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**NGĀ NIHO TĒTE Ō PEKEHĀUA:**  
**An Indigenous Articulation of Governance**

A thesis  
submitted in partial fulfilment  
of the requirements for the degree  
of

**Doctor of Philosophy in Law**

at

**The University of Waikato**

by

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THE UNIVERSITY OF  
**WAIKATO**  
*Te Whare Wānanga o Waikato*

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‘Ko maiea. Maiea ngaa atua. Maiea ngaa patu. Maiea ngaa Tāngata. Ko Maiea’

We emerge with all acknowledged and satisfied.

The atua are satisfied. The weapons are satisfied. The people are satisfied.

We emerge with all acknowledged and satisfied.

Extract from a Karakia for Peace

Wiremu Maihi Te Rangikāheke

(GNZ MMSS 81:1, 1849)

## **Abstract**

This thesis originally set out to examine the structures and models available within New Zealand for a post-settlement tribal governance framework that would meet the Office of Treaty Settlements requirements while empowering the needs and aspirations of Ngāti Rangiwewehi. During the course of the study, as a result of the fast-tracking of our tribal settlement this emphasis changed. With Ngāti Rangiwewehi electing to utilise the government recommended templates for the post-settlement entity, the research shifted to consider the evolution of governance within the tribe, looking at the ways tribal governance had developed from traditional practices to our current governance frameworks. It was anticipated that gaining a deeper understanding of the factors that have shaped and influenced our governance would also give us the necessary insights to adapt the Crown model the tribe had adopted to ensure it was able to meet Ngāti Rangiwewehi's future aspirations. This belief was grounded in an understanding that prior to the arrival of Pākehā to Aotearoa/New Zealand Ngāti Rangiwewehi, along with all other iwi Māori, had their own systems of Governance. Our governance frameworks, encapsulated within our tikanga and kawa, operated to produce a strong, vibrant, and self-determining society. Through colonisation, and its imposed Western frameworks for governance within Aotearoa New Zealand, traditional Māori frameworks for law and governance were undermined, deconstructed, or marginalised to make way for the civilizing discourses and structures of the Settler, as enforced by the British Crown. Although the dominant system of law and frameworks for governance may have changed, Ngāti Rangiwewehi and Māori desires for self-determination have not.

Against this background the central question of this study has itself evolved, initially contemplating to what extent Ngāti Rangiwewehi might be able to remain self-determining in and through their post-settlement governance arrangements. The overwhelming conclusion the study could not avoid was that any governance approach drawn from the settler-colonial Eurocentric system currently dominant in New Zealand would be incapable of supporting tribal aspirations for self-determination. What was equally evident was the continued determination that the tribe, collectively and individually, maintained to mediate the imposed governance frameworks that interfere in our ability to fully exercise our tino rangatiratanga, or in our iwi-specific context, our tino Rangiwewehitanga. This observation led to the final iteration of the thesis question which asks what frameworks for governance would best empower Ngāti Rangiwewehi to be self-determining in and beyond this post-settlement governance era? Throughout the research what became apparent was the potential to utilise our traditional

frameworks for governance, described and encapsulated within this study as Rangiwewehitanga, a decolonial paradigm for tribal governance. Viewed in this way, Rangiwewehitanga expands our understanding of governance beyond the limited perspectives imposed through colonization and requires our people to recognise and return to the wisdom of our ancestral teachings to craft the most appropriate pathways forward.

## **He Mihi**

Perhaps writing the acknowledgements is, in truth, one of the most difficult parts of the whole thesis to write. How to articulate, in so few words and in such a comparatively small space, the depths of my love and appreciation for every soul, living or otherwise, who has helped to bring me to a place of completion on this project. I am eternally grateful for your help and support, no matter how big or apparently small. I recognise I could never have made it to the end without each and every one of those contributions, and I can assure you that at this particular point in time, perhaps more than ever, I am grateful to be at the end of this project!

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As grateful as I am for all of the institutional advice and support, I received, without Ngāti Rangiwewehi this particular project would never have happened. I am grateful for the official approval and support that I received from the various governance entities and their trustees, Te

Tāhuhu ō Tawakeheimoa, Te Maru ō Ngāti Rangiwewehi Iwi Authority, Rangiwewehi Charitable Trust, Tarimano Marae Trust, as well as our Kaumatua Committee and the Iwi Supervisory Group members. I wish to make special mention of former CEO Kahuarikirangi Hancock, Anaru Bidois, Toro Bidois, Te Rangikāheke Bidois, Rikihana Hancock, Arthur Warren, Tauri Morgan, Harata Hahunga and all those who formed the Iwi claims team whom I was privileged to work with for the time period of this research project. I have been truly blessed to have the opportunity to spend time with and learn from a number of members of the wider Iwi, to participate in and facilitate a number of wānanga around this area of research and to have shared with me such amazing knowledge, insights and understandings that I feel it really was an honour to be a part of this project. It has shown me so clearly how much more I have to learn, but I feel most grateful that it is not a journey I walk alone, and I trust that in time I will have ample opportunity to return some part of what I have been gifted through being a part of this study.

I wish to acknowledge all of my friends, family, colleagues and complete strangers who listened to me incessantly talk about my thesis for the last six years, who read the drafts of papers and chapters that are now all magically merged into one coherent package, who repeatedly and patiently helped to pick up the pieces each time I reached my next near breaking point. For every hug, smile, cup of hot chocolate, all the patience and even for the tales of your woes as a pleasant distraction from my world for a moment, I thank you!

I must acknowledge the babysitters, like my mother-in-law Sue who would travel up from Wellington, leaving behind her life for a week to come and make sure our children didn't fall apart while Mum and Dad would go away to present our research at conferences and try and sneak in mini-writing retreats. Like my mother Harata, sister Awatea, brother Waiariki, and niece Uruhautanga, who regularly helped out in so many ways, both big and small, all the babysitting, the loans, the laughs, the conversations and 'wānanga', the get aways and distractions. I am so grateful for your support and look forward to doing the same for each of you as you make your way through your own doctoral journeys.

To each of my children, and our precious mokopuna who were born during the time I was engaged in this work: it is difficult to fully and completely articulate the depth of my love and appreciation for each of you and the profound influence you have been throughout this study without ever truly realising it. I am so grateful for your very grounding influence! I have found nothing can put your research into perspective like the day to day needs of growing children,

the necessary maintenance of the normal rhythms of life, or the birth of new life. And to the very best Supervisor/editor/critic/cheer-leader/house cleaner/best friend/spell and grammar check that there is – kua oti!



