

WAITANGI DAY:
AN ANNUAL ENACTMENT OF THE TREATY?

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ABSTRACT

New Zealand's national day, Waitangi Day, is a commemoration of the Treaty of Waitangi between Britain and Maori chiefs signed in 1840. The Day has long been marked by controversy and conflict between Maori and Pakeha citizens of the country. In this paper Waitangi Day is viewed as a 'cultural performance' and an analytical framework drawn from the anthropology of performance is applied. This allows for an exploration of the ways in which the events of the Day are intimately connected to the history of the Treaty, as well as to the ongoing flow of social and political life in New Zealand. Particularly relevant here are the contrasting views on the nature of the Treaty and the extent to which it has been honoured or not. The analytical lens of the anthropology of performance, when applied to empirical data on how the Treaty is commemorated annually at Waitangi, enables one to conclude that Waitangi Day should be viewed as an annual enactment of the Treaty rather than its commemoration.

INTRODUCTION

The Treaty of Waitangi, an agreement between Britain and a significant number of Maori chiefs,¹ was signed on 6 February 1840 at Waitangi in the Bay of Islands, and later in the year by more chiefs in other parts of the country (Orange 1987). It was by means of the Treaty that New Zealand was annexed and that Maori became British subjects and it is an abiding and central feature of contemporary New Zealand society and politics (Abel 1997; Fleras and Spoonley 1999). However, the Treaty has also been described as being, from its inception, 'the most contentious and problematic ingredient in New Zealand's national life' (King 2003: 157). The main difficulty stems from the fact that there was a Maori version as well as an English one, with the former being the one that Maori signed. The Maori version is interpreted by many to mean that

Maori retained their sovereignty, while in the English version they apparently cede sovereignty to Britain but maintain their rights to land and resources. It seems likely that there were thus different understandings of what the Treaty meant, and that the version that was signed 'failed to convey the full meaning of the English version' (Orange 1987: 1). In addition, although the intentions of the British may have been honourable (King 2003), the Treaty was 'presented in a manner calculated to secure Maori agreement. The transfer of power to the Crown was thus played down and Maori suspicions were lulled by official recognition of Maori independence...' (Orange 1987: 33). The chiefs, in other words, may well not have realized that they were ceding absolute sovereignty to the Crown and probably thought, to the contrary, that they retained it (King 2003: 160, Orange 1987: 41, Fleras and Spoonley 1999: 12), and this continues to be a point of argument and division in New Zealand political life.

The signing of the Treaty in 1840 was marked by much discussion and debate among Maori about what it meant and what the implications were, in what was 'a gala atmosphere' and 'an air of excitement' (Orange 1987, 43). The event was attended by hundreds of people, including interested Pakeha.² There were divisions among the chiefs, and some refused to sign. Others apparently saw some continuity with the earlier establishment of the 'Confederation of United Tribes of New Zealand' formed in 1835, and which they thought had guaranteed them sovereignty (King 2003: 154–5).³ Despite reservations and uncertainties the signing of the Treaty united Maori and Pakeha as subjects of the Crown, making them into 'one people' as Treaty partners, as was stated at the time by Governor Hobson (Orange 1987: 55). What exactly this meant, and means today, has been contested and debated ever since.⁴ Nevertheless, the Treaty is widely regarded as New Zealand's 'founding document'.

For many years after its signing, the Treaty was ignored and contravened by the Crown, as New Zealand was occupied by British settlers. Maori lost most of the land that they had occupied in 1840 and were marginalized. It is only from the 1970s onwards that these wrongs have been addressed with some vigour, primarily through the Waitangi Tribunal, provided for in the Treaty of Waitangi Act of 1975 as a way for Maori to 'voice their grievances against the Crown and seek settlement' (Eljohn 2004: 45).

From the 1970s onwards the Treaty, or more accurately what is now known as 'the spirit of the Treaty' or 'Treaty principles' (since the exact legal status and the meaning of the Treaty is uncertain and contested) has become a pervasive feature of public life, with the relationship between Maori and Pakeha in many spheres governed largely by negotiations around whether the 'spirit of the

Treaty' is taken cognisance of, adhered to, or contravened. In this respect, what precisely the Treaty means is constantly being negotiated and debated. Many government departments have 'Treaty units', the Treaty features in various ways in dozens of Acts of Parliament, and it is referred to in the strategic and organizational plans of most large organizations and institutions (Fleras and Spoonley 1999, Richards and Ryan 2004).⁵

COMMEMORATING THE TREATY

The Treaty has been the subject of much academic writing and debate in New Zealand, but scholars are strangely silent on its commemoration on 6 February every year, with a few notable exceptions.⁶ Public events marking the signing of the Treaty go back to well before the 1970s. In 1932 the House and grounds of the British Resident where the Treaty was signed (the Treaty house), plus an area of 1,000 acres next to it, were purchased and given to the nation by the Governor-General, Lord Bledisloe.⁷ Increased interest in Waitangi and the Treaty on the part of Pakeha as well as Maori was one result of this, and Maori as a whole collaborated in the building of a national whare runanga (*communal meeting house*) in the grounds to symbolise the unity between the Treaty partners. These events were marked by celebrations on 6 February 1934, the first official Waitangi Day event, at both the Treaty House (where a flagstaff had been erected to mark the spot where the Treaty had been signed) and at the nearby Te Tii Waitangi marae,⁸ where Ngapuhi hosted a gathering of some 10,000 Maori from across the country (Orange 1987). It is these two sites – the one representing the Crown (and by extension, Pakeha) and the other representing Maori – that are used for official Waitangi Day commemorations today. This spatial division, as well as the links between them, is significant, as will be argued later.

