

MANA MAORI MOTUHAKE: MAORI SELF-DETERMINATION

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Mana Maori motuhake is the Maori concept of self-reliance and self-determination. Developed during the 1830s-1840s, when some Maori tribes realised the potential for a foreign take-over, it refers to 'independent Maori authority'.¹

After a brief historical review, this paper focuses on key episodes in the last ten years of development towards a new vision of mana Maori motuhake. In 1984 a clear story with its own plot was drafted by Maori authors. By 1994 not only has the plot changed, but the story seems forgotten. Instead of the hoped for unification of the hapu/iwi, tribes, in a concerted drive for self-determination, Maori are witnessing the rise of tribal fundamentalism. Present day tribal fundamentalists deny the existence of Maori society, ethnicity and nationhood. In its place a redefined version of the early nineteenth century iwi, the tribe², is seen as the appropriate vehicle for Maori aspirations. At stake are billions of dollars worth of cash, state forestry assets and fishing quota. Some observers fear that mana Moni (the authority of money and assets) is in danger of replacing mana Maori as the life force of existence. A sometimes bitterly divided and confused younger Maori population are becoming increasingly frustrated with Maori leadership at all levels³, as fragmented efforts undermine mana Maori motu hake.

THE IMAGINED MAORI NATION STATE — THE MAORI DECLARATION OF INDEPENDENCE 1835

A new 'independent state', Te Whenua Rangatira in Maori, was declared in 1835.⁴ The land of Aotearoa was personified as a rangatira, given the qualities of a traditional kinship leader. This imagined Maori state was a radical political and cultural development for the people of the time, given that politics, economics and social relationships were defined largely in terms of hapu/iwi kinship systems and boundaries.

¹ Douglas and Henare (1988: 278); Szaszy (1988:270)

² See Hobbsbawm & Ranger (1983)

³ Maori Legal Service (1994)

⁴ Te Whakaputanga o Te Rangatiratanga o Nu Tirenī (Declaration of Independence), Article 1, Maori Text and English explanation. See Henare (1994)

Some rangatira and tohunga had begun to realise that 'Te Whenua Rangatira' would become a reality when hapu and iwi formed a 'confederation' and worked together in their 'collective capacity'.⁵ The realisation that change was necessary came for a complex set of reasons. Maori were on the verge of launching a new canoe for political and economic purposes largely aimed at gaining an improved standard of living and quality of life.

The means by which the hapu and iwi were to enhance themselves politically and economically was through the establishment of a national parliament - a Congress. According to the plan, the Congress would meet each year to pass laws pertaining to internal order, international trade, and foreign policy.⁶ An Executive of rangatira was established to manage the new state and the need for a supreme court was recognised.⁷

Realising that these ideas had not been debated and accepted throughout Aotearoa, these early nationalists followed Maori political protocol - they decided that the kaupapa of independence, unity and nationhood be taken around the country to other hapu and iwi to gain their support.

The first British Resident, James Busby, encouraged ariki and rangatira to sign a document which expressed these ideas. Known as 'Te Whakaputanga of Te Rangatiratanga o Nu Tireni'— the Declaration of Independence of the Independent Tribes of New Zealand⁸ some fifty signed between 1835 to 1839. They represented the three dominant political regions of the time — Te Taitokerau, Waikato and Ngati Kahungunu. British political and economic interests centred on trade, on whaling, the acquisition of timber, flax and other available commodities. A small British settlement existed during this period but there was as yet no overt official policy of colonisation. Busby's task was to look after the interests of the traders and other settlers. He acted as an adviser to Maori leadership, at the request of Northern Maori. Britain, France and other countries recognised the Declaration and other symbols of nationhood such as the 1834 flag of the independent tribes.⁹ This period prior to 1840

⁵ Te Whakaputanga, Article 2. See Henare (1994)

⁶ Te Whakaputanga, Article 3. See Henare (1994)