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## List of Abbreviations

Abbreviation	Full Name
AJHR	Appendices to the Journal of the House of Representatives
CFRT	Crown Forest Rental Trust
GBPP	Great Britain Parliamentary Papers
IOD	Institute of Directors
NZLC	New Zealand Law Commission
NZLS	New Zealand Law Society
NZPD	New Zealand Parliamentary Debates
OTS	Office of Treaty Settlements.
RCT	Rangiwewehi Charitable Trust
Te Maru	Te Maru o Ngāti Rangiwewehi Iwi Authority
TMT	Tarimano Marae Trust
TPK	Te Puni Kokiri Ministry of Māori Development
TTToTT	Te Tāhuhu o Tawakeheimoa Trust, Ngāti Rangiwewehi post-settlement governance entity.

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## **1. E kimi noa ana i te tīmatatanga: Searching for the Beginning Point.**

The idea of ‘beginning’ never seemed problematic to me until I began to think about writing this thesis. In considering the evolution of something, the beginning point is perhaps the most appropriate place to start. But determining which point could be identifiable as the precise inception of the project grew increasingly complicated the more I considered the possibility. The University would most likely identify the date of enrolment, the 1 February 2012, as the official starting point. From that date the clock has been ticking, 6 months to complete the proposal (which had to be extended a further 6 months), followed by 6 monthly progress reports intended to support me to stay on track and ensure the institution could monitor that progression. However, some work was required before the enrolment was complete. I had pulled together a scholarship application in 2011 and been successful, and I had to give an idea of what I was planning to do. Consequently, although correct from an institutional level, this project did not begin with my enrolment. Similarly, the project will not end with the completion and submission of the doctoral thesis.

The seed of this study may well have been planted by the CEO of Ngāti Rangiwewehi at that time, Kahuariki Hancock, following my completed Masters research. She asked, then, what I was planning next and I enquired as to what research the iwi needed.<sup>1</sup> It could have been planted when she indicated that they needed some research done around the development of the post-settlement governance entity. Or perhaps it happened before that when she invited me to be a part of the claims research team, where I developed a greater appreciation of our Treaty claims, and where I began to appreciate more the team and all the work our governance people were doing to try and get the best deal possible for our iwi. Maybe it was even earlier than that, when my grandfather, Koro Sam Hahunga, fell ill and could no longer physically attend meetings. My Mother was not keen on driving back and forth after these meetings, so I became her chauffeur. We would drive the hour from Hamilton to attend hui in Rotorua, then another forty minutes on to Papāmoa to have our debrief with Koro (Grandfather/elderly male relative), returning to Hamilton late in the evening to ring or email and pass on any necessary messages. I recall memories of very similar ‘debriefing kōrero’ years earlier when I was still a kid sitting in the backseat of Koro’s ‘humble’ Holden Torana, as it was known, driving home from

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<sup>1</sup> Māori communities, as Linda Tuhiwai Smith observes, have ‘to be convinced that the research project is worthwhile and in their interest.’ Linda Tuhiwai Smith *Decolonizing Methodologies: Research and Indigenous Peoples* (2nd Ed, Zed Books, London and New York, 2012) at 141.

Awahou<sup>2</sup> after our marae committee meetings,<sup>3</sup> not always understanding all of what was being said, but perhaps paying more attention than I think even I realised.

It is possible to go back even further still to when my grandfather first filed the Treaty claims on behalf of Ngāti Rangiwewehi, or when he was first voted on as the Chairperson of the Awahou Marae Committee, which effectively oversaw the governance and affairs of the iwi at that point in time. Or perhaps the true origin was long before my grandfather's birth, when Rangiwewehi, the tupuna after whom the tribe was named, was born. We could trace it back further still to his father, Tawakeheimoa after whom our whare tupuna (ancestral meeting house) is named and who passed down the land and whakapapa that would eventually support Rangiwewehi to become the eponymous ancestor of the tribe. Perhaps it harks back to Tamatekapua, the kaihautū (navigator) of the Te Arawa waka (canoe), to when he first left our ancestral homeland Hawaiiki and ventured forth to settle the geographical areas our people inhabit still today. Was it even before that, when our ancestor Māui first fished up this land,<sup>4</sup> or does it date back to when the first wānanga<sup>5</sup> was held between the children of Ranginui, Sky-father and Papatūānuku, Earth-mother, and the decision to separate our primordial parents was made. Or is the true genesis of this project located deep in Te Kore,<sup>6</sup> before all other things

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<sup>2</sup> Awahou is the name of one of Ngāti Rangiwewehi's most well-known rivers, as well as the name for the village and community that is based along the banks of the river. Our central community meeting place or marae Tarimano is located within the Awahou village and is the place where most tribal meetings are held. See Rangimārie Mahuika "Anō, ko te Riu ō Tāne Mahuta. Possibilities and Challenges in a Ngāti Rangiwewehi Curriculum" (MA thesis, University of Waikato, 2011).

<sup>3</sup> A marae is a community complex which will normally include at least a large meeting house, a dining hall and a shower and toilet block. The main marae of Ngāti Rangiwewehi is Tarimano, although it is also sometimes called Awahou as that is the name of the geographical location. The Marae committee is responsible for administration and maintenance of the marae reserve in accordance with s338 Te Ture Whenua Māori Act 1993

<sup>4</sup> The story of Maui fishing up the land which is now the North Island of New Zealand is explored in more detail in Chapter 4 as part of the discussion of the carvings and narratives contained within our poutokomanawa.

<sup>5</sup> The term wānanga will be explored in more detail within Chapter 2, but in this context refers to a kind of meeting or discussion held to consider an important or significant matter of importance to the collective. In this regard it also relates to the decision-making process, the place the meeting was held, and the knowledge content which is central to the discussion. The specific story of the first wānanga is explored in more detail in Chapter 4.

<sup>6</sup> The term Te Kore in this context is often translated as the Great Nothingness but is used to denote a significant period of time and space within Māori cosmology and is perhaps more appropriately thought of as a space of Divine and infinite potential from which the spark of life developed. The cultural narratives of the transition from Te Kore to Te Po are beautifully depicted and articulated in Robyn Kauhikiwa & Patricia Grace's *Wahine Toa Women of Myth* (Viking Pacific, Auckland, 1994); See also Ministry of Justice *He Hinātore ki te Ao Māori: A Glimpse into the Māori World Māori Perspectives of Justice* (Wellington, 2001) for another rendition of the narrative.

occurred, before thought and before the first woman was created<sup>7</sup>, back when all things truly did begin.