It was at Te Tii, across the Waitangi estuary near Paihia town and roughly south-east of the house of the British Resident, that Maori had camped for a number of days while the Treaty was being explained to the chiefs, debated and eventually signed in front of the Resident's house (Orange 1987: 50–51). By the 1870s Te Tii, under the auspices of the local tribe, Ngapuhi, had become a 'centre for inter-tribal discussions on Treaty-related matters' (ibid: 196). A hall was built there in 1875 and named 'The Treaty of Waitangi'. Treaty matters were discussed at the time and grievances aired, and Northern chiefs renewed their commitment to the Treaty. Te Tii became a centre for gatherings and for receiving visiting groups as well as government officials. A new meeting hall was officially opened in March 1881, with some 3000 Maori attending. One of the demands made was for a Maori parliament (within the wider polity), for

which the hall had been erected, and the event was designed as the opening of that parliament.⁹ (ibid: 231, Orange 2004: 100). The Native Minister was present, and he emphasised that Maori and Pakeha were 'one people under the Queen' and that there could only be one Parliament. However, the Governor had declined the invitation to attend, probably at the behest of the government, and this was seen as a 'deliberate slight' by Maori (ibid: 199–201). This led to the cancellation of a ceremony designed 'to symbolise Maori and Pakeha uniting in the Treaty' (ibid: 201), which was to have involved the unveiling of a sixteen foot high monument constructed some months previously,¹⁰ on which the full Maori text of the Treaty had been inscribed. The monument 'was first to be covered with a Maori cloak, then with a Union Jack' followed by a scripture reading (ibid). In 1922 a new meeting hall was erected to replace the earlier one and opened by the Prime Minister (ibid: 231).

It is not necessary here to give a detailed history of the commemoration of the Treaty. The 1934 celebrations set a pattern that was followed in subsequent years, including the demands for Maori sovereignty that became more prominent from the early 1970s onwards.¹¹ From early on, as the above example indicates, it was primarily Maori who supported the commemoration rather than Pakeha, and such occasions provided an opportunity to draw attention to the Crown's failure to adhere to the Treaty and for voicing grievances relating to breaches of the Treaty and to the status of Maori. At the elaborate centennial celebrations in 1940, Maori again challenged the government on the state of Pakeha-Maori relations and on the question of Maori autonomy and Maori rights, with the government stressing the view that Maori and Pakeha were 'one people' (Orange 2004). This tradition of protest and debate continues to be a prominent feature of Waitangi Day.

Waitangi Day is, in fact, officially New Zealand's National Day. The Waitangi Day Act of 1960 proclaimed 6 February as Waitangi Day as a 'national day of thanksgiving' to commemorate the Treaty (Orange 1987: 240). Provision for 6 February to be a public holiday came only in 1973 (ibid: 246), but not long after that the Labour government changed the name of the day to New Zealand Day in an attempt to stress both national unity and the multicultural nature of the nation. This did not find favour with Maori, to whom the Treaty meant partnership and equality with the Crown. At the end of 1975 a National party government took office and the Waitangi Day Act of 1976 changed the name of the day back to Waitangi Day, emphasising again the bi-cultural nature of the event.

Annual commemorations of the Treaty at Waitangi began in 1947 with a regular but somewhat controversial Naval presence, and from 1953 onwards, after a visit to Waitangi by the Queen, the state has been regularly represented by the Governor-General, members of parliament, and the Navy. During this time, and throughout the 1960s and 70s, when the annual events at Waitangi were televised, the differences between Maori and Pakeha views on the Treaty and its implementation continued to be emphasised (Orange 1987: 242–243).

NATIONAL DAYS AND THE ANTHROPOLOGY OF PERFORMANCE

Having set out a brief history of the creation of Waitangi Day, I now move on to consider the nature and significance of Waitangi Day as New Zealand's national day, by placing it within a comparative context, comparing it with other national days and their relationship with national identity. The approach that is taken is one based on the anthropology of performance, from which an analytical framework is drawn that is applied to empirical material on Waitangi Day, collected through observation, participant-observation, and perusal of documentary material, intermittently over the past seven years.

At first glance it may seem difficult to assess how much significance to place on the nature or character of a country's national day. Sometimes it is difficult to decide if it even has a national day, or which of several competing days is the national day. In Australia and New Zealand many people claim that ANZAC Day is the 'real' national day, not Australia Day or Waitangi Day.¹² Others are indifferent, or dismiss these days as not worth celebrating. It is equally difficult to assess comments such as 'Just another holiday' or 'Another day at the beach', with which some people in both Australia and New Zealand dismiss their national day (but not ANZAC Day). Certainly in New Zealand there is a debate that surfaces annually on or around 6 February, about whether Waitangi Day should be renamed or replaced with another day, such as Dominion Day (26 September), and in recent years a United Front M. P., Peter Dunne, has unsuccessfully proposed legislation in parliament to secure a change in the name to Aotearoa New Zealand Day (Richards and Ryan 2004).

What do we know about national days in general? The literature indicates that they are important in several ways.¹³ From the perspective of the anthropology of performance, national day commemorations such as Waitangi Day are public rituals, one genre of 'cultural performance'. This term is associated with Milton Singer (1972), who specified some of the characteristics of such events. Cultural performances are co-ordinated occasions of a public kind, which may be viewed by an audience, and which are also open to collective participation.

They are scheduled (prepared in advance), temporally and spatially set apart, framed, or bounded, and they are programmed or scripted, involving a structured sequence of activity. Singer used the term cultural performance to refer to a variety of rituals, festivals and the like in the Indian village in which he was doing fieldwork, events that ‘became for me the elementary constituents of the culture and the ultimate units of observation’ (Singer 1972: 70–71). These were heightened occasions – formalized, elaborate, skilful, and emotionally intense. Cultural performances are aesthetically marked, and they involve acts ‘of extraordinary intensity and heightened significance’ (Fabian 1990: 16), in which a variety of important symbols come into play. In New Zealand the notion of cultural performances includes a potentially large variety of events, from a rugby test to a graduation ceremony; from a Sunday church service to ANZAC Day.

There are three key features of cultural performances that I wish to highlight here, and which will be applied to the data on Waitangi Day that follow. These are ‘reflexivity’, the processual or ‘emergent’ nature of cultural performances, and their performative or ‘illocutionary’ force.

One of the important features of many cultural performances, one that clearly applies to the commemoration of nation on national days, is that they are ‘stories people tell themselves about themselves’ as simply stated by Clifford Geertz (1973: 448). In other words they are narratives that enable people to interpret themselves to themselves. Put slightly more elaborately, they are ‘occasions in which as a culture or society we reflect upon and define ourselves, dramatize our collective myths and histories, present ourselves with alternatives, and eventually change in some ways while remaining the same in others’ (MacAloon 1984: 1). This important aspect of cultural performance involves what Victor Turner called ‘plural reflexivity’, which means that in participating in performance, even if only as audience, we are able to contemplate ourselves and to be conscious of our role in our own productions. This involves turning back on oneself, making oneself the object of scrutiny, fusing subject and object into one. In this process social values and categories are made explicit in symbolic form, allowing for reflection and commentary on these, and for a re-generation or re-ordering as well as a questioning of social relationships. Reflexivity refers to the way in which members of a group ‘turn, bend or reflect back upon themselves, upon the relations, actions, symbols, meanings, codes, roles, statuses, social structures, ethical and legal rules, and other sociocultural components which make up their public ‘selves’” (Turner 1986: 24).

