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International Law Association - Auckland Sub Branch

30 November 2001

Professor Norman Palmer
C/- Cultural Property Unit
Department for Culture, Media & Sport
2-4 Cockspur Street
London
UNITED KINGDOM
Fax: 00 44 20 7211 6170

Dear Professor Palmer

Working Group on Human Remains

I am a member of the Cultural Heritage Law Committee of the International Law Association. As part of my work on that committee I have researched the area of returns to indigenous peoples of cultural heritage treasures. This research has included the issue of return of human remains. This is an issue that has particular significance so far as New Zealand is concerned.

As you will be aware, there are a number of Maori human remains in museums in the UK and Europe. There has been some success in obtaining the return of a number of human remains usually as a result of particular appeals by Maori Tribes and individuals.

The continuing holding of these human remains is a matter of considerable pain and anguish and many Maori have worked tirelessly for the return of their ancestors.

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You will appreciate, as most of the human remains have been obtained within the last three hundred and thirty years, they are very much the immediate ancestors of many New Zealand Maori.

The British Government is congratulated on the setting up of your committee. This is an opportunity to look carefully at the complex issues concerned. Some of the issues may not be so immediately apparent, including the critical importance of returning human remains in an appropriate manner and to the correct tribal group.

Maori have the concept of Whanaungatanga – relationships are everything. Joe Williams, The Chief Judge of the Maori Land Court, has pointed out that this is critical when looking at issues involving the right of indigenous peoples. Pages 190-192 “Recognising the Rights of Indigenous Peoples” edited by Alison Quentin - Baxter (1998).

Therefore, the process of resolving the issues of returns to indigenous peoples will often be as important as the result. If the right relationship can be created, whether it is between indigenous peoples, a sovereign Government, a museum or a private collector, then the right result is much more likely and it is also likely to be a result that is both enriching and long-lasting. Pukaki a very important Maori taonga (treasure) was recently returned by the Auckland Museum to its rightful owners, the Ngati Whakaue of Te Arawa – their response was that “you may have lost a treasure but you have gained a tribe”.

As another example I attach a case study – In the Estate of Tupuna Maori.

I understand that the New Zealand Government and Te Papa (the National Museum) based in Wellington will be making

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submissions. Unfortunately the news of the Terms of Reference of your committee has not spread widely within New Zealand, at least so far as Auckland is concerned.

I believe it would be helpful for your committee if Maori groups and individuals do have an opportunity to make their own submissions so that their perspective can be properly taken account of.

I have only today been able to access your Terms of Reference and note the deadline on the 30th of November. I therefore request an extension of time be granted to allow Maori groups and individuals to make submissions. It is possible that there are Maori in the UK or Europe who might be able to appear before your committee if the opportunity was given.

I will circulate your Terms of Reference as widely as I can in the meantime in the hope that an opportunity will be given for submissions to be made.

I look forward to receiving your response.

Kind regards.

ILA Auckland Sub Branch

Piers Davies (convenor)

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