As I share this story with you, and all of its multiple points from which the narrative could be viewed as ‘beginnings’, I wonder if you can see how this reflects an indigenous approach to governance and leadership training that has been going on for a very long time. Throughout the interviews and wānanga that were carried out as part of this project, the number of iwi members who were fortunate enough to be inducted into this comprehensive training programme all agreed that in part, its brilliance lay in the fact that you did not know you were a part of it. Often your fate was sealed by the time you realised that somehow you had graduated from the driver, who might help out in the kitchen and then sit in on the meeting while you’re waiting for your passengers, to writing and delivering reports at iwi hui, and then find yourself an elected Trustee, as you hear your name being called out. These insights resonate through my experience as I have ‘officially’ spent the last 5 and a half years considering and writing about what frameworks for governance would most empower Ngāti Rangiwewehi in asserting our self-determination and tino Rangiwewehitanga<sup>8</sup> in and beyond this post-settlement governance era. The centrality of our relationships, the reciprocal bonds and obligations they entail, and the underlying values and principles that maintain our ways of being, have governed our personal and collective interactions since the beginning of time. This thesis seeks to consider how we might ensure that they continue to do so not only within our informal engagements, but within the formal governance frameworks of the tribe as we move into this new post-settlement governance era.

### **1.1 Rangiwewehitanga: Governing a Way of Life.**

As I began my journey with this project, I have been told on several occasions that given who my grandfather was, it was entirely appropriate for me to be carrying out this research. Indeed, I have wondered at times whether I would be doing many of the things I have done if it was not for him. My Koro was born at Hamaruru, Te Puna and lived there for just over four years

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<sup>7</sup> Within Māori traditions, the first human created was a woman, Hinetītama, who later becomes the great ancestress who watches over her descendants in the after-life as Hinenuitēpō. Robyn Kahukiwa & Patricia Grace, *Wahine Toa* above at n6.

<sup>8</sup> Rangiwewehitanga is a term used to articulate our tribal identity and the things that makes us unique as Ngāti Rangiwewehi. It encapsulates the essence of what it means to be Rangiwewehi. To “articulate” this experience and its insights is important, because there is no simple way to succinctly summarise or define what Rangiwewehi governance is without a broader “articulation” of it’s interwoven complexities. Rangimarie Mahuika “Ano ko te Riu” above at n2.

until his father, Kuramarere Hahunga, passed away. From there my great-grandmother, Hoana Kakawa Hahunga nee Hākopa, went with her young family to stay with her sister-in-law Te Mākao at Matakana Island for a period, until her brothers came to collect the whānau and return them to Awahou, where my Koro essentially spent the rest of his life.

Like everyone at Awahou, Koro learnt to fish from the river, collect koura and kutai from the lake and catch birds by hitting them with rocks propelled with “shangai.”<sup>9</sup> Nanny Kakawa had numerous fruit trees from which she made all manner of jams and preserves, and vegetable gardens to supplement the other sources of food collected from the local environment. The river was full of watercress, and at particular times there was an abundance of other food sources that would be collectively gathered and shared among everyone within the village. The children from Awahou attended school in Ngongotaha, and Koro told us stories about whoever got up first managed to get the shoes and clothes and would get to go to school that day, whoever did not, would stay home and help collect water, work in the garden, go fishing and any number of the other chores and jobs that needed to be done to support the household or the village.

Throughout the course of the interviews I was privileged to hear and collect these stories from the various families at Awahou, first in my master’s research, and then later in the course of the Treaty of Waitangi claims research. Every interview highlights the interdependence within the community and the culture, and how this environment created a symbiotic relationship that embedded within each of us a unique sense of purpose, direction and identity based inherently around the people, places and experiences that shape who we are as Ngāti Rangiwewehi. Time after time each interview participant emphasised the communal influences on their own childhood, and the way they had sought to pass those things on to their own children as well as an appreciation of the ways in which our culture, our history and our experiences are transferred inter-generationally. Who we are, and therefore how we govern ourselves, is intricately and intimately interwoven throughout all of these relationships, experiences and understandings. Arguably, in some instances it is the lack of this foundation that is equally impactful in the way some of us conceive of ourselves and the most appropriate way to govern our affairs. These are all important and complicated layers that contribute to an understanding of what it means to be Ngāti Rangiwewehi and how we seek to govern ourselves in this new post-settlement era.

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<sup>9</sup> A shangai is like a slingshot, a home-made fashioned stick with rope and elastic that was used to flick rocks to hit and catch birds. Micheal John Bidois (Tommy) Interview, 5 May 2008, Rotorua.

A common example in every interview was the centrality of the Awahou river to our ways of knowing and being as Ngāti Rangiwewehi. When the river is the source of the water that you drink, and the food you eat, the place you learnt to swim and how you occupied your time throughout the hot summer months for generations, your identity is profoundly connected to those waters. Within Ngāti Rangiwewehi we declare with significant meaning, the assertion: “Ko Te Awahou mātou, Ko mātou ko Te Awahou” “We are the Awahou and the Awahou is us.”<sup>10</sup> This is more than a metaphorical identification with our river. In a conversation with one of my late Uncles, Rongo Flavell who had many talents and abilities of which one was traditional approaches to healing, he emphasised the way in which the health and well-being of the river is literally connected to the health and well-being of the tribe.<sup>11</sup> The relationship we have with these waters is what governs our interaction with them, it is what drives our desire to defend and protect them. This relationship is born of our cultural values, principles, beliefs and understandings that exemplify well the concept articulated here regarding Rangiwewehi governance as not just a lived experience, but one that is collectively experienced and shared across the tribe. Our governance, and the knowledge base that informs it is not something that can be fully appreciated from a solely academic theoretical perspective. That is not to say that academic engagement with our history and the appropriate resources would not avail the researcher with valuable insights into our approaches to, and meanings of, governance. The point here highlights the different nature of connection and understanding that comes from somatic engagements within the community. It does not matter how many times you have heard about it, or how many pictures you have seen of it, you cannot know or experience our river until you actually swim in it.

## **1.2 Rangiwewehitanga governing my life.**

Although my Koro never really left Rotorua, his experience of being able to attend a Catholic boarding school for several years provided him with opportunities that many of his relations were not afforded. He was consequently a staunch advocate of the power of education to transform our lives, and actively encouraged his children and grandchildren to work hard at school and pursue tertiary education wherever possible. His belief in education had a strong influence on my mother and in turn on me. My mother had told me for many years that in order

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<sup>10</sup> Although this is a Ngāti Rangiwewehi saying, similar proverbs exist among other tribes who identify themselves based on their connection with their specific waterways.