Reflexivity is facilitated by the characteristics of performance, especially the performative frame, or the symbolic structure in terms of which it is produced, which is meta-communicative (Bateson 1973). In other words, the staging of a cultural performance such as a national day, how it is scripted and choreographed, its spatial and temporal features, contains information on how to interpret the messages that occur within it. The general meta-communicative frame associated with national days says something like—‘this is the day on which we look at ourselves, present ourselves to ourselves, talk about ourselves to ourselves. And it is the day on which we look at ourselves doing this, questioning (at times) what we see and hear, asking ourselves why we do it like this, and not like that, interrogating our own assertions about ourselves.’ But there are also more specific messages that are conveyed by the particular way in which a cultural performance such as the commemoration of a national day is constructed. This will become apparent below when we look at the symbolic structure of Waitangi Day.

Days like Australia Day and Waitangi Day, through the ways in which they are constructed, allow people to reflect on and interrogate what it means to be a ‘Kiwi’ or an ‘Aussie’ as well as to question or affirm the ways in which the nature of national identity is acted out and portrayed. The fact that questions are regularly asked (in the media, for example) on and around the dates on which the nation is commemorated, about what it means to be Australian or a New Zealander, the self-examination of national traits, as well as the questions that are asked about the day itself, and its significance, or lack thereof – indicate that reflexivity is an important aspect of these occasions. Many nations in fact make use of national commemorations to engage in a ‘conversation’ of what constitutes the nation, what its features are, where it is going, and other such reflexive questions.

But what exactly do people take stock of on national days? One can usually identify certain relatively perennial themes, basic beliefs and values that people hold in common, important social and political principles, reflections on the character of national identity and suchlike. But one of the important principles of the anthropology of performance is that performance is always part of, and linked to, a wider social process, rather than divorced from the ongoing flow of everyday life. This processual aspect of performance is evident at national day commemorations, which frequently involve reference to and reflection on the political and social events that immediately precede them. In this way cultural performance brings together the lived experience of the immediate past with the more enduring principles and values of the society in question, a juxtaposition that encourages reflexivity.

Being linked to the ongoing flow of social life also means that national day commemorations are not static and unchanging. One of the important qualities of most cultural performances is that they are 'emergent', never final in form and meaning, but continuously evolving – sometimes only imperceptibly, sometimes rapidly. This is very obvious where there have been regime changes of a radical kind. In Poland, the May Day parades of the communist era were replaced with May Day celebrations of a very different kind as the communist government fell (Mach 1992); in Mongolia, the national celebration called Naadam, long associated with Mongol identity but reconfigured under Russian rule to convey a communist ideology, has reappeared and been reformed to proclaim a new Mongolian identity as the country has emerged from Russian domination.¹⁴

National sentiment is usually both backward and forward looking (C. Turner 2006), the nation locating itself and its foundation in a past and also orienting itself towards a future. Nations devise ways of representing the past, taking stock of the present, and mapping out some kind of desired future. Some do so more actively, and more sensitively, than others. Usually, as in New Zealand and Australia, the historical resources on which the sense of nationhood are based are recent enough to be well documented and known, though nevertheless constructed in relation to the present, and often controversial and ambivalent, especially in nations with a somewhat violent or unsettled past (C. Turner 2006).

The reflexive and emergent properties of national days often enable people to reconstruct and reinvent history as well as to propose future options. They allow the state to start re-making history afresh, as it were, as in the case of South Africa, where the old Republic Day (commemorating the severance of relations between South Africa and its British parent) has given way to Freedom Day (27 April, marking the first democratic election in 1994) celebrating the re-birth of democracy and a new post-apartheid era, but with the very name having a backward-looking as well as a forward-looking character.

The reflexive and emergent (processual) features of cultural performances are linked, as already alluded to above, to what can be termed the 'revelation of the possible'. Victor Turner refers to this as the 'subjunctive' nature of performance, the 'as if' or 'what if' quality that it often has. The very name 'freedom day' conveys this quality – it suggests that freedom is possible and that it has been achieved. Sometimes this 'as if' or 'what if' quality is suggested by displays of discipline and armed force, as in the Nazi rallies that preceded ww2, or

the displays of armed might in Red square during the cold war. In Singapore, the potential threat of Malaysia and other S-E Asian countries was countered, until recently, with national day parades that emphasised the strength and capabilities of the Singaporean armed forces (Kong and Yeoh 1997). In this sense Singapore's national day was a symbolic dialogue with Malaysia, a meta-dialogue, celebrated on 9 August 1965, the day that Singapore was expelled from the Malaysian Federation (Leong 2001). It signalled the viability of the nation in the face of adversity and the display of military strength was a re-assurance of safety and security as well as serving to underscore 'the values of order, discipline and regimentation' (Leong 2001: 10).

The revelation of possibility associated with national days can also sometimes be seen in the stress on inter-ethnic unity and national harmony. The case of Singapore is pertinent here too, since a few years after its expulsion from the Malaysian Federation there were racial riots which threatened national unity and highlighted a need to develop multi-racial harmony, so national days were carefully constructed to convey an image of inter-ethnic harmony (Kong and Yeoh 1997).

Of course these things do not just happen, they are engineered, usually by the state. This feature of national days has been referred to as 'mirroring' (Handleman 1990). The state, through its bureaucracy, creates what it wants to present as a mirror image of an ideal society. The spectacle that it creates employs strategies and symbols directly related to prevailing political and social circumstances, in an attempt to shape the popular consciousness and thus the sense of nation (the imagined community) in particular ways (Kong and Yeoh 1997). Thus May Day celebrations in Communist countries involved parades in which workers displayed the contribution they made to society, and in which egalitarianism was a major theme (Mach 1992). In National Days such as the early Singaporean ones, or in communist Poland, the spectacle presented and reflected a vision of social order constructed by the state, but with the role of the state in shaping the commemorations masked and hidden.