⁷ Busby (1837) Letter to Colonial Secretary, N.S.W., 16 June

⁸ Busby (1835; 1837). Letter to Alexander Busby, 10 December 1835; Letter to Colonial Secretary, N.S.W., 16 June 1837. Te Whakaputanga o Te Rangatiratanga o Nu Tireni 1835, is a Maori text with an English language explanation (Henare 1994; Henare and Douglas 1988:88-89). It was duly recognised by Great Britain, France and other countries. (Orange 1987:32)

⁹ Henare and Douglas (1988:88-89); Orange (1987:23)

provides a fundamental starting point for interpreting the mind-set and actions of the ariki and rangatira, and enables us to better understand the subsequent Tiriti o Waitangi.

New political structures for the ordering of both Pakeha and Maori societies had become necessary as social change accelerated. A transformation from subsistence to a cash-based trading economy led to a Maori economic take-off. Movements of people away from the restrictions of tribal territorial boundaries, the social disruption stimulated by iwi fighting and the troublesome lifestyle of early Pakeha settlers, caused increasing political turmoil. As hapu/iwi struggled to adjust to these economic and social developments, a philosophical explosion occurred with the introduction of Christianity, and other Pakeha ideas. New metaphors and symbols were adopted to express changing and expanding political, economic and social visions.

THE CONTINUED ASSERTION OF MANA MAORI MOTUHAKE AND TE WHENUA RANGATIRA

The Treaty of Waitangi, signed in 1840, was an agreement between Maori political leaders and the British Crown. This agreement was produced in Maori and English drafts with consequent problems of wording and interpretation that continue to this day.¹⁰

According to Maori the treaty was an initiative of the British, and expresses British concerns for more Pakeha settlement. The Declaration of Independence and Maori desire for their own state administration was not intended to be compromised in this first treaty between the Maori 'nation' and the British. It promised much. First Maori would allow the peaceful settlement of British people in New Zealand and the Crown would have governance over new settlers. Second, Maori exercise of tino rangatiratanga, control over hapu/iwi and Maori affairs was guaranteed.

The maintenance of government structures would be a responsibility of the British Crown, largely to be exercised over its settlers and for a period to assist Maori establish the necessary institutions for autonomy. However after the 1850s Maori began to lose control over both their economic and political affairs. The immigration of settlers led Maori to become a minority of the population. Settler dominated governments established their own state structures and institutions and solidified Pakeha control. Maori history from the 1840s to the 1990s is one of protest and struggle for mana Maori motuhake.

¹⁰ See Kawharu (1989)

The current marginalisation of Maori people in the New Zealand settler state is a product of generations of neglect and hostility towards Maori culture, its language and values. The alienation, language loss and social problems of a now urbanised indigenous people is viewed by many of them to be a consequence of the government's constant breaking of Te Tiriti o Waitangi, and the resultant loss of Maori control over their land and sea resources. In 1984 three events galvanised the contemporary political and social strategies of the indigenous people of Aotearoa New Zealand; te Kotahitanga, Labour's election victory, and the Royal Commission on Social Policy. Together they led to the enunciation of a new Maori political, social and economic agenda for the remainder of the twentieth century and into the twenty-first. During the preceding eight years of a conservative and largely anti-Maori National government administration, Maori protest had risen to dramatic levels and confrontations between Maori and government were a regular feature of Aotearoa New Zealand political life. The focus of protest was the failure of successive governments to operate according to Te Tiriti o Waitangi.

To address the Maori claims of injustice, a court of inquiry process was established in 1975. Called the Waitangi Tribunal, it enabled any Maori individual or group to lay claims that the Crown had broken the spirit and intent of Te Tiriti. However, the Tribunal was restricted to the investigation of claims dating from 1975. This limitation and government intransigence in addressing Tribunal recommendations did little to allay Maori grievance. This suspicion culminated in concerted Maori protest in the 1970s.

