be replicated elsewhere, and in relation to other rivers and natural resources?

Week 10 (17 – 21 September): The Treaty and Social Policy


Discussion questions:

1. Overall, what are the key arguments or central ideas in each reading?
2. What were the rationales for the ‘closing the gaps’ strategy and why was it formally abandoned by the Labour Government?
3. What tensions do articles 2 and 3 of the Treaty present in relation to the rationale for social policy?
4. What difference does it make if policy debate is needs-driven, or rights-driven?
5. What difference does it make to frame the Treaty in terms of indigeneity, race relations, or ethnicity?
6. What impact did the ‘Orewa speech’ have in 2004 and why?

Week 11 (24 – 28 September): The Treaty and Health Policy


Discussion questions:

1. Overall, what are the key arguments or central ideas in each reading?
2. What (according to Durie) is the link between the Treaty of Waitangi and Māori health?
3. Which Treaty principles are most applicable to health policy, and why?
4. The Treaty is in legislation, but generally not legislation relating to social policy. Why not, and what are the implications of this?
5. What is Whanau Ora and how does it differ from the Closing the Gaps approach to Māori health?
6. How does Whanau Ora work in practice?
7. What is the future of Whanau Ora likely to be under the current government?

Week 12 (1 – 5 October): Conclusions and exam preparation