The revelation of the possible that involves a questioning of the established order of things sometimes involves subverting and inverting that order, involving a suspension of social structural principles, of hierarchy, rank and distinction. Those in authority are mocked, accepted views of society parodied, in what, following Bakhtin, has been called the 'carnavalesque' (Bakhtin 1968). This feature, also known as the liminal and anti-structural aspects of performance (Turner 1986) may be essential for reflexivity.

Finally, the term ‘performance’ calls attention to the fact that national days, as public rituals, do something. They have an effect on the real world, though sometimes this is small and incremental, and sometimes dramatic and immediate. A number of anthropologists specializing in the study of ritual, drawing on and adapting the insights of philosophers of language John Austin and John Searle, have drawn attention to its ‘performative’ or ‘illocutionary’ force (e.g. Tambiah 1985, Rappaport 1999). Ritual, in other words, does something, establishes a certain reality, and sometimes transforms things. In what follows then, we have to interrogate the nature of the reflexivity (and subjunctivity) associated with Waitangi Day as public ritual, examine its processual nature, and ask what it is that it does. These three features are, of course, interrelated.

WAITANGI DAY AS CULTURAL PERFORMANCE

Having sketched an analytical framework based on the anthropology of performance, as well as the history of the Treaty and its commemoration, we can now start looking at Waitangi Day a little more closely, in relation to the concepts and principles outlined.

Starting with reflexivity, what is the story that people in New Zealand tell themselves on Waitangi Day? Obviously, it is partly the story of the Treaty signed in 1840. However, this act of remembering is directly relevant to the present and to the future, since the Treaty affects many aspects of daily life. The story of the Treaty is also the story of the nation, closely tied to the question of national identity, in which partnership between Maori and Pakeha features strongly. However, as is well known, the interpretation, and therefore the meaning of the Treaty, is contested, and the extent of its past and present implementation is disputed. This in turn means that the nature of national identity in New Zealand is neither easily defined nor uncontested. The reflexivity associated with Waitangi Day turns largely on this, with events of the previous twelve months frequently invoked in this public discussion.

The reflexive nature of Waitangi Day as New Zealand’s national day is evident in a multitude of ways – from the questions asked by media commentators (Who are we? Should this be our national day? How are we doing as a nation? Can we do better? What is the role of the Treaty in the life of the nation? Etc.) to the many events – discussions, forums, protests, church services, speeches, and so on – that take place at Waitangi and elsewhere every year. In asking questions about whether non-Maori and non-Pakeha citizens feel alienated by a national day that stresses bi-cultural relations, or whether Waitangi Day should be replaced by some other day, or be renamed (again) as New Zealand

Day, reflection on the nature of the Day is taking place and implicit and explicit questions about its appropriateness are being asked. Reflexivity is also a key part of Waitangi Day discussions around Maori autonomy, self-government or sovereignty, which take place each year, about relations between Maori and the state, and about the concerns of the day, whether this be something like the 'fiscal envelope' in 1995, or the foreshore and seabed legislation in 2004.

At this point readers unfamiliar with New Zealand life might be asking what exactly happens on Waitangi Day, so a very brief sketch of a generic program of official and unofficial events as they occur at Waitangi in the Bay of Islands is in order.¹⁵ Further details relevant to many aspects of these proceedings will be provided below. At Waitangi there are two venues, one for the official (state) program of events at the Treaty grounds and surrounding area (a national historic reserve), and one to the south-east of this across the Waitangi estuary, at Te Tii marae. At the Treaty grounds are the Treaty House, originally the residence of the British Resident, a Maori-style meeting hall called the whare runanga and an expanse of lawn with a large flagstaff at its centre. A little further from the Treaty House is Hobson's beach, where a large canoe shed houses a Maori war canoe, and adjacent to this are a visitors' centre and a restaurant. The official Waitangi Day program in recent years has included a flag-raising ceremony with the Navy in attendance, a dawn prayer service in the whare runanga, a twenty-one gun salute, a later inter-denominational church service either in the whare runanga or near the waka shed, the launching of the war canoe, and a flag-lowering service in the afternoon. The Navy band, cultural events such as kapa haka, and craft and food stalls provide the many visitors with entertainment and sustenance. A 'family fun' day takes place on the sports fields inland from the Treaty grounds, with a variety of events and stalls designed to provide fun, food, education and entertainment.

Events at Te Tii marae and adjoining grounds are slightly more complex. Here there is the meeting hall and the area in front of it where visiting groups are welcomed with powhiri (*welcoming ceremonies*) by the hosts, the Ngapuhi tribal elders. Powhiri occur at intervals after visitors arrive, on the two or three days prior to 6 February. The Governor-General and the Prime Minister as well as the leader of the opposition and representatives of various political parties call at Te Tii (usually on 5 February) to pay their respects to the hosts and are welcomed, along with guests invited by the marae committee. From about 4 February many visiting Maori camp on the campground next to the marae, and craft and food stalls are set up there. Visitors are provided with morning and afternoon tea as well as with more substantial meals in the whare kai (*food hall*) behind the meeting hall, and half a dozen or so marquees are

erected around the marae for use by visiting groups, formal discussion forums, workshops, meetings by political groups such as the Maori party or the Maori sovereignty group, and the like. In the meeting hall (where a number of the visitors sleep each night) regular discussion takes place around the current issues that concern Maori. The vast majority of people who attend the events at Waitangi (up to 40,000 in recent years) are Maori, with a sprinkling of Pakeha and tourists. The occasion provides an opportunity for Maori from all over the country, but especially from the North Island, to meet and discuss affairs of common interest, and to constitute themselves as a Treaty partner.¹⁶

These events always index current Maori concerns, grievances and demands, expressed in terms of the Treaty and its implementation. Undoubtedly, the fact that Waitangi Day is often controversial, carefully though somewhat unevenly monitored by the media (Abel 1997), and often marked by protest and controversy, is because New Zealand has chosen to mark its bi-cultural nationhood with a day that is directly relevant to the contemporary daily life of the nation. This is what makes the performance of Waitangi Day a processual one – linking it to the ongoing flow of social and political life, to the social process; this is why Waitangi Day as a cultural performance is emergent and never fixed or final in form and meaning.