Te Kotahitanga (Maori Solidarity) of 1984

In September 1984 some 1000 representatives of hapu/iwi and national Maori organisations gathered for three days at Turangawaewae Marae, Ngaruawahia. Convened by Maori religious leaders, Maori elected Members of Parliament and national Maori organisations, the hui consolidated (recreated) a Maori vision of social, cultural, political and economic self-reliance and self-determination. It proclaimed this vision as tangata whenua of Aotearoa. While the goal of mana Maori motuhake was not new — for example, it can be seen in the nineteenth century Kingitanga and Kotahitanga movements, and the later rise of the Ratana movement¹¹ — the proclamation of the hui represented a dramatic change in direction. The hui concluded with the following statement regarding mana Maori motuhake:

¹¹ For a summary of these earlier movements, see Cox (1994)

The Treaty of Waitangi is a document which articulates the status of Maori as tangata whenua of Aotearoa.

The Treaty of Waitangi shall be the basis for claims in respect to land, forests, water, fisheries and human rights of Maori people.

The Treaty of Waitangi is a symbol of which reflects Te Mana Maori Motuhake. We declare that our mana tangata, mana wairua, mana whenua supersede the Treaty of Waitangi (translation of Maori text).¹²

These ideas represent a break from the social and political agenda of the Young Maori Party and its leaders Apirana Ngata, Te Rangihiroa (Peter Buck), Maui Pomare and others. Earlier this century these young turks were convinced, to differing degrees, that the survival of Maori lay in shedding those aspects of the traditional life that retarded Maori acceptance of the modern world. Working in an environment in which Maori stocks were low and racism rampant, Sir Maui Pomare said in 1906: "There is no alternative but to become Pakeha".¹³ They were committed to working within the administrative and legislative framework of Pakeha administration and did not question the sovereign rights assumed by settler governments. The challenge was to make that power work for the advancement of Maori.¹⁴

Labour's Election Victory

The election of the David Lange led Labour government in the weeks preceding the Ngaruawahia hui meant that the Maori programme of development was to find a politically sensitive administration.¹⁵ Little evidence existed at this period of the subsequent dismantling of the welfare state and monetarist economic restructuring of the economy. Indeed, Labour, echoing its predecessors in the 1930s and 40s who had forged important links with Maori, most notably with the Ratana movement, had strengthened the Waitangi Tribunal and extended its mandate back to 1840 thus reversing the earlier restriction to claims dating from 1975.

¹² Blank et al (1985:2)

¹³ Schwimmer (1968:17); Henare and Douglas (1988:161-162)

¹⁴ Orange (1987:228); Henare and Douglas (1988:161)

¹⁵ Sir James Henare, an elder statesman and Maori elder, said in 1988 that the Labour government was the only government to try to rectify some of the injustices perpetrated by earlier governments. (Henare 1988:89)

After a series of meetings with Maori leaders the new government sponsored two national Maori gatherings. The first, Te Hui Taumata, was an economic summit. Government officials and Maori leaders examined the economic strengths and weaknesses of Maori: their high unemployment rate,¹⁶ welfare dependency, low levels of educational attainment and poor housing. The call was made for urgent action to lift Maori social and economic status to a level of parity with Pakeha New Zealanders. The report of the conference¹⁷ coincided with the launch of a Maori Development Decade. Entitled 'He Kawenata — A Covenant', it sketched a blueprint for the future; its aims were to redirect existing resources from negative spending on social welfare benefits to more positive growth areas.

Royal Commission on Social Policy

The next major input towards the elaboration of mana Maori motuhake came during the Royal Commission on Social Policy. Members of the Commission investigated the extent to which New Zealand meets the standards of a fair and just society, with regard to democracy, law, collective responsibility and the principles of the Treaty of Waitangi.¹⁸ The hearings provided Maori with a platform on which to articulate their requirements for social policy and programmes based on a Maori understanding of the principles of Te Tiriti o Waitangi. Submissions and research papers reached a consensus about goals to strengthen tribal structures and ensure the survival and viability of the Maori kinship system.