<sup>11</sup> Tōku Rangiwewehitanga wānanga, Rongo Flavell, Saturday 9 October, recording WS117004.



to get a job after high school I needed to go to University. Consequently, for most of my life I did not realise that there were jobs one could actually get without a University education. My mother grew up at Awahou in a time when New Zealand's colonial legacy and racial prejudice had taken hold within the psyche of many of our own people. The internalisation of that colonial racism encouraged many Māori to "improve" their lives through education and moving away from their traditional tribal boundaries to the larger urban centres, with more prospects for work and social and economic development.<sup>12</sup> Consequently, when my parents met it made sense that they would get married and settle in Auckland where there were plenty of opportunities for work and therefore they would be in a better position to provide for their new family.

As a result, for the first part of my life I had limited contact with the Māori side of my family, travelling to Rotorua primarily for special occasions and holidays two or three times a year. My father was English, and while my parents worked, my sister and I spent a great deal of time with my English grandparents. The opportunities to connect with my culture were confined largely to participation in the Māori cultural club at school and visits to my Koro's house in the holidays. It was not until the birth of my brother that this began to change. When my brother was born, with the expansion and potential to access kōhanga reo or Māori language nests, my mother made the decision that she wanted to learn to speak te reo Māori herself and attend kōhanga reo with my brother to support them both to do so. Not long after this my parents separated, and we moved with our mother to live with my grandparents in Rotorua. This is when my more obvious induction and training in Ngāti Rangiwewehi governance began.

At that point in time my grandfather was preparing to lodge the tribes Treaty of Waitangi claim. I remember that there was an entire room filled with boxes and papers, a large cabinet of files, and a large table covered in books and papers that were all connected to the claim. I remember people coming to the house to talk about tribal matters, while we made them cups of tea or coffee. I have fond memories of Koro taking us all out to Awahou, where he would attend hui and we would play, swim, collect blackberries and spend time with our cousins. We would sometimes hang around the door of the wharehau<sup>13</sup> to have a nosey at the meetings, but the

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<sup>12</sup> This urban "drift" is well documented, see for instance Joan Metge *A New Māori Migration: Rural and Urban relations in Northern New Zealand* (University of Auckland, Athlone Press, London, 1964). These attitudes were certainly widespread and were conspicuously evident in official discourse like the assimilations typology presented in the Hunn Report published in 1960. See J K Hunn *Report on Department of Māori Affairs with Statistical Supplement* (Wellington, 24 August 1960) at 15-16.

<sup>13</sup> Translates literally as large house and is a term commonly used for the tribal meeting house, in this context named after our ancestor Tawakeheimoa.

house was always full, and we would eventually be sent away to play. In the car on the way home Koro would discuss various things from the meeting with whomever he was giving a ride home. This went on for several years until Mum moved to Hamilton to return to university.

My Koro and my mother influenced my decision, not only to attend University but to enrol in a law degree. At that point in time I had noble but somewhat naive aspirations to become a lawyer so I could help our people. By the time I had finished law school I had become more cynical about the potential of the existing legal system to achieve justice for anyone, and I was quite convinced that it was not the pathway to autonomy or sustainable solutions for our people. With young children myself, by this point, I took a couple of years out from study, and decided perhaps the field of education might offer a better pathway to realise the vision I had for the future of my tamariki (children). I completed a teaching diploma but was shaken shortly after by the news that my Koro was battling a serious illness. To allow more flexibility in my timetable so I could travel home whenever necessary I chose to continue my studies, and as a result of a discussion within a tribal wānanga the kaupapa (topic) for my master's research was developed. The project began as an exploration regarding the potential to develop a curriculum that would support the transmission of our Rangiwehita - the essence of who we are as Ngāti Rangiwehi. However, over time, the study ended up focusing more specifically on identifying those things that make us unique, it asked: if we were to compile a curriculum to strengthen our tribal identity what would its content be, and in effect what, therefore, is Rangiwehita?

Although the master's thesis itself responded to a specific topic in education, it, in many ways, was an important foundation to the question and focus explored in this study. In addition to the beautiful, rich and deep, korero (discussion) I was blessed to have shared with me by so many of my relations, what was more significant than the knowledge I gained was the connections I was able to make, the relationships that were strengthened and solidified, and the cherished opportunities to be at home on such a regular basis. These relationships remained crucially important, not only because they supported the research project I was engaged in on behalf of the tribe, but it meant I was able to attend the wide range of additional hui that were taking place in connection to the various issues the tribe was facing at the time. Working towards our second Environmental Court hearing against the Rotorua Council (known today as the Rotorua Lakes District Council) to voice our opposition to their continued and increasing take on the waters from our spring Te Waro Uri, whilst also working to further our Treaty of Waitangi claims, there was plenty of work to do and always a need for more willing participants.

It was a time of exponential growth and learning for me personally. I came to understand and appreciate my Koro, and all he had done not only for our family, but for the entire tribe, in a way that I was never truly able to articulate or express to him in person. The experiences I had enjoyed growing up with him and his various roles took on a whole new light now that I was actively participating in the meetings myself. With more responsibilities and gaining a new perspective on the amount of time, energy, resources and sacrifices those charged with carrying out this work were committing to the cause, I found a much deeper appreciation and understanding for governance at the grass roots level. The knowledge and insights my grandfather had gained as a result of all of the years spent in these roles was something that no matter how many conversations we had, I could always think of further questions I could have asked him. For me, my Koro embodied the lived reality of Ngāti Rangiwewehi governance, and if I can make a contribution even half as significant as his has been, I will be grateful to be such a huge asset to my tribe.

While my Koro was not physically large in stature, the gap he left when he passed was significant, and although I do not believe there was any assumption or expectation upon me to fill it (there are a number of others who can claim that dubious privilege before I need to worry) the desire to live up to his legacy at that time, and still sometimes does, seem an impossible challenge. I struggled, to continue the forward momentum on the master's research and chose instead to distract myself with the various tasks to be done within the Treaty claim. The nature of both the masterate and the doctoral study, even when carried out within the wider context of a tribal collective such as Ngāti Rangiwewehi still has a tendency to feel like more responsibility rests on your shoulders as an individual, and whilst still carrying the grief of losing my Koro the added burden of my studies seemed too much to bare. However, I was beginning to feel increasingly more comfortable about attending tribal meetings without either my Koro or my mother, and I was slowly becoming more accustomed to being asked to speak on matters within open tribal forums.