As an example of this, consider aspects of the Waitangi Day events of 2008:

While relatively peaceful and incident free in comparison with other years, one issue that loomed large on the day was the arrest and detention, some months earlier in October 2007, of a number of Maori (and also some Pakeha), associated primarily with the Tuhoe tribe, including Tuhoe leader and activist, Tama Iti. At the time police and state officials justified these arrests in terms of the Terrorism Act, but no charges of ‘terrorist’ activity were ultimately laid. Instead, Tama Iti and others were charged under the Firearms Act with less serious offences. The manner in which the police acted in carrying out the arrests was widely condemned in the media and many Maori saw the police action as directed against them as Maori. This issue was discussed and highlighted at Waitangi Day events in February 2008, and the usual hikoi (*march*) from Te Tii marae to the Treaty House grounds had a Tuhoe focus, with the Tuhoe flag being prominently flown and the marchers shouting slogans indicating their support for Tuhoe and their criticism of the police.¹⁷ At the Treaty grounds there was a stand-off between protestors (Tuhoe activists according to one

source¹⁸) and the police around the flagstaff, following the pattern of previous years, but without any major confrontation or violence. The hikoi organizers, associated with the Maori Party, succeeded in keeping the bulk of the marchers away from the flagstaff and in finally persuading the activists to re-join their group. Earlier at Te Tii, in front of a 'strongly supportive crowd', Tama Iti had made a call for greater support for the Maori sovereignty movement, giving added meaning to the banner with the slogan 'Sovereignty Never Ceded', which is often seen at the hikoi, because the Tuhoe tribe is one of those that never signed the Treaty.¹⁹

The hikoi over the bridge is virtually an annual event at Waitangi, occurring at around 4 p.m. on 6 February, taking protestors from Te Tii over to the Treaty grounds, where the protest group gathers in front of the whare runanga and leaders address them on issues of the day, the failure of the Crown to live up to its Treaty obligations, and so on. Protestors carry flags that proclaim their allegiance to various political groups and banners that express what they feel about the Treaty or about recent events affecting Maori-Pakeha relations. Groups of activists have in the past attempted to raise the flag of the United Tribes (the 'sovereignty' flag) on the flagstaff, succeeding in this in some years (e.g. in 1997),²⁰ but this has often been accompanied by confrontations and violent clashes with the police, who stand guard around the flagstaff, followed by arrests. The nature of the hikoi, as indicated in the case study above, changes from year to year and is an index of the state of Maori-Pakeha relations.

Another vivid demonstration of this occurred in 2005, when there were two, separate hikoi across the bridge instead of the usual one. The reason was the recent formation of the Maori political party and the party's decision to contest the 2005 elections. Some Maori rejected this as an acceptance of the Pakeha 'system' and contrary to the notion of Maori sovereignty, and they disassociated themselves from the Party. This more radical group marched across the bridge as usual and gathered around the flagstaff, confronting police and demanding that the sovereignty flag be hoisted. The second hikoi was associated with the Maori Party, and led by veteran protestors who had joined the Party, such as Titewhai Harawira and her son, Hone (a prospective Maori MP at the time). This group marched in more peaceful fashion and went immediately to the whare runanga, staying away from the flagstaff and avoiding the possibility of confrontation with the police, thus being careful to create an image of being 'respectable' and responsible.²¹

PERFORMING THE TREATY

The fact that the Treaty is used to commemorate the nation is a choice. This choice reflects New Zealand's way of presenting itself to itself and to its neighbours, and contrasts with Australia's choice of the date of its national day, commemorating first colonial settlement. Of course, the Treaty opened the way for British settlement in New Zealand, but this is not what is emphasized on Waitangi Day.

The meta-communicative frame that is established by the structure and symbolism of Waitangi Day (as commemorated at Waitangi) is directly related to the above observations about the reflexive, processual and emergent nature of the Day. The thing about New Zealand's national day, that sets it apart from other nations, is that the identity that is constructed on Waitangi day is not prescribed by the Crown or by any other party, not determined by means of some kind of symbolic structure that is performed under the auspices of the state or its agents. Indeed, the very symbolic structure of Waitangi as a place itself emphasises the negotiated nature of the identity that is constructed each Waitangi Day and of the messages that are conveyed. Control over the events, and therefore partly over their meaning, are shared. This tends to highlight differences as well as unity, conflict as well as compromise, and change as well as periods of relative stability.

The structure and organization of the day is divided between Maori as *tangata whenua* (*people of the land*) and the Crown, sometimes referred to as *tangata tiriti* (*people of the Treaty*). The events at Te Tii are co-ordinated and planned by the organizing committee of the marae's Board of Trustees, representing the Ngapuhi tribe and northern Maori (Tai Tokerau) but also Maori in general, since it is here that Maori are able to come together as a group to express and construct their unity as one of the Treaty partners as well as debate their differences.²² Here, the Crown, as *tangata tiriti*, may or may not be officially represented and welcomed, and *tangata whenua* may or may not decide to officially welcome it (see below). Here, it is Maori who determine procedure and the Crown and its representatives have to adhere to it. Even the state's police force is, by agreement, not allowed onto the marae, where uniformed Maori wardens are in control instead. The programme at the Treaty grounds (the 'official' commemorations) are designed by the Waitangi Day Commemorations Committee, and by the Waitangi National Trust, with significant financial support from the Department of Culture and Heritage's Commemorating Waitangi Day Fund. Both bodies are independent of the government but include representatives of both *tangata whenua* and *tangata tiriti*.²³ Nevertheless, it is

fair to say that the state plays a significant role and has some say over events at the Treaty grounds, and certainly it is represented there by the governor general, government ministers, the navy, and the police. The spatial dimensions of the commemoration of the Treaty perform a significant meta-communicative function, for it shows that the 'landscape of nationhood' (Kong and Yeoh 1997: 22) is symbolically bifurcated.

An example from the 2004 Waitangi Day events at Te Tii illustrates this well, and also reinforces what has been said above about the reflexive, subjunctive and processual aspects of Waitangi Day.²⁴

In February 2004 there were a number of issues of major concern to Maori country-wide. One was dissatisfaction with the mainstream media which was seen as biased and slanted against Maori. Most media were accordingly banned from Te Tii marae, and only those approved by Te Tii elders were allowed. Maori wardens prevented anyone with cameras, notebooks and the like from entering. Another was the speech made by the leader of the opposition, Don Brash, at Orewa, which had been interpreted as anti-Maori, assimilationist and racist. At one discussion in the meeting hall there were calls for the formation of a new 'Maori alliance' because of Brash's speech and his call for the assimilation of Maori, and a perception that 'redneck' New Zealanders were trying to make Maori 'extinct'. Brash had also criticized the media ban, and when he arrived at Te Tii he refused to enter the grounds unless the media ban was lifted. After some verbal exchanges at the gate he was assured that the media ban would stay in place so he and his entourage left, but not before mud was flung in his face.

