

Interpreting “Partnership” as a Core Value

Some Implications of the Treaty of Waitangi for the NZAC Code of Ethics

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Abstract

The New Zealand Association of Counsellors (NZAC) Code of Ethics sits within the context of the Treaty-centred politics of contemporary Aotearoa New Zealand. In the Introduction to the Code there are specific references to the Treaty, and the Core Values include “partnership.” This article explores and particularises specific meanings of partnership associated with the Treaty of Waitangi, drawing on the Royal Commission on Social Policy (1988). From this exploration it goes on to suggest that there are multiple sites where counsellors might respond to the Treaty partnership responsibilities that the Code invokes. In particular, the argument is made that responsibility to engage in partnership activities stretches beyond direct client practice into workplace, professional affiliation, and national political life.

Counselling practice occurs within a rich and complex social context. As counsellors, we are located both within the counselling community and more broadly within the political and social context of Aotearoa New Zealand. Our practice is shaped by membership of the New Zealand Association of Counsellors (NZAC) as well as by our specific practice contexts. The contribution of this article is to further consider calls to the particular shaping of counsellor practice invoked by references in the NZAC Code of Ethics (NZAC, 2002) to the Treaty of Waitangi and the Treaty principle of partnership.

The position that any counsellor takes in relation to the Treaty of Waitangi and to understanding and acting upon the construct of partnership is informed by his or her unique cultural identity. This article is written from the perspective of a Pākehā

counsellor seeking to explore further the implications of placing the Treaty at the centre of professional practice. All counsellors, whether we identify as tangata whenua (people of the land, or Māori) or as tauwiwi (all post-Treaty settlers), are shaped by discourses of colonisation. Indeed, the history of Aotearoa New Zealand since 1840 has been produced by these discourses, whose ongoing effects include differentiated position calls both to tangata whenua and to tauwiwi, each as broad entities, and to their constituent groups. Pākehā, the largest grouping within the tauwiwi entity, have been positioned advantageously by the colonising discourses, which have worked to hide from us our privileged position in relation to Māori. Each iwi was affected differently as Pākehā settlers took up land legally or illegally. Other settler groups to whom the identity Pākehā is not available often experience themselves as positioned differently from Pākehā within Aotearoa’s cultural politics.

Just as a particular interpretation of partnership is used in this article, so also are the terms used to refer to the overarching Treaty partnership groupings, Crown and iwi, given particular meanings. Crown refers both to the settler party that proposed the Treaty of Waitangi and to the government that was established as a result of the Treaty’s signing. Iwi—or tribes—are the largest sovereign entities recognised by Māori. Iwi are constituted of hapū that, in turn, are groupings of whānau with close whakapapa, or genealogical links. Each hapū has its own autonomy, which was described in the Māori version of the Treaty as tino rangatiratanga—the rights of chieftainship. These distinctions have emerged as the focus on the Treaty has strengthened over the last four decades (Durie, 2005).

Relationships and actions framed in connection with Treaty concepts generally involve action within and between collective entities. Partly this is because that is the way the Treaty was framed, and partly it is because Māori traditionally have identified primarily as part of whānau, hapū, or iwi (Durie, 2005). In my experience of working with Māori groups, their expectation has been that those they relate to also derive their identity from membership in one or more groups. In this article, I refer to Crown and Iwi as the Treaty partners, since this more helpfully describes the entities involved than does the commonly used pairing of Māori and Pākehā. I suggest this latter pairing is unhelpful because many other groupings are marginalised by this convenient binary. This is not to deny that Pākehā interests, past and present, have dominated Crown action.

The genealogy of Treaty partnership

Partnership became established as one of three principles of the Treaty of Waitangi in the published findings of the Royal Commission on Social Policy (1988), in which partnership was defined as having particular meanings in relation to the Treaty of Waitangi. The Commission gave fundamental importance to the relationship between the Crown and iwi, arguing that Treaty partnership was primarily to be defined and expressed between the Crown and each iwi, as collective entities. In other words, the indigenous partner was defined as a collection of individual tribes, rather than as a homogeneous collective whole.