A Cultural Gerrymander – The Maori Drive for Electoral Reform

A large proportion of Maori who stated a preference supported a change from New Zealand's first-past-the-post electoral system to proportional representation. A former President of the Maori Women's Welfare League, Dame Miraka Szaszy of Ngati Kuri, argued for the parliamentary system to change '... from the Westminster type of government to something created by us, using the Treaty of Waitangi as a basis. Because of the democratic principle of one person one vote, the tangata whenua partner, because of minority status, is totally disadvantaged. Parliamentary representation is thereby

¹⁶ Maori unemployment rates were three to four times greater than Pakeha rates, and at younger age groups (under 25 years) Maori unemployment rates were higher because of the extent to which Maori figure amongst "discouraged workers". These people are alienated from the labour market, or do not register as unemployed or seek income support through sickness, domestic purposes or disability benefits. Henare and Douglas (1988:195)

¹⁷ New Zealand Government (1984a; 1984b)

¹⁸ Report of the Royal Commission on Social Policy (1988 Vol I:v-vii)

unequal, legislation is monocultural and equity at all levels of government is nonexistent. The sharing of power is thus nullified and the concepts of rangatiratanga and partnership negated.¹⁹

The Royal Commission on the Electoral System²⁰ concluded that a more inclusive type of electoral system was better suited for New Zealand. The Commission found a high level of Maori scepticism in the electoral process as administered and promoted by generations of Pakeha governments and political parties.²¹ Maori doubt about the dominant culture's political will for a share of power remains strong.²²

None of the current political parties ever advocated increasing the number of Maori parliamentary seats by using the same proportions as for general seats. Two sets of criteria were adopted for the electorate. General seats were calculated by using the total population as the basis for deciding whether there would be an increase in the number of MPs. As the general population grows the number of General seats expands with it. However, the number of Maori seats were calculated on the basis of the adult population. Since 50 percent of New Zealand's 311,278 (1991 census) Maori are under the age of twenty-one, this number remained at four, the same given in 1863 when the Maori numbered 52,000. Maori people have consistently stated that they are entitled to 10 – 11 seats. The Commission anticipated that Maori people would gain more parliamentary seats under the MMP. However, the government's implementation of the new system has followed the general pattern of pakeha political party manipulation since the 1850s.

The government promoted MMP among Maori in a passive way that provoked anger and frustration among prominent Maori leaders. Yet again Maori seats were calculated using a different statistical formulation than the calculation of general seats and the cultural gerrymander that existed since the 1850s will continue. Maori reaction was speedy, first a claim to the Waitangi Tribunal, which found that more funding should have been made available to inform Maori about their electoral choices. An appeal was taken to the High Court against the Crown and the Minister of Justice, its decision largely confirmed the Tribunal's finding, saying that Maori were "significantly disadvantaged" by the Maori Option exercise. However the judge did not support the Maori request that the govern-

¹⁹ Szaszy (1988)

²⁰ Royal Commission on the Electoral System (1986)

²¹ Royal Commission on the Electoral System (1986:113)

²² Department of Maori Affairs (1985:8)

ment conduct the Maori Option again. The case was then taken to a full bench of the Appeal Court who found along the same lines as the High Court, that the Minister of Justice had met the legal requirements under the Act. Maori remain dissatisfied about the minimalist programme of the government and are considering taking the case to the Privy Council in London. What is at stake are Maori political rights and the active participation of young Maori in the democratic parliamentary system. Maori leaders are convinced that a proactive government information campaign will lead to additional parliamentary seats for Maori because the number of seat entitlements are linked to the number of Maori registered on the Maori roll.

ROUGH WATERS, PROBLEMS AND PROSPECTS IN MAORI FISHING

The struggle for mana Maori motuhake proceeds on many fronts but the fishing question provides perhaps the best exemplar of the entire situation. During the 1980s, when the Waitangi Tribunal heard its first important case, a claims making strategy evolved that recast indigenous demands. Prior to that Maori groups typically brought cases before the courts that cited the promises contained in the Treaty of Waitangi when they attempted to gain compensation and secure the return of their resources. These cases invariably proved unsuccessful as the courts denied that the Treaty had a place in New Zealand domestic law. The Tribunal developed a different strategy, one that found favour with the courts but proved troublesome to the government.