But the most important issue of the day was the government's seabed and foreshore legislation, which Maori had rejected as depriving them of customary rights and contravening the Treaty. Te Tii elders had decided that there would be no formal powhiri for any visitors after 4 February, in the knowledge that representatives of political parties usually arrived at Te Tii on 5 February. As visiting groups arrived they were thus ushered straight into the meeting house. Late in the afternoon a group of seven or eight Labour Party MPs and cabinet ministers arrived, including the Prime Minister, Helen Clark. They received an angry, vociferous reception from the crowd of about a hundred people gathered in front of the meeting house. As they walked from the gate to the meeting hall the crowd closed

in around them and made an attempt to prevent them from entering the grounds, and then from entering the meeting hall itself. As they walked the gauntlet towards it, shielded by security staff (members of the Diplomatic Protection Service) people shouted abuse at and jostled them, and punches were thrown. The four Maori MPs present were singled out for specific abuse as traitors to Maoridom. The situation was very tense and most of the MPs looked shocked and upset. However, they were able to enter the meeting house, where they sat down and the Prime Minister asked for a drink of water, before being welcomed with speeches and song. But the criticism of the government continued, albeit in more measured manner. One speaker in particular, Hone Harawira, made no bones about the fact that the people were angry about the foreshore and seabed issue, saying that he was glad that the MPs had 'got the bash'. There was no abuse shouted in the meeting house, though vigorous verbal assent was given when the speakers made points about the government letting them down over the foreshore issue. A number of comments were called out from the audience indicating their dissatisfaction with Labour, the party that some had voted for. After about an hour the group left and made their way back to the road, being jostled and shouted at again by the angry crowd that had waited outside. Urine was thrown at them, and a female protestor made a determined effort to block their path and accost the Prime Minister, but one of the security men spotted her and skilfully physically prevented her from doing anything but shout abuse. By this time there were around twenty uniformed police outside the gate, but not on the marae itself. Some of them took over from the Maori wardens at the gate as the groups got to that point, helping the MPs to exit the grounds. Apparently the jostling continued outside the grounds, because it was later reported that 'The PM was only saved from hitting the ground, as she made her way back to her car, due to the presence of DPS members and uniformed officers.'²⁵ No arrests were made. The Prime Minister has not been back to Te Tii marae on Waitangi Day since this incident took place.

In this case study the various features of cultural performance that were outlined earlier stand out. In criticising the Crown for its failure to heed the Maori voice on the foreshore and seabed legislation, and for going ahead with the Act despite widespread Maori rejection of it, Maori at Te Tii acted on the basis of a critical assessment of this process in the context of their understanding of the principles of the Treaty. In doing so they presented an alternative order of

things, one where the Crown (in the form of members of the Labour government) was subjected to an alternative reality, one where Maori were in charge and the state subordinate, a reversal that balanced the power relationship for a brief moment in time. In so reprimanding their Treaty partner they provided a forceful reminder of the nature of the Treaty as one that ideally involved partnership and negotiation rather than unilateral action.

It is here, on Te Tii and in its surrounding marquees that the 'revelation of the possible' is seen on Waitangi Day, in the relative independence and autonomy enjoyed by Maori participants, in the many forums and workshops at which the Treaty is debated, including those organised by the Maori sovereignty movement. It is here where those in charge have the power to ban the mainstream media, and where 'carnavalesque' style inversions are possible – where sovereignty flags can be flown, the Governor General spat on (in 1995), or a wet t-shirt thrown at Queen Elizabeth (in 1990). It is here where mud can be hurled at the leader of the opposition, or a leader of the opposition can be prevented from speaking, as Helen Clark was in 1999, and where a Prime Minister and her entourage can be 'given the bash' by an angry crowd.

But it is not only Maori who are able to manipulate events at Waitangi to demonstrate their feelings about the nature of the Treaty partnership. Protests and violence at Waitangi from time to time have led to the Crown withdrawing entirely from the event and holding the official Waitangi Day commemoration in Wellington, or in participating in only a limited manner. Although it is a convention for visiting groups to pay their respects to Ngapuhi and be welcomed at Te Tii marae when they arrive at Waitangi, and to participate in events or forums held there to discuss Treaty issues, the government has in the past declined to do so in an official capacity. Neither the Prime Minister nor the Governor-General have been to Te Tii on Waitangi Day for a number of years, a decision that has been viewed as a 'snub' by Maori, though they have been present at other events on the Treaty House grounds.²⁶ Similarly, in the mid-1980s when the protests at Waitangi were at their most violent, the Labour government of the day scaled down Waitangi day commemorations, split them between Wellington and the Treaty House grounds, and by-passed Te Tii. And in the period 1996–1998 the official ceremonies were held in Wellington with limited government presence at Waitangi.²⁷ The nature of the 'partnership' enacted through various events on Waitangi Day thus varies from year to year.

While the Treaty House and grounds, associated with the Crown, are spatially separated from Te Tii marae, associated with Maori, they are also linked in important ways. As already indicated, tangata tiriti attend events such as dis-

cussion forums and powhiri at Te Tii. Both Maori and Pakeha, mainly politicians and Crown representatives, attend the flag-raising on 6 February as well as the dawn service which is co-organised by Maori and the Crown, an act of unity that symbolizes the ideal nature of the Treaty. Maori wardens sometimes assist police in maintaining order at the dawn service and in protecting the flagstaff. From time to time in the past the service has been disrupted as politicians have been harangued there by Maori protestors. The two sites are linked too by the display of waka. The thirty metre waka taua (*war canoe*) housed in the waka shed is called Ngatokimatawhaorua. It represents the original settlement of New Zealand by Maori and was built for the 1940 centennial celebrations, when it was launched.²⁸ Weather permitting, it is launched and paddled around the Bay of Islands every Waitangi Day, accompanied by other waka brought to Waitangi from other parts of the country for the occasion. The point of departure for the waka is Hobson's beach, and the waka then move to Te Tii beach, below Te Tii marae. At both beaches there are ceremonial haka performed by the waka paddlers, who are mainly teenage boys from various parts of the country who have spent the previous few days in a special waka wananga (*waka learning centre*) near Te Tii marae.

