

Mana Māori Motuhake

Māori Concepts and Practices of Sovereignty

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Introduction

Indigenous sovereignty for Māori of New Zealand is known generally as *mana* (ultimate power and authority derived from the gods) and *rangatiratanga* (the exercise of mana). The terms *mana motuhake* (distinct power and authority derived from the gods), *mana taketake* (deep rooted/indigenous power and authority derived from the gods), *mana tōrangapū* (political power and authority derived from the gods) and *tino rangatiratanga* (exercise of absolute mana) are also heard. *Mana* and *rangatiratanga* imply the independence to exist and be who we are without interference from outsiders as well as the inalienable right to make our decisions about our lives and resources and to live in accordance with the laws our ancestors handed down to us. It is also about interdependence derived from the interrelationships we maintain through *haka-papa* (genealogical) links to other Māori and Indigenous communities locally, nationally and internationally. It is a Māori form of self-determination. Each generation inherits the responsibility to uphold and protect it and pass it on to the following generations. It is inalienable so it cannot be ceded or given away to others. The term *mana Māori motuhake* is

an overarching term, which emphasises that the mana of the Māori people is distinct and ensures we always remain the *tangata whenua*, the original people of the land. *Mana Māori motuhake* is our form of Indigenous sovereignty.

In this chapter I consider the meaning of *mana* and *rangatiratanga* and the exercising of *mana Māori motuhake* in relation to the importance of the 1835 formal declaration of our sovereignty in He Whakaputanga o te Rangatiratanga o Nu Tireni and our 1840 treaty with the British, Te Tiriti o Waitangi. I then outline the effects of the British invasion and colonisation followed by a discussion of a variety of ways Māori have taken to ensure that our *mana* and *tino rangatiratanga* is upheld.

Mana and Rangatiratanga

Mana and *rangatiratanga* are best understood within the philosophies, values and laws of our ancestors rather than British language and culture. British colonists attempted to destroy our knowledges and language, which posed a significant challenge for our ancestors. By the 1960s, the colonisers had successfully driven most Māori away from their ancestral lands where our ancestral understandings were (and for some, still are) the norm, and into the White dominated urban areas. By the 1980s, the language had become endangered (Benton 1997) but a few scholars who were native speakers started recording our philosophies, values and laws in English, always emphasising that they are best understood and discussed in Māori (see for example Marsden 2003, Mead 2003). In this way, Māori understandings of Indigenous sovereignty have been passed down generationally.

One such scholar, Rev. Māori Marsden in *God, Man and Universe: A Māori View* defined and discussed the concepts of mana in the Māori language and culture. For him:

Mana in its double aspect of authority and power may be defined as ‘lawful permission delegated by the gods to their human agents and accompanied by the endowment of

spiritual power to act on their behalf and in accordance with their revealed will'. This delegation of authority is shown in dynamic signs or works of power (Marsden 2003: 4).

He warned that the exercise of this power outside its limits is an abuse of the gift and may result in its withdrawal or misfortune (Marsden 2003). *Mana* is based inextricably in the spiritual realms of the world.

There are many different types of *mana* and manifestations in everyday life. All living things, animals, trees and plants, fish and birds, as well as humans are imbued with *mana*, a *mana* implanted by the gods. Many inanimate objects are imbued with *mana* such as meeting houses and mountains, which are personified and addressed in Māori as ancestors and relations (Mutu et al 2017).

The concept of *mana* is the root of authority to act in respect of certain matters and is a fundamentally important concept in Māori culture. The terms *mana atua*, *mana tūpuna*, *mana whenua*, *mana tangata*, and *mana moana* are also heard frequently. These are different types or aspects of *mana* and can be described, albeit very briefly, in the following way:

- *Mana atua* is the very sacred power of the gods which is given to those persons who conform to sacred ritual and principles.
- *Mana tūpuna* is authority and power handed down through the lineage of leaders.
- *Mana whenua* is the *mana* that the gods planted within *Papa-tūā-nuku* (Mother Earth) to give her the power to produce the bounties of nature. A person or *hapū* (grouping of extended families) that belongs to a particular area is said to hold or be the *mana whenua* of that area and hence has the power and authority to produce a livelihood for the *whānau* (extended family) and the *hapū* from this land and its natural resources.

Every effort is made to protect and uphold *mana whenua*, not only from the land being alienated, but also from its despoliation by careless exploitation. *Mana whenua* remains with the *hapū* of an area and more specifically with *whānau* who have the closest associations with specific parts of the *hapū* estate. That *whānau* has primary rights of *mana whenua* ahead of those from the wider *hapū/iwi* (grouping of *hapū*, nation) to whom that *whānau* belongs. Vesting Western legal title in another person does not remove *mana whenua* from a *whānau* and the responsibilities of the *whānau* and *hapū* to uphold *mana whenua* and prevent desecration and despoliation of their lands remains.

- *Mana tangata* is the power acquired by an individual according to his or her ability and effort to develop skills and to gain knowledge in particular areas and includes the spiritual and physical aspects of those skills and knowledge.
- *Mana moana* is the equivalent of *mana whenua* as it applies to the sea and its resources. The two forms of *mana* overlap considerably since the land extends well into the sea, while the sea's effects impinge some distance inland (Mutu et al 2017).

Rangatiratanga is the derived noun from *rangatira* who are our *hapū* and *iwi* leaders. For my *Ngāti Kahu iwi*, a *rangatira* is a person of *mana* who cares for and keeps the people together. Her/his role is to ensure the well-being of the *hapū* and *iwi*. In practice, there is usually one overall or *tinu rangatira* (paramount leader), who draws on and utilises the skills of other *rangatira* within the *iwi*. While it is the people who determine who their *tinu rangatira* is, the *tinu rangatira* guide them in deciding who their successors should be before they pass on. The *tinu rangatira* will have played a major role in training her or his successor(s) for that purpose (Mutu et al 2017).