One occasion specifically proved a significant turning point for me. I had arrived early for a meeting, and although the whare tupuna (ancestral meeting house) had been opened, no-one was inside. So, I went in, found a seat, and took a moment to appreciate being alone with my ancestors within this sacred space. I really love being in our whare tupuna. I have always enjoyed walking around the room, greeting the nannies and koroua, the aunties and uncles whose pictures hang alongside our ancestral carvings. I often ask them for support and guidance to assist me in whatever task seems to be challenging me at that particular moment in time. I

have always loved the ornate carvings of our ancestors that adorn the walls, and the fond memories they bring back of times during my childhood when Koro would recite their stories to us. This nostalgia, mixed with a special sense of belonging, and being surrounded with ancestral support creates a feeling of complete safety and security that is difficult to match. What made this day especially significant was the feeling that washed over me as I asked for their support and looked around the room to realise, I knew each of the carvings on display. Even though I had known some of the more famous ancestral stories for some time, on this day as I looked to each pou, I could recount either a narrative, whakapapa, or significant aspect of information about every carving in the room. While I recognise that for many this might not sound like a momentous occurrence, what I felt went beyond a simple intellectual knowing about those ancestors and their stories. The *ihi*<sup>14</sup> and *mana* of my ancestors was palpable, waves of goose-bumps rippled across my skin and I was moved to tears as a result of the power of their presence. In that moment I experienced myself as an embodiment of their energies, their desires, their knowledge and aspirations in this present time. I had a profound somatic understanding of what it meant to be their descendant and the influence this has had on my life, which had led me to be there in that time and space. It is the same reciprocal obligations that led me to undertaking this doctoral research on governance, and which will continue to see me dedicate much of my life and energy to the collective well-being of Ngāti Rangiwewehi.

This experience and the knowledge that came through it, in my view, is part and parcel of traditionally grounded and informed Māori and tribal governance. Despite the insistence within the Western academy of compartmentalising knowledge into discrete parts, these artificial distinctions are incompatible with a Māori or Ngāti Rangiwewehi understanding of governance. Tikanga and kawa provide the legal and governance framework which is inherently embedded in all that we do. As esteemed Ngāti Rangiwewehi kuia Harata Hahunga has noted, we have one set of tikanga and kawa that apply to everything, we do not have a set of tikanga for governance and then another for education, and another again for health.<sup>15</sup> Thus, Māori and tribal governance is inextricably intertwined with our identity, embedded in our culture, and

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<sup>14</sup> ‘A vital force and personal essence’ see Māori Marsden “God, Man and Universe: A Māori View” in *Te Āo Hurihuri The World Moves on Aspects of Māoritanga* (Reed Publishing, Auckland, 1992) at 193.

<sup>15</sup> Harata articulated these thoughts at the Te Arawa regional hui held in June 2016 for the *He Oranga Ngakau* research project looking to develop a kaupapa Maori framework to support those working with whanau who have experienced trauma see <https://www.waikato.ac.nz/rangahau/research/well-being> for more information about the project.

articulated through our language, our songs, our rituals and lives.<sup>16</sup> This study, then, similar to my Masters research before it, is far more than a simple academic exercise. Opening this thesis in a very personal way is done intentionally to show that this kaupapa did not begin solely with this project, and it will not end when the thesis is completed. My Koro dedicated his entire life to this cause, as have many of our people. As such, this dissertation is but a small part of much wider long-term goals and aspirations held not only by Ngāti Rangiwewehi, but by Māori and Indigenous peoples globally. Our specific aspiration is to live and govern ourselves in accordance with our own cultural values, principles, frameworks and traditions, in accordance with our own law.<sup>17</sup> This research seeks to contribute to this broader mission by exploring how Rangiwewehitanga as a decolonial governance paradigm might be realised and achieved by our people.

### 1.3 Background to this project

From the outset, this project was envisioned as a convenient means of covering much of the groundwork for the establishment of our post-settlement governance entity. The tribe had, at one stage, formed a post-settlement governance entity committee that met a number of times, providing preliminary work, and identifying issues of relevance for Ngāti Rangiwewehi in the construction of an appropriate entity. It quickly became apparent that with the number of sensitive matters involved, much wider consultation and discussion would be required at a much earlier stage than initially anticipated if we were to address these concerns in a way that would be acceptable and appropriate for the iwi. For example, the definition of who was or was not an iwi member was a bone of contention for a large portion of the iwi. This was especially

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<sup>16</sup> Much like as Patricia Monture Angus observed within wider indigenous contexts “it is difficult to separate intellectual, spiritual, political and legal realms. This is unlike the manner in which Canadian structures of state, church, law and academia are premised on separation as a fundamental and necessary value in a civilised society.” *Journeying Forward: Dreaming First Nations Independence* (Fernwood Publishing, Halifax, Nova Scotia, 1999) at 40.

<sup>17</sup> This study joins the work of John Borrows, James Youngblood Henderson, Patricia Monture Angus, Ani Mikaere and Moana Jackson in asserting traditional Indigenous laws as authoritative, legitimate and entirely viable for the continued governance of our indigenous societies even and perhaps especially within these contemporary times see John Borrows ‘Seven Gifts: Revitalizing Living Laws Through Indigenous Legal Practice’ *Lakehead Law Journal* 2:1 (2016-2017) 2-14 at 7 and *Drawing Out Law: A Spirits Guide* (University of Toronto Press, Toronto, 2010); James Youngblood (Sakej) Henderson’s ‘Post-colonial Indigenous Legal Consciousness’ (2002) *Indigenous Law Journal* 1:1; Patricia Monture Angus *Journeying Forward* above at n16; Ani Mikaere, “Tikanga as the first law of Aotearoa” *Yearbook of New Zealand Jurisprudence*, special volume: Part 1: Māori Laws and Values, vol 10, 2007 at 24-31; Moana Jackson “The Colonization of Māori Philosophy” in Graham Oddie & Roy Perrett (eds) *Justice, Ethics and New Zealand Society* (Oxford University Press, Auckland, 1992) 1-10.

because for a long time within our tribe many in-laws who had made such important contributions to the iwi had been considered members of the tribe in a way that the Crown's definitions of iwi members would not allow.<sup>18</sup> The fact that some individuals who have whakapapa to Ngāti Rangiwewehi, but have actually never been home to Awahou, and yet might have more rights than in-laws who have dedicated their lives to the iwi, did not sit comfortably with some tribal members and their understandings of our traditional values. Similarly, some of the models advocated by the Crown at that time were not entirely appropriate for the way Ngāti Rangiwewehi define ourselves or the way we operate as an iwi (tribe).<sup>19</sup> For example, many of our people objected to the potential requirement to identify themselves by only one hapū (sub-tribe) or through only one line of descent. To do so might be convenient for the reductionist mechanisms favoured by the Crown, but it would deny the fullness of our tribal whakapapa links thus misrepresenting who we are, both collectively and individually.