The Tribunal Approach

In 1982 Te Ati Awa of Taranaki challenged the government's grant of a right to Petro-Chemical Industries to discharge waste into the coastal waters off the town of Waitara. The tribe maintained that the effluent would pollute shellfish collecting grounds which had already been adversely affected by sewerage and other waste flowing from the town. Te Ati Awa initially claimed a specific monetary loss, which they calculated on the basis of the value of fish collected by tribespeople. The Tribunal, meeting at Manukohiri Marae and incorporating Te Ati Awa protocol into its proceedings, recast the issue and found that the reefs and the sea food they provided were cultural treasures. By allowing Petro-Chemical Industries and the town of Waitara to pollute the reefs the government failed to uphold its commitments under the second article of the Treaty which guarantees taonga katoa, all things highly valued, to Maori people. Sub-

sequent Tribunal findings in Kaituna River, Manukau Harbour and other cases developed this point further.²³

This tactic of finding resources taonga proved effective in reversing the sad history of failure in the courts for Maori attempts to invoke the Treaty in resource claims. By abandoning issues of monetary compensation, and finding that the document made cultural guarantees the Tribunal created a powerful ideological resource. The Treaty's status as a legal 'nullity',²⁴ fruitless as a vehicle to establish ownership in Maori cases against the Crown, was undermined as various courts incorporated this interpretation as a precedent in their findings. Maori demands were now recast as calls for 'partnership with mutual responsibilities'²⁵ in a bicultural New Zealand. The principle of partnership was endorsed by the NZ Appeal Court in the *NZ Maori Council v. Attorney General and Others* case. The Court argued the Treaty contained a notion of good faith and that the parties would be honourable towards each other.²⁶

In our multicultural society the values of minorities must sometimes give way to those of the predominant culture, but in New Zealand, the Treaty of Waitangi gives Maori values an equal place with British values and a priority when the Maori interest in their taonga is adversely affected.²⁷

Bi-culturalism seemed to have a great potential to empower Maori people. Their cultural knowledge could lead to significant control in the many areas where Maori interact with the state. Government departments and other organisations took Maori names, and hired Maori policy advisers with a view towards incorporating a 'Maori perspective' into their operations. The Tribunal's recommendations seemed to have little immediate practical impact in the specific iwi cases it heard, toxic waste discharges continued to affect the reefs off Waitara, for example. Its findings rather restored a measure of mana to the Maori people as a whole. The changed status of the Treaty, perhaps the greatest legacy of the Waitangi Tribunal, seemed set by the late 1980s to deliver tangible pan-tribal benefits. Maori ethnicity was poised to contribute a unique partnership solution to the problem of indigenous self-determination.

²³ Levine (1987; 1989; 1991)

²⁴ A 'nullity' was Judge Prendergast's description of the Treaty in *Wi Parata v Bishop of Wellington* in 1877. See Kawharu (1989, *passim*).

²⁵ Waitangi Tribunal Reports (1988: xii)

²⁶ NZ Administrative Reports (1987:379)

²⁷ Waitangi Tribunal Reports (1985:78)

FROM CULTURAL TO MATERIAL CLAIMS

These developments attracted a great deal of attention and a significant level of support (as well as opposition) outside Maoridom. While the Labour government set up the Tribunal and vowed to 'honour the Treaty' it simultaneously pushed ahead with its programme to dismantle the welfare state.²⁸ Intent on dividing up natural resources and selling rights to them on the open market the government hit a brick wall while trying to privatise fisheries in 1986. The Maori constituted the only group in New Zealand with any statutory basis to challenge economic policy²⁹, and one of the most successful assaults on New Zealand's new market fundamentalism occurred at this juncture.