Rangatiratanga is a noun derived from *rangatira* and is translated literally as 'leadership'. It is not as widely used as *mana* and refers to the political aspects of *mana*. It is the exercise of

leadership in a manner that ensures the *hapū* and *iwi* preserve and uphold their *mana*. The distinguishing feature of *rangatiratanga* is encapsulated in the notion of “taking care of one’s people” (Biggs 1989: 310). In practice, it means exercising paramount power and authority in respect of the people and their resources, so they can prosper and enjoy social, economic and spiritual wellbeing. *Rangatiratanga* is exercised by individuals and local groups. It is the manifestation of the *iwi* political system (Kawharu n.d.: 1). *Tino rangatiratanga* is the exercise of ultimate and paramount power and authority. Within my *Mutu whānau*, my *Te Whānau Moana hapū* and my *Ngāti Kahu* and *Te Rarawa iwi*, we deliberately and actively maintained this knowledge and understanding along with the philosophies, values and laws that underpin our thinking (Mutu et al 2017: 163). *Hapū* and *iwi* throughout Aotearoa each have specific understandings of *mana* and *rangatiratanga* based on their own traditions, histories and lived experiences. However, power and authority derived from the gods are common to all.

Although there are several dialects of the Māori language, Māori share a single language.

Indigenous Sovereignty Elsewhere

Indigenous communities in the Pacific, Australia, and North America, share similar meanings with Maori philosophy about ideas of power and authority. In *Navajo Sovereignty: Understandings and Visions of the Diné People* Diné scholars, Lloyd Lee and Raymond Austin, write of *Diné* words that express Navajo sovereignty (Lee 2017: 5, 31). Austin argues “[t]he best protection for all *Diné* and the *Diné* lifeway is to formulate our own *Diné* sovereignty doctrine, a doctrine that is grounded in our own traditional knowledge and ways, and let it guide our nation forward” (Lee 2017: 37).

In *Indigenous Sovereignty Matters*, Lenape (2005) scholar Joanne Barker notes not all Indigenous peoples within the Americas and the Pacific share the same understanding of sovereignty. Instead it emerged “as a particularly valued term within Indigenous discourses to

signify a multiplicity of legal and social rights to political, economic, and cultural self-determination.” Furthermore “[i]t has come to mark the complexities of global Indigenous efforts to reverse on-going experiences of colonialism as well as to signify local efforts at the reclamation of specific territories, resources, governments, and cultural knowledge and practices” (Barker, 2005: 1).

Mohawk scholar, Taiaiake Alfred states sovereignty “refers to supreme political authority, independent and unlimited by any other power...it is a social creation” (Alfred 2005: 33-36) based on myths of European White supremacy and the illegitimate assumption of state sovereignty in North America by conquest. He argues Indigenous sovereignty today exists and is defined within the settler state, which denies, extinguishes or assimilates it (Alfred 2005: 36). He argues that “sovereignty” is inappropriate as a political objective for Indigenous peoples (Alfred 2005: 38). Rather, “[t]he challenge for indigenous peoples... is to disconnect the notion of sovereignty from its Western legal roots and to transform it” (Alfred 2005: 42). He points out “[i]n most traditional indigenous conceptions, nature and the natural order are the basic referents for thinking of power, justice, and social relations” (Alfred 2005: 45).

Indigenous philosophies are premised on the belief the land was created by a power outside of human beings. A just relationship to that power respects it was not created by humans and we have no right to dispose of it as they think fit. Land is created by another power’s order, therefore possession by humans is unnatural and unjust. “Reflecting a spiritual connection with the land established by the Creator, gives human beings special responsibilities within the areas they occupy, linking them in a natural and sacred way to their territories...” (Alfred 2005: 45). This partnership resonates strongly with Māori formulations of non-intrusive frameworks and respectful coexistence, acknowledging the integrity and autonomy of various constituent elements of the human-earth relationship. This partnership and connection explicitly allow “for

difference while mandating the construction of sound relationships among autonomously powered elements” (Alfred 2005: 46).

Comanche, Wallace Coffey and *Yaqui*, Rebecca Tsosie (2001) argue sovereignty is derived from and defined by Native American culture and traditions not the individual rights focus of Western defined Indigenous sovereignty.

It is time to reconceptualise Native sovereignty from a model that treats sovereignty as a strategy to maintain culture, to a model that analyses culture as a living context and foundation for the exercise of group autonomy and the survival of Indian nations. (Coffey and Tsosie 2001: 191)

Coffey and Tsosie draw on *Onondaga* Nation Faithkeeper of the *Haudenosaunee*, Oren Lyons’ notion of sovereignty, that has a spiritual core “which is founded upon notions of relationship, respect, and continuity between generations [and] is quite distinct from the Western view” (Coffey and Tsosie 2001: 200). It requires an acknowledgement of and respect for all living beings, which share this earth and the future generations who will inherit the earth (Coffey and Tsosie 2001).

Goenpul scholar, Aileen Moreton-Robinson writes

Our sovereignty is embodied, it is ontological (our being) and epistemological (our way of knowing), and it is grounded within complex relations derived from the intersubstantiation of ancestral beings, humans and land. In this sense, our sovereignty is carried by the body and differs from Western constructions of sovereignty, which is predicated on the social contract model, the idea of a unified supreme authority, territorial integrity and individual rights. (2007: 2)

Furthermore “our sovereignty has never been ceded” despite white Australian assertions that “we had no sovereignty to defend” (Moreton-Robinson 2015: 150).

The European Notion of Sovereignty

The English cultural conception of sovereignty concerns absolute power and authority vested in sovereigns or the state; a different concept of power and authority from *mana* and *tinorangatira* and from the Indigenous sovereignties referred to above.