Consequently, having recently completed a master's project under the supervision of the tribe, and having been a part of the iwi claims research team, the suggestion was made that if I was considering embarking on a doctoral study, then now might be a convenient time to situate my work in a dedicated iwi kaupapa. The issues in relation to constructing an appropriate post-settlement governance entity that could meet the criteria stipulated by the Crown, and our own aspirations for greater realisation of our Rangiwewehitanga, would provide a topic that might

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<sup>18</sup> Ngāti Rangiwewehi Claims Settlement Act 2014 s14 outlines the meaning of Ngāti Rangiwewehi, which defines the group both collectively and as individuals.

<sup>19</sup> Hirini Moko Mead discusses his dissatisfaction with the process of developing and forming the post-settlement governance entity: "the other huge concern is the matter of governance and in our view the situation there is not satisfactory. The Crown and Iwi need to sit together and work out some models, governance models that claimants can choose from, choose whichever one they want, and not go through the agonising debates that we went through. And the issues are, first, Government policy of not using, not supporting the governance structure with an Act of Parliament. And for us that's an issue because our Trust Board was set up by an Act of Parliament. What is proposed as a replacement has no statutory authority at all and it has less mana than what we have now. Under Government settlement policy, Ngāti Awa is required to create a new governance structure to receive the settlement assets. This means that the Crown wants Ngāti Awa to give up its statutorily recognised Māori Trust Board status: So that's an issue the fact that this new governance body that the Crown wants us to set up is not really the kind of body that we want. We want one that does have good legal standing, firm legal standing, is Māori friendly, that meets the needs of our people, that meets concerns of tino rangatiratanga and that is also supported by an Act of Parliament, rather than relying on present laws dealing with Trusts." Crown Forest Rental Trust (CFRT) *Māori Experiences of the Direct Negotiation Process: Case Studies and Personal Experiences of Various Negotiators on the negotiation process with the Crown to settle claims under the Treaty of Waitangi* (Crown Forest Rental Trust, Wellington, 2003) at 9.

add a new and much needed contribution to the academic field, but most importantly would be of some practical utility and benefit for the iwi.<sup>20</sup>

Effectively the iwi plan was to hold a series of wānanga to provide a forum for in depth discussion of these issues. I was asked to support the facilitation of these hui. It was hoped that those wānanga in combination with insights from the literature relevant to Māori and iwi governance and information from our wider tribal archives would enable us to identify the underlying values and principles that were important to the iwi and that we wanted embedded within our post-settlement governance entity. From there, it was anticipated that information gathered in this research would support the iwi to identify and construct the most appropriate model or structure to assist us to realise our broader aspirations for self-determination.

As a necessary step, then, within our tribal requirements, I devised a proposal outlining the doctoral study for submission to the iwi. At an iwi hui-a-mārama (monthly meeting) I was asked to stand and speak to the project, and those present were afforded the opportunity to ask questions and comment on the thesis question and structure of the proposed study. The initial proposal was approved, and I received permission to go ahead with my application to the university and start my conditional enrolment. In connection with ongoing discussions with members of the tribal governance group who formed an informal tribal supervisory committee, we began to develop in more detail “our” approach to the project. However, the ‘agreement in principle’ was signed between Ngāti Rangiwewehi and the Crown in June of 2012.<sup>21</sup> During the time that it took to develop my full proposal, due to the rapid progress we were making and influenced in part by a desire to have the *Deed of Settlement* completed before the up-coming election, the Crown decided that they would fast track our direct negotiations, which radically shifted the timeframes we had to work with. The new, and more limited, timeframes also meant

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<sup>20</sup> This utility is important. Linda Tuhiwai Smith reminds us that indigenous communities have “to be convinced that the research project is worthwhile and in their interest.” Tuhiwai Smith, above at n1 at 141. This study was borne from within the iwi, adherent to the needs and goals of our community, and driven in every aspect by tribal supervision.

<sup>21</sup> The settlement of Treaty claims via direct negotiations follow a set process. First the tribe must be invited to participate in direct negotiations. Then they must be able to demonstrate that the negotiators have the mandate of the tribe to reach a settlement. From there the parties must reach an Agreement in Principle, about what the substantive breaches were that occurred. Parties will then negotiate the Heads of Agreement, which outlines the basic components that will be covered in the Crown apology and the redress package. From there the Deed of Settlement is negotiated, which determines the finer details of the settlement package and once the Deed of Settlement has been agreed to these components are drafted into legislation. There are three readings of the legislation before it is passed, and on the point of the legislation being passed into law the settlement is considered legally complete. For more information see Office of Treaty Settlements (OTS) *Ka tika a muri, ka tika a mua He Tohutohu Whakamarama i Ngā Whakataunga Kereme e pa ana ki te Tiriti o Waitangi me Ngā whakaritenga ki te Karauna. Healing the past, building the future A Guide to Treaty of Waitangi Claims and Negotiations with the Crown* (Office of Treaty Settlements, Wellington, 1994).

that the original iwi plans and project intentions to hold a series of wānanga and give everyone an opportunity to take their time considering the best way forward for the iwi had to be reconsidered.

However, and I will return to this point later, the Crown's standards are not ours, and there was a general feeling reflected in many of the interviews and conversations I had throughout the project, that the discussions and decision-making were rushed as a result. Some felt they were not given the time needed to gain a finer understanding of what the Crown had actually offered and which components the tribe were agreeing to. Indeed, within this present study I argue that this management, or mismanagement of the process, by the Crown has significantly contributed to a number of issues for almost every iwi engaged in the settlement process.<sup>22</sup> Such issues could be minimised if the Crown were willing to honour the process and the iwi involved, and were more open to sharing power and control with tribes throughout the negotiations particularly in regard to the consequent settlement arrangements that follow. The current process is not set up to bring about justice, only the appearance of it.<sup>23</sup> Arguably, if Ngāti Rangiwewehi had been able to follow our own processes, then many problematic issues could have been avoided completely, while others could have been managed in ways that might not have to lead to the internal conflicts and splits that so many iwi have endured as part of the settlement process. Unfortunately, as is the case with settlement journeys, you must learn as you walk the path, and whilst hindsight has taught us a great deal it came too late to alter our experiences. That being said, I still maintain that throughout the process Ngāti Rangiwewehi did the best we could with the resources, knowledge and experience that we had access to at the time.