In addition, the Commission suggested that local government was a further site for Treaty partnership, stating it could be that the “obvious partners in any negotiation are the relevant local body and the local tribal representatives” (1988, pp. 52–53). The particular interpretation of partnership brought forward by the Commission locates partnership between national or local government and iwi or hapū. However, with some reservations, the Commission also affirmed the suggestion from many groups with whom they consulted that:

[T]he partners were in fact all Maori people and all other New Zealanders, and that the spirit of partnership must operate at an individual level if it is to have any real meaning. (p. 53)

If Treaty partnership is about the relationship of the Crown and iwi/hapū in national and local contexts, then the “spirit of partnership” refers to the actions that individuals can undertake in their daily lives to honour the national partnership. While affirming this position, the Royal Commission’s report made clear that personal commitment alone could not replace the relationship between the Crown and iwi Māori (p. 54). However, it stated that:

[T]he Commission... is strongly of the opinion that fairness, equality and justice will be best expressed when partnership is vigorously pursued at all levels with recognition of differing values and perspectives and an acknowledgement of the other partner’s prerogatives. (p. 56)

For the Commission, the best honouring of partnership came, first of all, from national and local government partnership activities with iwi and hapū that are supported by actions in the spirit of partnership by organisations and individuals. This stance informs the argument that I outline later, that counsellors must locate part of their response to the partnership value in the NZAC Code within political action.

The Commission’s position arose from their recognition that the Treaty of Waitangi was an agreement between collective entities, not individuals. Hobson signed for the British Crown and Māori rangatira signed for their hapū or whānau, each of which was a sovereign entity. The Treaty partnership principle is primarily directed at ongoing partnership relationships between the successor forms of those entities and the constituent parts of those successors. While individual action is important to maintaining the “spirit of partnership,” it cannot adequately replace the responsibilities of the primary Treaty collectives.

My argument here is that the invocation of the Treaty and partnership in the NZAC Code calls counsellors to take a moral position in support of partnership activities in all areas of life in Aotearoa New Zealand, and not just to locate partnership within their practice with their clients. I will return to this point later when I consider various implications across a range of practice contexts. I suggest that, as counsellors, we need to decide whether we should respond in the “*spirit* of partnership” or whether we could frame our response as the more familiar “partnership,” given that the latter does not match the particular emphasis of the definitive interpretation by the Royal Commission.

Just prior to the work of the Royal Commission, the Treaty of Waitangi was first seen as creating a relationship “akin to a partnership” in what is generally referred to as the “Lands” case (*New Zealand Maori Council v Attorney-General*, 1987). In his judgement, Mr Justice Cooke, the President of the Court of Appeal, found that the principles of the Treaty of Waitangi “require the Pākehā and Māori Treaty partners to act towards each other reasonably and with the utmost good faith” (*New Zealand Maori Council v Attorney-General*, 1987, p.669). Here, Justice Cooke followed the common usage of that time in using “Pākehā” to refer to the Crown, and in using “Māori” he was referring to a collective who represented iwi, the New Zealand Māori Council. His comments need to be read as relating to Iwi and the Crown

These readings of the Treaty as involving a partnership, which was first offered by these significant documents, have motivated successive governments in working to settle historic Māori grievances, but they have also generated criticism. Many will recall the controversy initiated as a result of the position taken by the then-Leader of the National Party Opposition, Dr Don Brash, in 2004. In what became known as “the Orewa speech,” he said:

But the Treaty is not some magical, mystical, document. Lurking behind its words is not a blueprint for building a modern, prosperous, New Zealand. The Treaty did

not create a partnership: fundamentally, it was the launching pad for the creation of one sovereign nation. (Brash, 2004)

Dr Brash's comments highlighted the point that it is not settled that the Treaty or its principles will always be honoured by the Crown in the form of the government of the day. Indeed, the Labour Government in power at the time of the Orewa speech subsequently denied iwi the opportunity to test their claims to own the foreshore and seabed by passing the Foreshore and Seabed Act in 2004. The Treaty, its principles, and especially the notion of partnership, have remained part of a vigorous public debate.

At this point I turn to consider some of the meanings that partnership has in contexts that are not shaped by the Treaty of Waitangi, in order to further clarify Treaty partnership and distinguish it from other uses.