Lakota scholar, Vine Deloria Jr. explains:

Sovereignty is an ancient idea, once used to describe both the power and arbitrary nature of the deity by peoples in the Near East. Although originally a theological term it was appropriated by European thinkers in the centuries following the Reformation to characterise the person of the King as head of state... The power was manifested specifically within the authority of the king to make war and govern domestic affairs (frequently in the name of God). (cited in Barker 2005: 1)

Māori legal philosopher, Moana Jackson, in the *Matike Mai Aotearoa* report on constitutional transformation, explains the English notion of sovereignty:

The Westminster constitutional system developed in the particular cultural circumstances of England. Its hierarchical structure headed by a Crown or sovereign is a cultural product that grew out of the historical tensions between the monarchs and those deemed to be below or in opposition to them...It is a distinct artefact that over the centuries has sought to accommodate the long-disputed interests of the nobility, the Church and the 'lower classes' while preserving the notion of individual property rights. Its concept of power became known as sovereignty which was exercised in a site of power known as Parliament. (Matike Mai Aotearoa 2016: 32).

Although the modern concept of sovereignty is generally understood as an English construct it was first defined in 1569 by the French political philosopher Jean Bodin. Bodin's view of sovereignty was grounded in a belief that it marked a hierarchy of progress from societies of

apolitical barbarism (such as those of the recently ‘discovered’ Indigenous Peoples in the Americas) to those countries in Europe with a ‘civilised’ constitutional order. It presumed that proper political power could only exist once “man...purged himself of troubling passions” and moved up “the great chain of being...and its hierarchical order” (Franklin 1992 cited in Matike Mai 2016: 32). Once a people became ‘civilised’ they attained the reason to develop a concept of power vesting in a sovereign, “a single ruler on whom the effectiveness of all the rest depends” (Franklin 1992 cited in Matike Mai 2016: 32). Sovereignty was thus the “most high...and perpetual power over the citizens” and it was that power “which informs all the members and...to which after immortal God we owe all things” (Franklin 1992 cited in Matike Mai 2016: 32). It was a hierarchical ideal of constitutionalism that could only be held by civilised peoples. Bodin’s definition inheres the distinctive cultural ethos inherent in the Crown’s notion of political and constitutional authority.

The site of power throughout Europe was the monarch or alternatively the “monarch in Parliament”, which had absolute authority and dominion over the land and its peoples. This culturally-defined and “civilised” notion of constitutional authority or “dominion over” the Crown was brought to Aotearoa after 1840 (Matike Mai 2016: 32). Jackson writes of the European concept of power:

It is...no coincidence that the most influential definitions of sovereignty as a somehow ‘universal’ and ‘civilized’ concept of power were devised at the same time that Europe was seeking to destroy the power of Indigenous Peoples. Sometimes, its racism was openly expressed as in the view of the French courtier Jean Bodin ...or that of Thomas Hobbes who suggested it only came about when nations advanced beyond the primitive

‘state of nature’ (where Indigenous Peoples supposedly lived) to a state of reason (which only the colonizers had). (Jackson 2019: 106)

A Declaration of Sovereignty and a Treaty with British Crown

White superiority arrived on our shores some eight generations ago. Far from being ‘civilised’ many Whites were lawless, barbaric and unmanageable (Wolfe 2005; Mutu 2004). Their behaviour caused great consternation amongst the *hapū* and many *hui* (gatherings) were convened to try to find solutions. Several *rangatira* undertook diplomatic missions to England where they met the *rangatira* of the English, King George IV (Waitangi Tribunal 2014: 99). They asked the king to send someone to take control of his lawless subjects living in New Zealand. The king sent a British Resident and later his niece Queen Victoria sent a Governor for the same purpose but both failed to achieve their primary purpose.

He Whakaputanga o te Rangatiratanga o Nu Tireni 1835 and Te Tiriti o Waitangi 1840

In 1835, the British Resident facilitated the drafting of *He Whakaputanga o te Rangatiratanga o Nu Tireni*, a formal declaration of the *mana* and *rangatiratanga* – translated as sovereignty – of the *rangatira* of the many *hapū* throughout the country. *Rangatira* throughout the north and from further south in Waikato and Ngāti Kahungunu signed it (Mutu 2004: 17-18; Waitangi Tribunal 2014: 166-167). It declared that only the *rangatira* assembled at Waitangi could make laws to keep the peace and that they would never give law-making powers to anyone else (Mutu 2004: 18; Waitangi Tribunal 2014). An interpretation in English of *He Whakaputanga* was sent to King William IV and was duly acknowledged (Waitangi Tribunal 2014). Many *hapū*, especially in the north, still consider *He Whakaputanga* to be the founding constitutional document of New Zealand (Matike Mai Aotearoa 2016).

Despite the good intentions of *He Whakaputanga*, British immigrants continued their lawlessness. By 1840, the *rangatira* decided that the British *rangatira* had to take responsibility

for them. On 6 February, they signed *Te Tiriti o Waitangi*, a treaty written in the Māori language that confirmed the 1835 *He Whakaputanga*, preserving the *rangatiratanga* of the *rangatira*, of the *hapū* and of the people. It devolved *kāwanatanga* (governance) over British immigrants to the Queen of England (Mutu 2010; Waitangi Tribunal 2014; Mutu et al 2017). It also made English custom available for the benefit of all. It was a treaty of peace and friendship, one that promised what the *rangatira* had asked for: acknowledgement and respect for their absolute power and authority throughout their territories, while relieving them of responsibility for lawless British immigrants (Mutu 2010).