Ultimately, the change in the timeframes and the lack of any real or viable alternative models of governance considered acceptable to the Crown meant that Ngāti Rangiwewehi were effectively put in a position where the easiest way forward, was to accept the Crown's template

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<sup>22</sup> For a fuller discussion of some of the criticisms Iwi had of the process and the Crown's conduct through the process see *CFRT Māori Experiences of the Direct Negotiation Process* above at n19.

<sup>23</sup> Peter Addis has made these observations about the justice of the settlement process: "I think the reality is that while we're going to be asked to sign a full and final settlement over this particular round, it won't be full and final because the Government simply can't afford to make it full and final. That's the reality. They haven't got enough money to compensate us fairly for the breach that occurred. And everyone knows that... While there's a perception that the thing should be fair and just, it just simply isn't, it's not fair and just. This is just a process where the Government gives us some money to get on and do some things, hopefully we can use that money to create a platform for our own tribal development." *CFRT Māori Experiences of the Direct Negotiation Process* above at n19 at 10.



for the post-settlement governance entity.<sup>24</sup> This posed some interesting challenges for this doctoral study. While some minor changes were expected, it was hoped that as the doctoral project itself evolved it would also be possible to consider what steps might be necessary after the acceptance of the Crown's template in order to ensure that the post-settlement governance entity could be capable of realising the iwi aspirations for self-determination and the maintenance of our Rangiwehita.

As the project continued, this objective became increasingly difficult to conceptualise. How could an entity, constructed within and subject to the coloniser's legal system, support Ngāti Rangiwehi in the realisation of our self-determination and tino Rangiwehita? Although I could accept that a post-settlement governance entity might enable us to move towards some of our collective goals, the entity as imagined within the Crown template sits at odds with the intentions of the settlement process to deliver a governance body that could guarantee our Rangiwehita. How could any governance structure meet Ngāti Rangiwehi's expectations when the system it is drawn from neither acknowledges or understands what Rangiwehita is, nor wishes to make the necessary space for it within the governance of our affairs? Numerous experiences throughout the negotiations process highlighted the realities of this situation far too many times to be able to ignore. It is also important to point out that even though an original focus of this thesis was related to the development and evolution of our tribal governance systems and our aspirations for the post-settlement governance entity, it is imperative that we do not lose sight of the fact that the post-settlement governance entity itself, although an important part of the Crown defined process, was never the objective of our settlement. The post-settlement governance entity is simply a means to an end, and this study maintains that the end which the Crown appears to have in mind remains vastly different from that of the iwi.

Iwi aspirations for the settlement were to provide a pathway whereby the Crown could make amends for the wrongs we have experienced at their hands, allowing us to move forward together as partners under our Treaty arrangements, better positioned to realise our long-term vision. From a Ngāti Rangiwehi perspective, this vision is for the iwi to be completely self-determining in all our affairs, both as a tribal collective and as the individuals who give life

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<sup>24</sup> In 2006 the New Zealand Law Commission explored the available options for Maori and Iwi governance identifying the limitations and issues with the existing models and proposing an alternative. The 'Waka Umanga' model never eventuated, the problems and issues the report identified continue to maintain significant barriers for Maori and Iwi organisations and 12 years later we are still no closer to a suitable alternative. See *Waka Umanga: A proposed law for Māori governance entities* (Report 92, Wellington, 2006).

and shape to that iwi grouping. As such, if the study was to focus exclusively on the post-settlement governance entity it would be unable to take into account the existing governance framework and the broader cultural context of which the new governance entity would become a part. Furthermore, the emphasis on entities and models seemed to be privileging the dominant Western corporate notions of governance, rather than making space for our own understandings of what governance could look like for the tribe within this new post-settlement governance era. Consequently, this dissertation became more of an exploration of what governance means to Ngāti Rangiwewehi, considering how we might assert our Rangiwewehitanga in and through our post-settlement governance arrangements. Although these changes somewhat broaden the scope of the original project, the underlying intentions remain the same: to create viable pathways and strategies to ensure the short and long-term well-being of the tribe through the affirmation of our Rangiwewehitanga.

#### **1.4 Overview of the thesis**

This opening chapter has sought to familiarise the reader with the context from which this research was born, presenting myself as the researcher, my subjectivities and therefore my qualifications to undertake this study as a result of the very personal connection and investment I have in the aims and objectives of the project. This initial introduction also hoped to foreground who Ngāti Rangiwewehi are as a people, how this research project developed from the context of our settlement journey and how we come to be exploring the evolution of our governance and the possibilities that exist to assert our tino Rangiwewehitanga in and through our post-settlement governance arrangements. The opening chapter unpacks the overarching research question, and the primary arguments the study advocates, concluding with an overview of the structure of the remaining chapters to prepare the reader for the journey you are about to take into a Ngāti Rangiwewehi paradigm for understanding and experiencing governance beyond the narrow confines it is commonly associated with in its more common corporate legal Western settings.

Chapter two provides some guidance on ways to read and understand the thesis by introducing the reader to the theoretical and methodological frameworks within which the study is positioned. ‘Te Riu o Tane Mahuta’ is introduced as a way of conceptualising Rangiwewehitanga as a tribal archive filled with rich and insightful knowledge and ancestral teachings, embedded with the core values and concepts central to understanding how we

traditionally sought to govern ourselves, our resources and our interactions with the world around us. Chapter two examines Rangiwewehitanga as *the* framework that oversees the governance of the research and methodology of this thesis. Drawing on the important work done by kaupapa Māori theorists and activists who established the academic foundations of this body of literature and first began to carve out Māori space within Universities, this study then turns this cultural focus into a more explicitly refined Rangiwewehi emphasis.

Anō ko te riu ō Tane Mahuta seeks to articulate a Rangiwewehi-centric approach to research. It surveys the key aspects Rangiwewehitanga offers our research practice and how the specific use of tribal wānanga provides an explicit framework for Ngāti Rangiwewehi insights that are therefore pivotal to understanding how knowledge is appropriately co-constructed and disseminated as a methodology for culturally appropriate ways of collecting, analysing, evaluating, disseminating and then synthesising our knowledge through research. Reflecting the wider themes throughout the study, this chapter asserts the importance of grounding our governance approaches in our traditional teachings and understandings, affirming that if this work is to have the transformative impact it aspires to, it must advance and utilise methods that have meaning and relevance for the people the research purports to advocate for. This chapter, then, outlines a research theory, methodology and method that was designed by Ngāti Rangiwewehi for Ngāti Rangiwewehi that will still hold relevance and meaning for other tribal and indigenous peoples while offering important learning and insights for non-indigenous peoples as well.