Although Maori fishing rights were never fully specified, the Individual Transferable Quota System of dividing all fish stocks into catch units and selling these to fishers clearly extinguished these rights. Maori people no longer had to specify what the government had taken away since nothing remained for them as Maori under the new system.

With help from a Tribunal memorandum to the Minister of Fisheries, which stated that the issuing of quota in the Muriwhenua area was contrary to the principles of the Treaty, the New Zealand Maori Council obtained a High Court order in 1987 restraining the quota system in the northern part of the country. The High Court advised the administration to negotiate with iwi about the exploitation of fisheries. The government then proposed a Maori Fisheries Bill to grant Maori people annual increments of 2.5 percent of the national fishing quota for a period of 20 years, an eventual total of 50 percent. In the bargaining which followed, they appointed Maori negotiators from the Council and trust boards of groups prominent in fishery cases, Tainui, Ngai Tahu, and Muriwhenua, instead of dealing directly with iwi.³⁰ Passed in 1989, the Maori Fisheries Act established a Maori Fisheries Commission. The Commission, chaired by one of the negotiators, achieved a \$300 million settlement. The Maori Fisheries Commission received 10 percent of the quota and established a company, Aotearoa Fisheries, to exploit this resource. Negotiations for the remaining 40 percent of quota continued, culminating in a deal in 1992 which led to a half share in the purchase of the Sealords fishing company, and 20 percent of the quota on all

²⁸ Kelsey (1990)

²⁹ Vowles (1991)

³⁰ Walker (1994:15)

new species, in return for a guarantee that Maori would make no further commercial claims under the Treaty of Waitangi.³¹ Although the government's pay-out seemed very substantial, information recently obtained from the New Zealand Treasury by Roberts, after a successful application under the Official Information Act, indicates that the Crown probably saved \$150-200 million by not facing 'an adverse Court outcome'.³² The administration also maintained Crown property rights in fishing and restored a climate of commercial stability to the fishing industry.

Perhaps more importantly, the moral high ground of cultural claims based on a sanctified Treaty covenant gave way to bargaining for set percentages and a real economic base. The goal to establish the Maori as equal partners in a bicultural nation initially seemed fully compatible with this 'brass tacks' approach because the quota was to be held in a perpetual trust for all Maori fishers. However, the Commission promoted the idea that quota allocation should proceed on a tribal basis and it soon became apparent that dividing up the spoils in this way would seriously undermine existing Maori solidarity.³³ Thirteen tribes filed an unsuccessful injunction against the Sealords deal. They objected to selling off their Treaty rights and wanted the quota to provide jobs for their people instead of returns to company shareholders. Walker³⁴ also maintains that the Maori negotiators were manoeuvred into a subaltern role by the administration. They set an important precedent which could be extended to land claims, pushed Maori into dealing with their resources as capital, and seriously undermined the Treaty.

FROM ETHNICITY TO TRIBALISM, AND BEYOND

These developments in fishing stimulated the current rise of tribal fundamentalism mentioned at the beginning of this paper. Although the initial solidarity, apparent during the Tribunal phase of advancing a pan-tribal Maori ethnic agenda, has been tested by tribal jockeying for slices of the pie, Maori group sentiment has certainly not been extinguished. Rather, Maori remain divided over the issue of how to distribute ownership and profits from Sealords. Two knights Sir Graham Latimer and Sir Tipene O'Regan, (both fishing commission negotiators and signatories to the Sealords deal), personify the current differences in approach.

³¹ Walker (1994:16)

³² Roberts (1994:Addendum)

³³ Tapsell (1994)

³⁴ Walker (1994:16-21)

O'Regan is head of the Ngai Tahu Trust Board. The Ngai Tahu, small in population, claim a vast area of the South Island. If iwi resources get allocated on the basis of what tribes owned in the past or now claim, the ten to twenty thousand members³⁵ of this group are in for a windfall, \$50 million from the negotiations of 1989 alone. A population-based distribution would net Ngai Tahu \$3.5 million.³⁶ Latimer, a leader of the Maori Council, must consider the positions of larger North Island tribes that may have had little access to the coast and the 140,000 largely urban Maori who may have no clear iwi affiliation.