British Lawlessness Continues

To this day, my *hapū* and *hapū* throughout the country continue to rely on this treaty in all our dealings with the British Crown. However, the Crown has never ensured its subjects in New Zealand knew about it let alone adhered to it. Furthermore, a Crown representative produced a document written in English that set out the aspirations of the British immigrants. It falsely claimed that Māori had agreed to cede sovereignty to the British Crown. In other words the *rangatira* had agreed to give their mana to a stranger living on the other side of the world, a bizarre notion that is both humanly and logically impossible. This claim was a foundational element within the intricate web of lies and deception that Whites wove as they colonised to dispossess Māori (Mutu 2015). In 2014 the Waitangi Tribunal issued its report and findings into *He Whakaputanga* and *Te Tiriti* to reveal the lie of the *rangatira* ceding sovereignty.

British colonists did not stop their lawlessness and wilfully disregarded both *He Whakaputanga* and *Te Tiriti*. Rather than developing peaceful and lasting friendships with the *hapū* for the benefit of all, they embarked on a violent campaign against Maori to take possession of the country. First, they deliberately introduced diseases known to decimate Indigenous peoples with no immunity to them and the refusal of health services to remedy the devastation

(Waitangi Tribunal 1997: 379-380; Kukutai 2011: 14; Mikaere 2011: 152-153). They set up illegitimate power structures including a parliament, courts, and government agencies, to take control of the entire country including the lives, lands and all the resources of *whānau*, *hapū* and *iwi* which was not agreed to in *Te Tiriti*. In their illegitimate parliament they concocted policies and fabricated laws giving themselves unfettered powers to ‘rule by administrative fiat’ (Mikaere 2011: Chapter 6; Miller et al 2010: 208; Te Aho 2017: 104; Rishworth 2016). Those policies and laws sanctioned the theft of lands, waters, fisheries, airways, forests and estates and anything else they could commodify from *hapū* throughout the country (Waitangi Tribunal n.d.). They sanctioned Whites attempting to destroy the lives, laws, language, culture, society, symbols and knowledge systems of Māori and forcibly imposing their own White capitalist culture, laws, language, religion and economy on us (Biggs 1968: 74; Waitangi Tribunal 2011). Once Europeans had secured the lands slaughtering or driving the *hapū* out, raping, plundering, pillaging and destroying homes, crops, *waka* (canoes) and *wāhi tapu* (sacred sites) (Waitangi Tribunal 1996; 1999; 2004; 2017), they hid what they had done under a blanket of amnesia. For more than 150 years, they vilified and persecuted Māori and any others who reminded them of the atrocities they had committed. To this day they deny the racism they use to keep Māori in a state of poverty, deprivation and marginalisation despite being warned repeatedly by United Nations treaty bodies of the urgent need to address the problem (UNCERD 2017; UNESCR 2018; UNGA 2019). This was and is British colonisation – brutal dispossession in which states from Europe assumed the right to take over the lands, lives and power of Indigenous Peoples who had done them no harm (Jackson 2019: 102).

The Doctrine of Discovery in New Zealand

Whites justified this behaviour as a right they inherited from their ancestors. It was based on the illogical myth of European supremacy and right to possess. Today this myth is known as the Doctrine of Discovery (Miller et al 2010: 1). Part of that myth involved dehumanising

Indigenous peoples and recasting them as mindless savages to justify driving them out of their lands. The Crown uses the Doctrine of Discovery to rationalise withholding lands, resources and rights from Māori, ignoring its rejection by the United Nations (Miller et al 2010; Mutu 2018: 215). Whites in New Zealand desperately cling to it to this day, as Māori scholars Belinda Borell, Helen Moewaka Barnes and colleague Tim McCreanor (2018: 26) identify as historical privilege.

They argue the Pākehā [White] settlers who acquired the land and material resources have reaped individual, collective and intergenerational rewards from that theft. The accumulated effects have dramatically improved the economic, social and political wellbeing of current descendants. Pākehā worldviews and the institutionalisation of their cultural norms in national, governmental and civic institutions serve to reaffirm and entrench models of white mental and social wellbeing.

This historical privilege produced historical trauma for Maori who continue to experience racial discrimination in all aspects of the social world from employment and housing, to the general disparaging of Maori language and culture in contemporary New Zealand society. Borell et al (2017) explain racism serves to remind all New Zealanders of the second-class status of Māori people and renew the view that Māori people, language and culture are inferior. These current experiences of discrimination perpetuate the intergenerational trauma of colonisation (Borell et al 2017: 26). The combination of all the negative effects of colonization has led to inevitable poor socio-economic outcomes and social indicators of poverty such as poor educational attainment, low income status, low mortality and morbidity rates, poor health, high incarceration rates and high child removal rates (Mutu 2017). It is no wonder then that more than 128,000 Māori have taken leave from their ancestral homeland to live and work in Australia (Kukutai and Pawar 2013).

Exercising *mana* and *tino rangatiratanga*

Europeans find incomprehensible that large numbers of Māori throughout the country simply refuse to accept all the myth-making and illegitimate power structures the British tried so desperately to impose on us, despite our marginalisation and poverty. They included those of us who are the descendants of the *rangatira* who deliberately passed on the histories of what really happened. There were, of course, Māori who did believe them and were seduced to assimilate into the White power structures to help maintain the coloniser's oppression.

For over 150 years, Whites fought to eradicate all memory of how they took over our country, failing to teach it in their schools. However, our resistance movement erupted in the 1970s when young Māori started protesting on the streets (Harris 2004). Their elders, at first wary of the inevitable White backlash, started joining them. Land repossessions and marches started attracting international media attention. In 1975, the government responded by setting up a permanent commission of inquiry, the Waitangi Tribunal, to investigate Crown breaches of the treaty and to make recommendations for removal of the prejudice. The government's primary intention was not to address the numerous breaches of the treaty but rather to take the protest off the streets and away from public and international view (Oliver 1991: 9-10). Exercising their *mana* and *tino rangatiratanga*, Māori have taken more than 2600 claims to the Tribunal seeking:

- return of stolen lands, waters, seas, fisheries, airways, minerals, and other resources
- protection of the natural environment from desecration and unsustainable development
- restoration and recognition of our language and culture
- equitable access to commercial opportunities and to government resources and services including education, health, housing, and social welfare

- recognition and upholding of our mana and sovereignty (Mutu 2017: 94).