Travel on land between the two sites, Te Tii and the Treaty House grounds, is by way of a bridge over the Waitangi estuary, and this bridge provides another point of connection directly related to Maori-Pakeha relations. The hikoi across the bridge that links the two sites has already been discussed above, and there is also significant movement of Maori across the bridge to attend and partake in events in and around the Treaty grounds, such as the cultural, entertainment and sporting activities that abound each year.

CONCLUSION

What about the performative force of Waitangi Day? It is acknowledged that the Treaty, once it became a key aspect of the political life of the nation from the 1970s onwards through the establishment of the Waitangi Tribunal, has played a major role in the transformation of the position of Maori and of society more generally. As Mason Durie put it in an address at Te Papa in January 2008, 'Over the past two or three decades the Treaty of Waitangi has contributed to a spectacular transformation of New Zealand society.' The Treaty has played a major role in the fact that 'from a position of relative exclusion Maori participation within society has undergone radical reform.' Maori, he claimed, have faith in the Treaty, 'as a confirmation of rights and an affirmation of status' and it has played a larger and larger role in many aspects of society since its greater recognition by the state in the 1970s. The Treaty is 'embedded

in society', said Durie, in two ways – through the awareness of the Treaty and its principles, which has grown over the years, and because through it Maori are 'recognized as participants in the nation's constitutional processes' despite the absence of a written constitution; the Treaty is part of New Zealand's 'constitutional conventions'.²⁹

I think it is arguable that the annual commemoration of the Treaty has contributed to this, given its features as a cultural performance directly related to the relevance of the Treaty in everyday life. This is evident, for example, in the historic link between Waitangi Day and both the meaning and the implementation of the Treaty. To Maori, the quest for the official recognition of Waitangi Day in the 1950s and 1960s was part of their attempts to ratify the Treaty and make it legally enforceable. In this way the Day had a 'latent political purpose' (Orange 1987: 243). Disruptions of the Waitangi Day ceremonies from the 1970s onwards were an acting out of Maori dissatisfaction with the lack of recognition of the Treaty, while the nature of Pakeha participation in it can be seen as an index of Pakeha views on the Treaty at that time – important only as an anniversary of a historical event and symbolic of the foundation of the nation. Activities during Waitangi Day – including boycotts by both Maori and the state at different times, were linked to the intensification of the ultimately partly successful Maori struggle for rights. In the opinion of Maori academic Ranganui Walker, the protests at Waitangi have been effective, forcing government to review the nature of the Treaty and its Treaty obligations.³⁰ As activist Kingi Taurua has put it, for Maori 'Waitangi is the only place to have our say, and we do it because we are angry... the only place where we can actually express how we feel about the policies of the government'.³¹ Between 1979 and 1983 strong protest at Waitangi caused the state to move away from its view of the Day as being a 'celebration' of the 'one people' established by the Treaty, and to emphasise its historical nature, but more and more Pakeha started to recognise the importance of the Day and to sympathise with the Maori cause, though neither Pakeha nor Maori were united in their views (ibid: 247).

The empirical evidence presented above when viewed through the lens of the anthropology of performance indicates that on Waitangi Day at Waitangi, Maori and Pakeha do not merely remember and reflect on the Treaty, they bring their respective contemporary understandings of the Treaty to Waitangi and they enact it, with the meaning of the drama that they perform varying according to different political points of view as well as according to the wider socio-political context. It is on Waitangi Day that Maori and the Crown are constituted as separate but equal partners in a single nation, in a variety of symbolic but also practical (enacted) ways. But it is also at Waitangi that they

negotiate and construct their understandings of what the Treaty means and of what kinds of rights and duties are expected in terms of its 'spirit'.

This is the primary performative force (Rappaport 1999) of the annual Waitangi Day commemoration at Waitangi; it is what the commemoration does. Since the organization of the day is shared, in a way that provides both the state and Maori with a large degree of autonomy, the annual commemoration of the Treaty at Waitangi itself constitutes the Treaty in action, with the Treaty partners each playing a role in the way that they see fit, at least partly in accordance with the way in which each conceives of the Treaty itself and in terms of their perceptions of the scope and nature of its implementation, past, present and future. Commemorating the Treaty is, at least in part, the performance of the Treaty. And this makes New Zealand's national day very different from those where the commemorations are controlled and directed by the state.

What happens at Waitangi Day annually is not a commemoration of a written document, the Treaty as signed by Maori and the Crown. As Durie pointed out in his address, the Treaty itself has no legal status. It is the partnership and commitment to work together, to negotiate and compromise, that has developed as a result of the signing of a document on 6 February 1840 that today constitutes the 'Treaty'. This is a future orientation, says Durie, an undertaking to work things out between Maori and Pakeha as equal partners. It is not the Treaty as legal document that is enacted every Waitangi Day but the Treaty as a process and principle through which Maori and Pakeha seek to reach agreement, express their differences in this regard, and seek solutions and compromise. This view of the Treaty lays to rest the notion held by some political commentators that there is 'unfinished business' to be conducted in terms of the Treaty, implying that it will 'eventually slip off the calendar'.³² The 'spirit' of the Treaty is likely to be an enduring feature of New Zealand's political life.

The late Roy Rappaport, who specialized in the study of ritual, pointed out that to perform, or to act out, a liturgy (which the symbolic structure of Waitangi Day may be regarded as) is to bring its conventions into being, to invest them with morality, and to establish commitment to them (Rappaport 1999). Enacting the liturgy at Waitangi, through participation in the day's events, is to bring into being, to renew and to reconstruct annually the conventions of the Treaty and to establish a commitment to these. This is the meta-communicative import of Waitangi Day. Performing the Treaty every Waitangi Day continually re-establishes the Treaty as the moral foundation of the New Zealand nation and as a basic component of the social order.

In conclusion, I need to return to the question of disinterest, to the fact that the majority of people in the country do not participate in the events at Waitangi Day or in other Waitangi Day events organized by community and local council groups across the country. But although they do not participate directly, most do so indirectly through the national media, and form an opinion one way or the other on the role of the Treaty in New Zealand life. And many of those who do participate at Waitangi do so, in large part, as representatives of larger constituencies. The Crown, in particular, represents all citizens of the country, on the one hand, but in the context of Waitangi Day it represents non-Maori as one of a pair in a bi-cultural relationship with Maori. In this sense the Crown acts on behalf of the electorate, in terms of the commitment that it makes and the nature of the partnership that it constructs. Those who deny the significance of the Treaty, Maori radicals and Pakeha conservatives alike, or who decry its central position in public life are nevertheless also using it as a reference point and contesting its status. They too take a position in relation to the Treaty as it is enacted at Waitangi (and at other venues) each year. It cannot simply be dismissed; even those who scoff at it implicitly recognise its significance. As Fleras and Spoonley (1999: 6) put it, 'For better or for worse, Treaty principles of partnership, protection, and participation provide a blueprint that shapes the conduct and mutual expectations of Maori and Pakeha.'