Sir Graham feels that iwi solutions are unfair to these large inland tribes and that Auckland's urban Maori would largely miss out in an iwi resource distribution. Sir Tipene, on the other hand, argues that pan-Maori settlements are illegal, racist, and sops to a parasitic northern metropolis:

My interest as an individual in Ngai Tahu's assets is there by whakapapa because I belong to a group of people who were the owners and who were deprived of the ownership of their property. That is a property ownership issue. I'm not there because I belong to an ethnic group. To chuck it in a great pot and stir it up in a soup is really to revert solely to some big generic group based solely on race.

This is an interesting position that has important implications. It does much to counter the arguments of John Gould³⁷ who maintains that Ngai Tahu 'is a collection of predominantly European individuals almost as much as it is a Maori iwi. That adds to the irony of the fisheries settlement ... A large proportion of the settlement is likely to go to the iwi which is not only undoubtedly the richest in the country but which is the least Maori in the country.' But if, as O'Regan alleges, justice, ownership and descent count regardless of race or ethnicity then why are tribes any more relevant than Maori identity? Why chuck it into a tribal pot if a smaller pot can be found? In any case the number the pots seems to expand as time goes on and Sir Tipene may be hoisted on his own petard as new tribes hive off from his own.

³⁵ Ngai Tahu (cf. Tribal registrar) claim 20,000 people affiliated to the tribe. However, census figures indicate that only 10,000 Maori consider themselves primarily Ngai Tahu.

³⁶ T.V.N.Z. (1994)

³⁷ Harrington (1994)

The government would probably emerge as the prime beneficiary of tribal settlements. A weakening of pan-Maori organisations and leadership would certainly undermine biculturalism and Maori self-determination and stem the tide of embarrassing Waitangi Tribunal recommendations. The Justice Minister and government want to settle all outstanding claims within a 'fiscal envelope' of approximately \$1 billion dollars.³⁸ The Settlement Envelope, as it is officially called, is a set amount of money that the Crown plans to put aside to settle all historical Treaty claims.³⁹

Maori response has been swift and decisive. Tribal groups and national Maori organisations have rejected outright the idea of a cut-off date for claims, the cap on the value of claims and the notion that Maori will have restrictions placed on their access to natural resources.⁴⁰ The message of Maori is yes to settlement but no to the fiscal envelope. The Minister of Justice, Douglas Graham, has admitted at one regional hui that \$1 billion represented nothing more than a guess about the value of claims.⁴¹ The Tainui confederation of 33 hapu have been negotiating a historical settlement for over two years. In December 1994 they agreed to consider a government offer and continue negotiations.⁴² However the government muddies the waters when it persists in linking the Tainui settlement to its fiscal envelope proposals. Tainui rejected the envelope as a basis for settlement, and agreed only to consider the government's offer as a stand alone settlement to Tainui. Other iwi fear that if Tainui accept the settlement it might lessen the value of all Maori claims.

A scramble for resources by groups of hapu who have dissented from belonging to larger iwi claims has seen the emergence of a plethora of new groups, some of whom seem to be reinventing themselves as the claims policy unfolds. The consequent bickering

³⁸ Harrington (1994)

³⁹ *Crown Proposals for the Settlement of Treaty of Waitangi Claims* (1995:24-26). The government has initiated a series of twelve regional meetings at which the Crown's proposals will be presented for Maori consideration. These will be followed by a national meeting when government hopes that Maori will agree to the proposals or offer alternatives (*Crown Proposals for the Settlement of Treaty of Waitangi Claims. Consultation with Maori*) 1995:6-7).