Much to the consternation of the Crown, the Tribunal has unravelled many of its carefully woven myths and vindicated *whānau* and *hapū* who kept the memories of Crown atrocities alive (Mutu 2015). Despite being under-resourced, the Tribunal has upheld many hundreds of claims and made a countless recommendations, which the government usually rejects or ignores (Te Kāwanatanga o Aotearoa 2018). In cases where the government decides it needs to extinguish a claim, particularly those relating to large land confiscations and alienations, it imposes its settlement policy on claimants further traumatising them (Mutu 2018). Settlements of treaty claims are used to entrench British colonisation and deny the *mana* and *tino rangatiratanga* of the claimants. The government returns on average less than one per cent of what was stolen, legislates the extinguishment of Māori title and cession of Māori sovereignty (Mutu 2012b; Mutu 2018). Claimants and their negotiators under duress and coercion accept the Crown's unfair settlements (Mutu 2018).

Few accept that the settlements are full and final and future generations will continue to pursue their claims against the Crown. Yet some of the settlements have enabled *whānau* to start climbing out of the crippling poverty endured for over 150 years. In exercising our *mana* and *tino rangatiratanga*, *hapū* and *iwi* throughout the country do so at times in defiance of White colonial edicts. Our ancestors mobilised repeatedly to defend ourselves and to remind Whites that we do exercise our own sovereignty.

Te Whakaminenga o Ngā Hapū o Nu Tireni

The first recorded gathering to deal with the lawlessness of White immigrants was known as *Te Whakaminenga o ngā Hapū o Nu Tireni* (The Gathering of the Hapū of New Zealand). It was a gathering of mainly northern *rangatira* who since the 1800s had met to discuss a range

of issues, including the problematic foreigners. This gathering authorized and signed the 1835 document *He Whakaputanga o te Rangatiratanga o Nu Tireni* (The Declaration of Sovereignty of New Zealand). These same *rangatira* signed *Te Tiriti o Waitangi* in the north in 1840 (Healy et al. 2012; Waitangi Tribunal 2014). These *hapū* controlled all the territories of the north, further south in Waikato and in the east at Māhia. *Te Whakaminenga* has continued its northern focus to this day, but the gathering was marginalized and severely weakened for long periods as Whites attacked and undermined the authority of *rangatira*.

Kīngitanga—The King Movement

Immediately to the south of the northern *iwi* are the *Tainui* confederation of *iwi* of the Waikato region. During the 1850s as the *hapū* and *iwi* of the central North Island resisted the theft of their lands, a number of *iwi* of the central North Island, including *Tainui*, came together to form the *Kīngitanga* or King Movement in 1858. The movement based its structure on the British monarchy, selecting a king as their overall leader in response to the extremely hostile actions of the British taking control of the fertile Waikato river lands. In exercising their *mana* and *tino rangatiratanga* in forbidding Whites to enter their territories, *Tainui*'s actions were interpreted as a direct threat to White assertions of power and sovereignty. In 1863 British troops invaded the Waikato lands and confiscated 1.2 million acres of land claiming that Waikato *iwi* were rebels to justify their actions. The King and his people became virtually landless and were forced to retreat into neighbouring *iwi* lands. They remained in exile for twenty years before returning to a new legal and political order. Despite the social, economic, and cultural damage sustained by *Waikato-Tainui* during this period, the *Kīngitanga* stayed intact and *Te Kauhanganui/Te Whakakitenga o Waikato*, its parliament, was established in 1889 and continues today (Waikato-Tainui website; Cox 1993: 55-60).

For the next 120 years, *Waikato-Tainui* sought justice and redress from the Crown and reluctantly signed its first Deed of Settlement in 1995 (Waikato-Tainui website). Control of 47,048 acres or three per cent of the lands stolen was returned. A payment of \$70 million was made with the Deed, which fell well short of the \$12 billion owed to *Waikato-Tainui* (Mutu 2011: 26). Six monarchs had led *Waikato-Tainui* to this point where they could finally start recovering their economic base. The *Kīngitanga* remains an influential force in the Māori world to this day.

Te Kotahitanga—The Maori Parliament

While *Waikato-Tainui* concentrated on the *Kīngitanga*, other *iwi* tried to address the damage wrought by White colonists. Initial exclusion and then token representation of four seats in 1867 in the White Parliament (rather than the twenty Māori were entitled to) resulted in Māori setting up their own parliament in 1892. A number of *iwi* confederation movements developed around the country between the 1860s and the 1880s. The major concern for all of them was on-going theft of land by Whites and the operations of the Native Land Court. After several gatherings in their territories, the confederations met in venues around the country. Over a period of several years of debate they developed the structure and operational rules for a parliament with representatives of all *iwi* except *Waikato-Tainui*, who due to the *Kīngitanga* movement chose not to participate.

By the late 1890s the parliament's founding document carried 38,000 signatures, which is significant given the total Māori population had fallen to 42,000. *Te Kotahitanga* mirrored the structure of White Westminster parliament but drew on *He Whakaputanga o te Rangatiratanga o Nu Tireni* of 1835, *Te Tiriti o Waitangi* of 1840 and section 71 of the Constitution Act 1852. Section 71 provided for *iwi* autonomy within defined districts. The Māori parliament was named *Te Rūnanga o te Kotahitanga mō te Tiriti o Waitangi* (The Council of Rangatira and

Elders for National Unity under Te Tiriti o Waitangi) and it was established to unite Māori, draw up legislation to return power to *hapū* over their lands and to reject White courts and institutions by operationalising Maori law. It had 96 members from *iwi* throughout the country of which four were allowed to be members of the White parliament to participate and inform that body of their decisions for incorporation into legislation developed there. It is often referred to as *Te Pāremata Māori* (the Māori Parliament).