Generic and legal meanings of partnership

Dictionary definitions of partnership offer some support for the particularised understanding of Treaty partnership, though as much by difference as by similarity of meaning. Partnership has particular meanings in both generic and legal senses. The primary definition in the *Oxford English Dictionary* is: "The fact or condition of being a partner; association or participation; companionship." This definition offers three subtly different meanings. Being in association with another is perhaps different from sharing participation. Association suggests relationship, whereas participation suggests a shared project or venture. Companionship offers a different reading of partnership from the first two; it has a primarily social focus and perhaps begins to suggest the idea of a relationship similar to marriage. Association and participation may take us some way towards the meaning of the Treaty principle of partnership, whereas companionship does not; however, association and participation do not evoke the Royal Commission's sense that to engage in partnership is a responsibility.

The *Oxford English Dictionary's* second definition has legal and business connotations: "An association of two or more people as partners for the running of a business, with shared expenses, profit, and loss; the members of such an association collectively; a joint business." This meaning of partnership is most obvious in legal and accounting practices where partners share the "expenses, profit, and loss" of their work, as well as sharing the liability that may arise from the negligent or fraudulent activity of another partner or an employee. This legal/business definition clearly implies responsibility in a way that "association" or "participation" do not. However, this responsibility binds participants to act as if one person, and so differs from Treaty

partnership in that it does not suggest that partners can have autonomy, or tino rangatiratanga.

It is more helpful to consider partnership as one of the three linked Treaty principles proposed by the Royal Commission along with “protection” and “participation.” “Protection” represents the Crown’s responsibility to protect Māori tino rangatiratanga. “Participation” represents the Crown’s responsibility to ensure that Māori are able to join in this society without disadvantage. Together, these three principles encapsulate the multiple meanings of the Treaty, which both created the sovereign nation Aotearoa New Zealand and identified particular rights and responsibilities for each partner.

Partnership and the NZAC Code

I turn now to the NZAC Code and consider how the particular meaning of partnership developed by the Royal Commission sits within the Code and informs it. I argue that the inclusion of partnership in the NZAC Code, drawn as it is from the Treaty principle of partnership, calls counsellors to frame our practice in response to the Treaty—both our direct practice with clients, and the broader contexts of our practice. Specifically, I argue that we should take care that we do not describe aspects of our practice as partnership without making conscious links to the Treaty of Waitangi and its articles, and the different rights that the Treaty guaranteed to Māori and subsequent settlers.

Partnership appears in two particularly significant parts of the Code of Ethics: in the Introduction and, subsequently, as one of the Core Values of the code. I address these two occurrences separately because there are significant differences in the intention behind each placement.

The placement of “partnership” in the Introduction to the Code of Ethics is part of a direct invocation of the Treaty of Waitangi. The third paragraph of the Code reads:

This Code needs to be read in conjunction with the Treaty of Waitangi and New Zealand law. Counsellors shall seek to be informed about the meaning and implications of the Treaty of Waitangi for their work. They shall understand the principles of protection, participation and partnership with Māori. (NZAC, 2002, p. 25)

The references to Treaty principles and to the Treaty itself in the Introduction to the Code clearly commit NZAC members to action in relation to the Treaty. Apart from a brief explanation of the significance of “partnership” at the time of the adoption of

this version of the code (Winslade, 2002), no other study has addressed Treaty partnership in the broad counselling practice contexts proposed in this article.

The second use of the word partnership in the NZAC Code is as the second of six Core Values: it comes after “respect for human dignity” and before “autonomy.” This placement is perhaps significant since the structure of the Code is hierarchical, with each section successively shaping the following sections (Winslade, 2001, 2002). In the presentation explaining the revised Code at the 2002 NZAC national conference, it was made clear that the core value of partnership not only referred to “Treaty partnership” but was also intended to indicate that “counselling relationships should not be exercises in colonisation” (Winslade, 2002, p. 20). Because the Code is hierarchical, it is intended that the Treaty references in the Introduction (quoted above) should influence the meaning of partnership as a Core Value: looking to the Treaty principle of partnership and seeking to evoke practice possibilities that are non-colonising.

One way for a counsellor to ensure that counselling relationships are not exercises in colonisation is to have a clear understanding of the effects of colonising discourse and to position herself in a way that supports post-colonial possibilities. Such possibilities emerge when the Core Value “partnership” in the Code is enacted through embracing a spirit of partnership.