⁴⁰ The Crown states that Article II of the Treaty did not guarantee to Maori ownership of natural resources in 1840. Neither does the Crown accept that Maori used and valued a number of resources at the time the treaty was signed. It considers that it has the ultimate right to control the use of natural resources where necessary in the interests of all New Zealanders. In relation to treaty claims, natural resources include water, geothermal energy, river and lake beds, foreshore and seabeds, sand, shingle and minerals. (Graham 1994:21, 35)

⁴¹ Radio New Zealand National News, 18 February 1995.

⁴² Te Maori News (1994:9)

amongst themselves could make the government's goal achievable. Is this self-determination? However, the government's mishandling of the settlements process and the fiscal envelope proposal has begun to unite Maori in a common cause once again. At least in the short term.

THE 'SELF' IN SELF-DETERMINATION

The tensions between iwi fundamentalism and mana Maori motuhake pose a number of thorny problems for Maori people and the state. Successive New Zealand governments have done much to undermine the land-holding kinship group structures of hapu and iwi despite the Crown's recognition of chiefly authority in the Treaty of Waitangi. Maori leaders prominent today on commissions and consulted by government sometimes represent groups 'that are self-elected and self-appointed, that don't represent anyone other than a sub-tribal name or a tribal name.'⁴³ Even those in established leadership positions on trust boards or other formally constituted groups do not always have a clear iwi mandate especially when government appointments create what Walker calls a 'subaltern' status.

Tribes today are 'imagined communities'.⁴⁴ As multivocal symbols, which mean different things to different people,⁴⁵ iwi serve as foci of political solidarity and negotiation. But if today's tribal fundamentalism prevails, can solid structures necessary for the administration of resources develop? Is it possible for the self-determining tribes and chiefly authority which existed when the Treaty was signed in 1840 to regenerate in some form compatible with the environment of twenty-first century New Zealand? After all, Maori people are citizens of a state signatory to international human rights conventions. One prominent legal authority points out that:

A strict adherence to chieftainship and values based upon birth and status would inevitably be incompatible with contemporary democratic values and standards of human rights.⁴⁶

Although the goals recognised by Fleras and Elliot⁴⁷ to:

Restore Maori social patterns and collectivities as the basis for a tribal renaissance, reinstate Maori language, culture and iden-

⁴³ T. Henare quoted in Harrington (1994)

⁴⁴ Anderson (1983)

⁴⁵ Kertzer (1988)

⁴⁶ Brownlie (1992:96-7)

⁴⁷ Fleras and Elliot (1985:178)

tity, reclaim ownership over land and resources as a basis for a tribally-generated renewal, reinforce self-determination by way of power-sharing and decision-making at institutional levels

may be widely shared, it remains to be seen which strategy, *mana Maori motuhake* or tribal fundamentalism, is best suited to the job.

CONCLUSIONS

New Zealand Maori people have trod down many paths in their attempts to come to terms with the Pakeha world. Independence, partnership, armed resistance, withdrawal, messianic movements, litigation, tribal unity, ethnicity, sovereignty, biculturalism: all seemed to promise more than they ultimately delivered.

Iwi fundamentalism, the movement of the nineties, finds favour today because the victories of the Tribunal period proved little more than rhetorical. The appeal of iwi-based corporations to *tangata whenua* lies in their potential to provide an economic base for Maori people to move 'off welfare' and into the mainstream using and controlling their own resources. Pakeha and the government look forward to an end to 'negative spending', annoying impediments to development projects and interminable Maori protest. Can setting iwi up as business entities do more than the other approaches?

It is doubtful that iwi-only businesses can generate a sufficient level of employment opportunities to meet the needs of a growing Maori urban work force, many of whom identify as Maori before tribe. At best they may be a means of maintaining tribal lands and serve the interests of those Maori who strongly identify with tribes that can reach deeply into the fiscal envelope.

We remain sceptical that any real social good can come from Maori monetarism. Iwi fundamentalism divides Maori people, and also side tracks them from constructively addressing their continuing marginalisation in Aotearoa. Although self-determination is not the easiest concept to pin down no one defines it as the chance for a few people to make short term gains.

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