Te Kotahitanga first met in the Hawke's Bay region on 14 June 1892. Over the eleven years that it was active, it debated many issues, particularly the relationship of the British Crown and *iwi* and passed legislation. However, when the four Māori members took the legislation to the White parliament, White members refused to discuss a Maori parliament and self-determination. Instead they walked out of the House. One of these Māori members of the White Parliament worked within *Te Kotahitanga* to close it down after effectively undermining its work. Whites have always used divide and conquer as a strategy and it continues to this day. Maori who do the coloniser's bidding are labelled *kūpapa* (traitors) and despite the shame, many infiltrate our organizations to this day in an attempt to have Whites, and particularly the government, control or destroy our organizations. Although *Te Kotahitanga* ceased, its principles and the wish to revitalize it remain with us.

National Maori Congress

After *Te Kotahitanga*, the next organisation for national unity was the National Māori Congress established in 1990. It was made up of *rangatira* and other representatives from almost all *iwi* around the country. Its main purpose was to form a united front for the practical recognition of our *mana* and *tinio rangatiratanga*. The National Maori Congress met and made decisions on a range of issues impacting *iwi* and was severely critical of several of the Crown's deeply racist

policies and legislation. It focussed on the Crown's unilaterally determined policy for the extinguishment of claims taken to the Waitangi Tribunal, its so-called 'treaty claims settlement' policy, which was dubbed "the fiscal envelope" (Mutu 2011: 17-27). Congress convened gatherings and advocated for constitutional change in the country which was identified as important for the future well-being of Māori as a people. Despite the very deeply respected membership of Congress, the Crown would not tolerate its own asserted authority being questioned and instigated a divide and rule strategy to ensure the demise of Congress.

National Iwi Chairs' Forum

From the late 1990s, the so-called 'settlements' resulting from the fiscal envelope policy assisted in re-establishing small parts of the economic bases of *hapū* and *iwi*. The first settlement related to fisheries and after bitter legal battles for eleven years, now Māori are a significant and powerful player in the New Zealand fishing industry (Mutu 2012a: 120). Two relatively large settlements followed for *Tainui* in 1995 and *Ngāi Tahu* in 1997. Since then, seventy much smaller settlements have been legislated and a further thirty or so are at various stages approaching legislation. Although the settlements have grown prosperity they are far too inadequate to address the appalling socio-economic position of Maori.

In 2005, *Ngāi Tahu* called a gathering of thirty elected iwi chairpersons from around the country to discuss how we could support each other to properly exercise our *mana* and *tino rangatiratanga* to maximize the benefits of settlements. We set up the National Iwi Chairs' Forum and agreed to limit the Crown's (the government of the day) involvement at our behest and on our terms. The Forum has since grown to include 73 iwi chairpersons.

The Forum has drawn up indicative models for a constitution for the country based on *tikanga* (our own laws), *He Whakaputanga* of 1835 and *Te Tiriti o Waitangi* of 1840 along with the United Nations Declaration on the Rights of Indigenous Peoples. Many Māori believe that *He*

Whakaputanga and *Te Tiriti* are the country's constitution, but Whites assert that the country has no written constitution and are refusing to debate the issue (Mutu 2011: 96-7). Whites who have considered the matter know it is inevitable to include *He Whakaputanga* and *Te Tiriti* in any written constitution. In taking responsibility for our country's constitution, our initiative is based on the advice provided by Māori experts and communities throughout the country.

Matike Mai Aotearoa – the Independent Working Group on Constitutional Transformation, are responsible for this work and published a report in 2016. The indicative constitutional models it recommends are based on the Waitangi Tribunal's 2014 report on *He Whakaputanga* and *Te Tiriti*, and the two different and distinct 'spheres of influence' of Māori and the Crown. The report refers to them as the *Rangatiratanga* sphere and the *Kāwanatanga* sphere. The two spheres are independent and in the *Rangatiratanga* sphere, Māori would make decision for Māori. In the *Kāwanatanga* sphere, the Crown would make decisions for its people. Where the two spheres would work together as equals making joint decisions is the Relational sphere; it is where the *Tiriti* relationship will operate. The *Matike Mai Aotearoa* report notes that it is "the sphere where conciliatory and consensual democracy would be most needed" (Matike Mai Aotearoa 2016: 9). Six indicative models are proposed involving various combinations of the spheres. They are being discussed with both Māori and non-Māori around the country. The report recommended convening a constitutional convention for Māori in 2021 and then one for the whole country with the aim of achieving constitutional transformation 200 years after the signing of *Te Tiriti o Waitangi* in 2040. The report has received widespread support from Māori and some non-Māori but it has been subjected to strident attacks from those still clinging to the Doctrine of Discovery and outdated White New Zealand policy.

International support has come from the United Nations Committees for the Elimination of Racial Discrimination (2017), and Economic, Social and Cultural Rights (2018) along with the 2019 Universal Periodic Review of New Zealand all recommending the government engage

with Māori to discuss the report. In response, the government agreed to draft a National Plan of Action to implement the United Nations Declaration on the Rights of Indigenous Peoples (DRIP). New Zealand opposed the DRIP for decades, but signed it in 2010. The Aotearoa Independent Monitoring Mechanism, whose membership includes many of *Matike Mai Aotearoa*, is working with the New Zealand Human Rights Commission, the United Nations Expert Mechanism on the Rights of Indigenous Peoples and several UN treaty bodies, to encourage the government to implement the Declaration. The Monitoring Mechanism's top priority for a National Plan is constitutional transformation.