I suggest that practitioners will find it helpful to draw on both the “spirit of partnership” and “Treaty partnership” in responding to the calls in the Code of Ethics for counsellors to make the Treaty active within their practice. A commitment to Treaty partnership is possible when we take an active part in the democratic process in order to influence political action. As citizens or permanent residents who are members of NZAC, we have an ethical commitment to use the democratic processes available to us to ensure that the Crown acts honourably in its dealings with its Treaty partner.

I now move to consider the various contexts in which counsellors’ Treaty partnerships can be worked out.

Working out a Treaty partnership commitment as a counsellor

I have argued that, as counsellors, we might imagine the implications of the spirit of partnership across the full range of our practice contexts: national life, professional affiliation, workplaces, and our work with clients. I will consider each in turn.

The national context

I would argue that counsellors cannot, in good conscience, adopt Treaty partnership as a core value to inform practice without seeing their work in connection with the

Treaty relationship between the Crown and Iwi Māori. Thus, a commitment to Treaty partnership is a commitment to political action within the national political context, because the Royal Commission (1988) identified the primary context for partnership as the relationship between the Crown and Iwi.

A commitment to Treaty-honouring practice involves an ongoing commitment to achieving social justice for Māori in terms of the Treaty’s guarantees. As counsellors, we should therefore consider our commitment to Treaty partnership when making representations to government about practice issues, and also when considering our vote. Whether identifying as tangata whenua or as tauwiwi, all citizens or residents constitute part of the Crown. We have the right to vote and to elect the government, which is the successor to the British Crown that proposed and signed the Treaty.

Political moves since the beginning of the new century, including Dr Brash’s Orewa speech, the more recent decision to set an end date for the receipt of historic Treaty claims, and the foreshore and seabed debates, make the possibility of a diminished Treaty recognition by the government of the day more foreseeable than at any time in the past four decades. I would argue that as counsellors, our commitment to Treaty-based partnership should be seen as intrinsically linked to our participation in this society. I would argue that even if the government of the day should seek to unilaterally redefine or diminish the Treaty relationship, our ethical commitments as counsellors should remain unchanged in the national context. No matter how these issues develop in the political sphere, counsellors would still have partnership responsibilities because of the commitments arising from the Code of Ethics.

The professional association context

As counsellors who have membership or provisional status with NZAC, our commitment to partnership can also be made active through participation in our professional association.

NZAC is not a subset of the Crown and thus it cannot be shown to have Crown Treaty partnership responsibilities, as these responsibilities rest with the government. However, the association should act in what the Royal Commission called the “spirit of partnership” (1988, p. 53). We may see our association working in a variety of ways to honour this spirit of partnership.

Most significantly, NZAC has acted in the spirit of partnership in implementing a model of Māori representation on the National Executive, through the creation of the role of Te Ahi Kā to represent Māori members and their interests. An earlier

example of working in the spirit of partnership was Tuti Aranui's election as a Life Member of NZAC, which recognised her advocacy for Māori within NZAC and her work to support tauwi in appreciating Māori values. Several branches have sought to act in the spirit of partnership in the explicit moves they have made to organise and present bicultural conferences. Requirements of counsellors seeking to become members of the NZAC have increasingly been shaped in bicultural terms.

Local branches have also sought to work in the spirit of partnership by incorporating Māori tikanga in meetings, offering workshops and using te reo Māori in newsletters.

The workplace context

Professional associations are focused on the definition and fostering of professional practice, while agencies are primarily concerned with the delivery of services. Most agencies that employ counsellors operate under local governance and management, with a small number of agencies operating nationwide. Agencies generally rely on some form of government funding that brings contractual Treaty partnership obligations along with it. As a result of these contractual requirements, agencies have been required to become demonstrably more responsive to Māori in ways similar to the calls made on government agencies in the 1990s to become bicultural (Durie, 1995). These changes are, however, not just contractually driven. Many agencies would seek to fulfil the spirit of partnership even if their major funder did not require it.

Over the last decade, I have been aware of agencies that have changed the way they practise and who they employ as they respond to moral and contractual obligations to honour the Treaty. This response is expressed in a variety of ways. One metaphor used by some agencies is that of a bicultural journey—a journey that seeks to reduce the dominance of Pākehā values and practices and particularly to make space for Māori values and practices. The Lower Hutt Family Centre, also known internationally as the Just Therapy team (Waldegrave, Tamasese, Tuhaka, & Campbell, 2003) has a reputation for its commitment to working within three teams: Māori, Pasifika, and Pākehā, each of which has developed culturally appropriate ways of working with its own communities. As another example, Parentline (Longman, McLean, & Hazelden, 2004, p. 20) is a community agency that has worked as a bicultural partnership between “Tau Iwi” (non-Māori staff) and “Te Rōpu Āwhina mō Ngā Whānau” (Māori staff) caucuses. There have been regular cultural consultations between caucuses and staff working in multidisciplinary teams across caucuses.