NOTES

- 1 Not all Maori chiefs signed the Treaty, and the signatories were 'not widely representative of the north' (Orange 1987: 56). Bishop Colenso, who had been concerned about the possible lack of Maori understanding of the full implications, noted that 'not many chiefs of first rank' had signed (*ibid*).
- 2 The term 'Pakeha' refers to New Zealanders of European origin.
- 3 King (2003) claims that this confederation was something of a sham not taken too seriously by Maori or Britain. Nevertheless in subsequent years it was viewed as an indication that Maori would retain their independence.
- 4 For a useful summary of the different versions of the Treaty and of the differing interpretations of these, see Fleras and Spoonley (1999: 9–11).
- 5 The Treaty is not, however, enshrined in law, partly because of the ambiguities and lack of clarity surrounding it, and New Zealand does not have a written constitution, so its constitutional status is informal.

- 6 I have found only one academic article (Richards and Ryan 2004) that deals specifically with Waitangi Day; Claudia Orange's work on the Treaty (Orange 1987; 2004) makes frequent reference to Waitangi Day within the context of a general historical analysis of the Treaty.
- 7 A further 1,300 acres were added later (Orange, 1987: 234)
- 8 New Zealand History on Line, Waitangi Day: <http://www.nzhistory.net.nz/politics/treaty/waitangi-day>
- 9 The question of a Maori parliament continued to be discussed country-wide, and in April 1892 the first Kotahitanga (*Maori Unity*) Parliament opened at Waitangi (Orange 2004: 106).
- 10 The monument still stands today.
- 11 This was part of the so-called Maori 'renaissance' and needs to be seen within the context of the greater international recognition of and fight for indigenous rights that characterised the era.
- 12 ANZAC stands for Australia and New Zealand Army Corps, and ANZAC Day (25 April) is an annual commemoration of the sacrifices made in war.
- 13 e.g. Kertzer 1988, Handelman 1990, Fabre, Heidelberg and Dreisbach 2001, Fuller 2004, C. Turner 2006
- 14 Deborah Rhode, personal communication.
- 15 Many Waitangi Day events take place in other centres, organised by city councils, community groups, Maori groups and organisations, and so on. In 2008 the government's Commemorating Waitangi Day Fund provided financial support for over 60 different Waitangi Day events in many different towns and cities. The two largest grants went to those organising the events at Waitangi itself, the Waitangi Day Commemorations Committee and the Waitangi National Trust. (Ministry of Culture and Heritage; <http://www.mch.govt.nz/awards/waitangi/2008.html>).
- 16 This does not imply that all Maori have similar political views. Those who regard the Treaty as a fraud, for example, and who deny its relevance, do not see themselves as Treaty partners.

- 17 The Tuhoe flag is the flag of the Tuhoe sovereignty movement, Te Mana Motuhake o Tuhoe. The flag is usually just called the Tuhoe flag, although 'The flag of Te Mana Motuhake o Tuhoe' would probably be a more accurate way to describe it.
- 18 'Minor confrontation in otherwise orderly Waitangi Day.' <http://www.stuff.co.nz/4390472a11.html>
- 19 'Thousands stream to Waitangi celebrations' *New Zealand Herald*, 6 February 2008; 'Carnival spirit wins battle of the bridge', *New Zealand Herald*, 7 February 2008; 'No need to be afraid of mana, says Iti' *New Zealand Herald*, 7 February 2008.
- 20 This flag flew at Waitangi in the 1830s and again at the 1934 celebration of the Treaty, where it flew at Te Tii marae alongside the Union Jack. At the Treaty grounds only the Union Jack was flown (Orange 1987: 235, Orange 2004: 16 and 125). The flag of the United Tribes continues to be prominently displayed at Waitangi annually today, largely by Maori activists and protestors.
- 21 I was present at the Treaty grounds and witnessed these events.
- 22 To many New Zealanders, Te Tii is known as 'The Lower Marae' and it is referred to in the media as such. But as Maori kuia Emma Gibbs has commented, 'The time has come for people to realise there's only one marae at Waitangi There's no such thing as the Upper and Lower – that's absolutely offensive... The second house is a whare runanga – a house of learning – not a marae, and was built to take pressure off Te Tii. People have no right to take that mana away from our marae.' (Kerr 2007).
- 23 The Waitangi National Trust, established in terms of the Waitangi National Trust Board Act 1932, is charged with ensuring that the Waitangi estate is used in an appropriate way to commemorate the Treaty. In 2007 there was a bit of a spat between the Trust and the government, apparently over the charging of an entrance fee to the Treaty grounds and the fact that the state does not provide the financial support that the Trust requires.
- 24 This case study is based on my observations of and participation in the events recorded.
- 25 *Police News* 37(2) March 2004: 33; <http://www.policeassn.org.nz/communications/newspdf/Marcho4.pdf>

- 26 Prime Minister Helen Clark's absence from key events at Waitangi, it has been suggested, 'has been the greatest disappointment of her premiership'. *New Zealand Herald* 9/2/2008. John Roughan: 'Where Clark fears to tread.'
- 27 New Zealand History on Line, Waitangi Day: <http://www.nzhistory.net.nz/politics/treaty/waitangi-day>
- 28 *Te Ara Encyclopaedia of New Zealand*; <http://www.teara.govt.nz/NewZealanders/MaoriNewZealanders/CanoeTraditions/2/ENZ-Resources/Standard/3/en>
- 29 Radio New Zealand, The 2008 Treaty Debate 1. http://www.radionz.co.nz/search?mode=results&queries_all_query=waitangi+debate. See also 'The changing shape of our almost national day' *New Zealand Herald* 5 February 2008.
- 30 *Christchurch Press*, 6 February 2001.
- 31 *Christchurch Press*, 5 February 2001.
- 32 *Christchurch Press*, 6 February 2001.

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