The Forum has also taken on several other specific projects aimed at insuring that *mana Māori motuhake* is upheld in practical terms. These projects include Māori ownership of water, minerals and oil, as well as the foreshore and seabed; Māori control over and veto power over mining and oil drilling; Māori control over education, health, housing and children and over the New Zealand contribution to the climate crisis. These projects have required discussions with the government making adhering to the requirement of no Crown involvement with the Forum less straight forward. Furthermore, some *iwi* leaders still believe that Crown support and validation is needed. Government Ministers, bureaucrats and *kūpapa* are shameless in their attempts to infiltrate and influence the work and decisions of the Forum.

Conclusion

Sovereignty is a cultural construct that develops from the value systems of the society and culture in which it is embedded, thus Māori sovereignty and English sovereignty are very different. Māori values are concerned with community wellbeing along with balance and harmony between people and the natural elements of the world. Māori sovereignty is referred to as *mana* and (*tino*) *rangatiratanga* or in more general and overarching terms, as *mana Māori*

motuhake. Indigenous sovereignty elsewhere appears to share the basic values of communal and environmental wellbeing. English values, on the other hand, revolve around individual and private property rights, the rule of law, the advance of science and the spread of Christianity (Waitangi Tribunal 2014: 38). Underpinning them is the mistaken belief that White Christians are superior to all other people and that the Doctrine of Discovery gives them the right to dispossess and traumatise Indigenous peoples for their own personal profit and gain. Māori have never accepted that Whites had any right to take over our country and trample on our *mana* and *rangatiratanga*. We have fought for more than 170 years to stop them and to restore the balance prescribed by *Te Tiriti o Waitangi*. Constitutional transformation that recognises and normalises *mana* and *rangatiratanga* and leaves the Crown to look after its own people is a solution for which our ancestors fought. My generation continues that battle in the hope that my *mokopuna* (grandchildren) will live to see the *Rangatiratanga* sphere and the *Kāwanatanga* sphere working together as equals, the dispossession and trauma of Māori remedied, White privilege shared for the benefit of all and *Papa-tūā-nuku* (the earth mother) and all her descendants restored to full health.

References

- Alfred, T. (2005). 'Sovereignty', in J. Barker (ed.) *Sovereignty Matters*. University of Nebraska Press: Lincoln.
- Barker, J. (2005). 'For Whom Sovereignty Matters', in J. Barker (ed.) *Sovereignty Matters*. University of Nebraska Press: Lincoln.
- Benton, R. (1997). 'The Maori Language: Dying or Reviving'. New Zealand Council for Educational Research: Wellington.

- Biggs, B. (1968). 'The Maori Language Past and Present' in E. Schwimmer (ed.) *The Maori People in the Nineteen Sixties*. Blackwood and Janet Paul: Auckland.
- Biggs, B. (1989). 'Humpty Dumpty and the Treaty of Waitangi' in I. H. Kawharu (ed.) *Waitangi: Maori and Pakeha Perspectives of the Treaty of Waitangi*. Oxford University Press: Auckland.
- Borell, B., Moewaka Barnes, H. and McCreanor, T. (2018). 'Conceptualising historical privilege: the flip side of historical trauma, a brief examination', *AlterNative*, vol 14, no 1: 25-34.
- Coffey, W. and Tsosie, R. (2001). 'Rethinking the tribal sovereignty doctrine: Cultural sovereignty and the collective future of Indian nations', *Stanford Law & Policy Review*, vol 12, no 2: 191-221.
- Cox, L. (1993). *Kotahitanga: The Search for Māori Political Unity*. Auckland University Press, Auckland.
- Deloria, V. Jr. (1979). 'Self-Determination and the Concept of Sovereignty' in R. Dunbar Ortiz (ed.) *Economic Development in American Indian Reservations*. University of New Mexico Native American Studies: Albuquerque.
- Franklin, J. (ed.) (1992). *Jean Bodin on Sovereignty: Four chapters from The Six Books of the Commonwealth*. Cambridge University Press, Cambridge.
- Harris, A. (2004). *Hīkoi: Forty Years of Māori Protest*. Huia Publishers, Wellington
- Kawharu, I. H. (n.d.). 'Dimensions of Rangatiratanga', manuscript prepared for Hodge Fellowship. Department of Māori Studies, University of Auckland: Auckland.
- Healy, S. et al. (2012). *Ngāpuhi Speaks*. Te Kawariki & Network Waitangi Whāngārei: Whāngārei.

- Jackson, M. (2019). 'In the End "The Hope of Decolonisation"' in E. A. McKinley and L. T. Smith (eds.) *Handbook of Indigenous Education*. Springer: Singapore, 101-110.
- Kukutai, T. (2011). 'Contemporary Issues in Māori Demography' in T. McIntosh and M. Mulholland (eds.) *Māori and Social Issues*. Huia Publishers: Wellington.
- Kukutai, T. and Pawar, S. (2013). *A Socio-demographic Profile of Māori living in Australia, NIDEA Working Papers No. 3*. University of Waikato and National Institute of Demographic and Economic Analysis: Hamilton.
- Lee, L. (2017). 'Introduction', in L. Lee (ed.) *Navajo Sovereignty: Understandings and Visions of Diné People*. University of Arizona Press: Tuscon.
- Marsden, M. (2003). 'God, Man and Universe: A Māori View' in Te A. C. Royal (ed.) *The Woven Universe: Selected Writings of the Rev. Māori Marsden*. The estate of Māori Marsden: Masterton.
- Matike Mai Aotearoa. (2016). *He Whakaaro Here Whakaumu Mō Aotearoa: The Report of Matike Mai Aotearoa – The Independent Working Group on Constitutional Transformation*. University of Auckland and National Iwi Chairs Forum: Auckland.
- Mead, H. M. (2003). *Tikanga Māori - Living by Māori Values*. Wellington: Huia.
- Mikaere, A. (2011). *Colonising Myths, Māori Realities, He Rukuruku Whakaaro*. Huia Publishers: Wellington.
- Miller, R. J. et al. (2010). *Discovering Indigenous Lands: The Doctrine of Discovery in the English Colonies*. Oxford University Press: Oxford.
- Moreton-Robinson, A. (2007). 'Introduction', in A. Moreton-Robinson (ed.) *Sovereign Subjects*. Allen & Unwin: Crows Nest.