Counsellors who work in agencies are called to act within the spirit of partnership within their workplaces. This call can be responded to in the day-to-day contributions we make to the life of an agency. There will be opportunities to consider the policies and practices of the agency in the light of Treaty partnership commitments. Our practice in this context may include advocacy for the employment of Māori staff, participation in consultation with local iwi or hapū, or personal commitments to acquiring more Māori language or cultural knowledge and practice. We may join in an evaluation to determine if the services delivered are equitably distributed across the community.

I have suggested that many Māori anticipate that their encounters are with individuals who identify as part of a collective entity. I believe that this presumption brings some challenges for counsellors working in private practice, particularly those in individual private practice. The actions suggested above may not be open to private practitioners as ways of working in the spirit of partnership.

The final context of practice I describe involves our work with clients.

The client practice context

Client practice occurs in both agency and private practice settings. I have placed discussion of this context after the three preceding contexts to emphasise that our client work rests within social, professional, and workplace contexts, all of which call for practice in a spirit of partnership. How we practise with clients is linked with our actions in those contexts.

Our direct work with clients is best seen as informed by the spirit of partnership. As I outlined earlier in this discussion, a partnership in the business sense involves a sharing of responsibility and risk, while a Treaty partnership involves a commitment to the working out of the Treaty of Waitangi’s guarantees and protections between the Crown and iwi. Neither of these possibilities is an appropriate reflection of client practice.

A client-counsellor relationship will involve the spirit of partnership between counsellor and client and will be supported by actions—our own and those of others—in the collective entities that we belong to: NZAC, the agency, the nation. Professionals offer fiduciary relationships to clients; these involve high levels of accountability to clients and invite client trust. We are never in partnership with our individual clients because the client-counsellor relationship is one in which particular responsibilities rest with the counsellor in a manner similar to a physician’s, a lawyer’s, or an accountant’s responsibilities towards their clients. Acting in the spirit of partnership

with our clients needs to be seen as involving the Treaty principles of protection and participation as well—we need to enhance our clients’ ability to participate in society.

Our relationships with clients are supported by the Treaty partnership practices we take up in the other contexts of our professional life. We will offer our clients the respect and consideration implied by Treaty partnership; we will act in the spirit of partnership, but we will not be the client’s partner on an individual basis. This distinction is important. If we start to call our client relationships “Treaty partnerships,” we may be in danger of believing we can discharge all our Treaty commitments through client relationships, and have no obligation to address the structural imbalances which still affect Māori today by making contributions to political life in broader contexts. We may also be ignoring the particular fiduciary responsibilities that we have for our clients, responsibilities which the rest of the Code of Ethics makes clear.

It has not been my intention in this article to define or prescribe all the practices with clients that are consistent with acting in the spirit of partnership. A broad range of articles intended to resource counsellors’ work with Māori clients in particular has already been published. Several have appeared in this journal (for example, Drury, 2007; Durie, 2007; Tutua-Nathan, 1989; Wadsworth, 1990). Others have been published elsewhere (see Culbertson, 1997; Jonson, Su’a, & Crichton-Hill, 2004). Some illustrate practices that counsellors can use with clients. Most draw on cultural knowledge that might assist a non-Māori counsellor to both understand and work with Māori clients. I have argued that such practices need to be complemented by practitioner involvement in the other contexts of practice.

Conclusion

The inclusion of strong references to the Treaty of Waitangi in the NZAC Code of Ethics affirms the social justice intentions of the Code. In this discussion, I have identified the range of contexts in which counsellors can be expected to be actively honouring the Treaty. Taking up a commitment to be a counsellor whose work is informed by the spirit of partnership, with a rich understanding of both the genealogy of this Treaty principle and its relationship to practice, is one path towards responding to the NZAC Code’s call that we “understand the meaning and implications of the Treaty of Waitangi.”

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