- Moreton-Robinson, A. (2015). *The White Possessive: Property, Power and Indigenous Sovereignty*. University of Minnesota Press: Minneapolis.
- Mutu, M. (2004). 'The Humpty Dumpty Principle at work: The role of mistranslation in the British Settlement of Aotearoa. 'He Whakaputanga o te Rangatiratanga o Nu Tireni' and 'The Declaration of Independence'' in S. Fenton (ed.) *For better or for worse: Translation as a tool for change in the Pacific*. St Jerome: Manchester.
- Mutu, M. (2010). 'Constitutional Intentions: The Treaty Text' in M. Mulholland and V. Tāwahi (eds.) *Weeping Waters*. Huia Publishers: Wellington.
- Mutu, M. (2011). *The State of Māori Rights: A Review of Māori Issues 1994-2009*. Huia Publishers: Wellington.
- Mutu, M. (2012a). 'Fisheries Settlement: The Sea I Never Gave' in J. Hayward and N. When (eds.) *Treaty of Waitangi Settlements*. Bridget Williams Books, Wellington.
- Mutu, M. (2012b). 'Ceding Mana, Rangatiratanga and Sovereignty to the Crown: The Crown Deeds of Settlement for Te Rarawa, Te Aupōuri and Ngāi Takoto', *The Northland Age*, 6 March: 9.
- Mutu, M. (2015). 'Unravelling Colonial Weaving' in P. Little and W. Nissen (eds.) *Stroppy Old Women*. Paul Little Books: Auckland.
- Mutu, M. (2017). 'Māori of New Zealand' in S. Neely (ed.) *Native Nations: The Survival of Fourth World Peoples, 2nd edition*. J Charlton Publishing: Vernon, British Columbia.
- Mutu, M. (2018). 'Behind the Smoke and Mirrors of the Treaty of Waitangi Claims Settlement Process in New Zealand: No Prospect for Justice and Reconciliation for Māori without Constitutional Transformation', *Journal of Global Ethics*, vol 14, no 2: 208-221.

Mutu, M. et al. (2017). *Ngāti Kahu: Portrait of a Sovereign Nation*. Huia: Wellington.

Oliver, W. H. (1991). *Claims to the Waitangi Tribunal*. Department of Justice: Wellington.

Rishworth, P. (2016). 'Writing things unwritten: Common law in New Zealand's constitution', *International Journal of Constitutional Law*, vol 14, no 1: 137–155.

Te Aho L. (2017). 'The 'False Generosity' of Treaty Settlements: Innovation and Contortion' in A. Erueti (ed.) *International Indigenous Rights in Aotearoa New Zealand*. Victoria University Press: Wellington.

Te Kāwanatanga o Aotearoa. (2018). *The Section 8I Report: A report on the progress made in the implementation of recommendations made by the Waitangi Tribunal*. New Zealand Government: Wellington.

United Nations Committee on Economic, Social and Cultural Rights (UNCESCR). (2018). *Concluding Observations on the Fourth Periodic Report of New Zealand*. United Nations Human Rights Office of the High Commissioner, United Nations: Geneva, [Online]. Available: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fNZL%2fCO%2f4&Lang=en, accessed 19 April 2020.

United Nations Committee on the Elimination of Racial Discrimination (UNCERD). (2017). *Concluding observations on the combined twenty-first and twenty-second periodic reports of New Zealand, CERD/C/NZL/C/21-22*. United Nations Human Rights Council, United Nations: Geneva, [Online]. Available: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD/C/NZL/CO/21-22&Lang=En, accessed 19 April 2020.

United Nations General Assembly (UNGA). (2019). *Draft Report of the Working Group on the Universal Periodic Review: New Zealand*, [Online]. Available:

<https://www.hrc.co.nz/files/1315/4984/7007/nzupr3-draftoutcome.pdf>, accessed 19 April 2020.

Waikato-Tainui. (n.d.). Waikato-Tainui website, [Online]. Available:

<http://www.waikatotainui.com/>, accessed 3 April 2019.

Waitangi Tribunal. (n.d.) 'Waitangi Tribunal reports', [Online]. Available:

<https://waitangitribunal.govt.nz/publications-and-resources/waitangi-tribunal-reports/>, accessed 19 April 2020.

Waitangi Tribunal. (1996). *Taranaki Report: Kaupapa Tuatahi: Te Muru me te Raupatu (Wai 143)*. GP Publications: Wellington.

Waitangi Tribunal. (1997). *Muriwhenua Land Report (Wai 45)*. GP Publications: Wellington.

Waitangi Tribunal. (1999). *Ngāti Awa Raupatu Report (Wai 46)*. Legislation Direct: Wellington.

Waitangi Tribunal. (2004). *Te Raupatu o Tauranga Moana: Report on the Tauranga Moana Confiscation Claims (Wai 215)*. Legislation Direct: Wellington.

Waitangi Tribunal. (2011). *Ko Aotearoa Tēnei (Wai 262)*. Legislation Direct: Wellington.

Waitangi Tribunal. (2014). *He Whakaputanga me Te Tiriti: The Declaration and the Treaty: The Report on Stage 1 of the Paparahi o Te Raki Inquiry (Wai 1040)*. Legislation Direct: Wellington.

Waitangi Tribunal. (2017). *Te Urewera Volume I (Wai 894)*. Legislation Direct: Wellington.

Wolfe, R. (2005). *The Hell-hole of the Pacific*. Penguin Books: Auckland.