Chapter three situates this study within the intersecting bodies of literature on governance and the law, identifying the boundaries and limits within the field in order to clarify the important contributions this study stands to offer not only Ngāti Rangiwewehi, but also other Māori and Indigenous tribal perspectives. This chapter also offers potential feedback and advice of benefit and utility within the wider New Zealand context, to our colonial government, its various institutions and the systems and discourses that work to maintain the status quo. Western capitalist colonial notions of the term governance dominate the literature. These notions, imbued with mono-cultural bias, are reiterated in and via the fabric of idealised Western governance models, structures, institutions, systems and practices. What began as a theoretical conception is soon elevated into dogma that delineates a particularly Western conception of what good governance is, how it should be executed, by whom and for what purposes. Thus, this chapter identifies an assumption about governance that the remainder of the study then seeks to critique in its assertion that Ngāti Rangiwewehi have our own ways of understanding

governance. The contribution this study seeks to make to the field of governance within the discipline of legal studies goes beyond a mere clarification of how best to assert and articulate our self-determination and tino Rangiwhewhitanga in this post-settlement governance era. Moreover, the dissertation posits that an expansion in the understanding of what counts as good governance, and whose perspectives and insights are included in that discussion holds great potential to improve not only tribal and indigenous governance, but local and national mainstream governance practices also.

In chapter four the study more closely examines the potential of Rangiwhewhitanga as a decolonial governance paradigm to empower Ngāti Rangiwhewhi to be self-determining in and beyond this post-settlement governance era. This chapter then provides a cursory exploration of some aspects of the broader conceptual frameworks found in tikanga and kawa, not only as a system of law and governance, but as the first system of law and governance to operate in Aotearoa New Zealand. Thus, our tikanga and kawa, and intricately interrelated concepts such as whakapapa, provide effective systems for ordering and organising our world. They enable a framework to understand who we are, where we come from, what makes us unique, and how these combine to influence and shape how we see the world, our place in it, and appropriate ways for us to meaningfully exercise our governance today. This chapter asserts that Ngāti Rangiwhewhi, like all iwi Māori, had our own legitimate systems of law and governance prior to the arrival of the colonisers. Despite obvious differences between our two cultural backgrounds and the governance models that grew out of those points of origin, this study maintains that there are spaces for us to work both within and beyond the oppressive colonial system that currently dominates our own, until such time as the colonisers begin to embrace their responsibilities as Treaty partners. Unpacking our poutokomanawa kōrero allows not only a journeying into traditional knowledge through our stories, songs and tribal sayings, but a discussion of the relevant teachings held within those stories that are central to understanding Rangiwhewhitanga as a decolonial paradigm of governance. Rangiwhewhitanga, and its inherent tikanga and kawa provides the basis upon which we governed ourselves and our interactions. These insights provide an essential and foundational element in facilitating our tribal capacity to assert and maintain our self-determination and tino Rangiwhewhitanga in a post-settlement governance era.

Having discussed traditional Ngāti Rangiwhewhi frameworks for governance in chapter four, chapter five moves on to consider our engagement with the colonizers and the way our people functioned as a strong and dynamic society exercising authority, which overtime was slowly

eroded and usurped by the machinations of the colonizers. Utilising a well-known tribal proverb within the title, ‘Upoko Tu-takitahi’ alludes to the head-strong and determined nature of the tribe reflected in the examples within this chapter in a stubborn insistence on our right as tangata whenua to govern our own affairs. The chapter surveys historical and contemporary occasions where Ngāti Rangiwhewehi have asserted our autonomy and agency to deal with our affairs as we see fit, and yet our right to do so was ignored and denied and we were taught about the colonizer’s hypocrisy, and their capacity for dishonesty, injustice and ignorance.

In our history we find the path colonization forged from our former independent sovereign state to our current neo-colonial reality. Chapter five shows that since the arrival of our colonisers and invaders, Ngāti Rangiwhewehi have always maintained and assumed the mantle and mandate to govern our lands, resources and people, in accordance with our ways of seeing and being in the world. However, it is equally apparent that the New Zealand government has, with equal consistency, sought to undermine Māori and tribal self-governance in favour of asserting and maintaining their own authority and legitimacy.<sup>25</sup> This underlying intention has not changed.

However, and pertinent to the central argument of the study, this chapter demonstrates that despite seemingly insurmountable odds there is always space for Ngāti Rangiwhewehi to insist on and prioritise our ways of knowing and being. To that end, chapter six lays out a pathway for Ngāti Rangiwhewehi to ground our governance entities and practices in our traditional knowledge base, and to form a strong foundation from which the tribe can articulate and assert our self-determination and tino Rangiwhewehitanga in and beyond the post-settlement governance era. Highlighting the importance of maintaining the long-term collective vision articulated in the tribal vision document, chapter six identifies key areas that must be appropriately addressed to empower the iwi to realise its aspirations to implement and support this objective. The chapter also proposes an initial strategy to create movement and provoke further engagement for transformation within the tribe, whilst simultaneously improving existing governance structures, arrangements, and addressing a range of wider tribal issues.

Chapter seven draws together the overarching threads and arguments of the thesis, summarising the key points and recommendations that have been woven throughout the text to create this offering. In this concluding chapter, as in preceding chapters, the central argument affirms that

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<sup>25</sup> See for example Dr Robert Joseph “The Government of themselves: Indigenous Peoples’ Internal Self-Determination, Effective Self-Governance and Authentic Representation: Waikato–Tainui, Ngai Tahu and Nisga’a” (unpublished doctoral thesis, University of Waikato, Hamilton, 2006).

tribally grounded frameworks hold the key to our empowerment and self-determination. Similarly, Ngāti Rangiwewehi's consistent and resounding intention, from our ancestors through to present times, is to assert our tino Rangiwewehitanga in all aspects of our tribal affairs, including our governance frameworks. That we can still do so, carves out a space for success as we move into and beyond this new post-settlement governance era. This chapter then reaffirms the relevance of Rangiwewehitanga within the disciplinary parameters of governance and law, highlighting the significance of this study's contribution to the discipline both locally and internationally, and asserting its relevance beyond Ngāti Rangiwewehi borders.

## 2. “Anō, ko te Riu ō Tāne Mahuta”: Theoretical and Methodological Frames.

The whakataukāi (tribal proverb) that headlines this chapter is drawn from well-rehearsed tribal narratives that recount the death of a significant Ngāti Rangiwewehi kaitiaki (guardian), Pekehāua. It is this same ancestor and sentinel who also features in the naming of this thesis.<sup>26</sup> In English, this aphorism describes the remains of Pekehāua, as being “like the hollow trunk of Tāne Mahuta”<sup>27</sup>, a description of the bare ribs of the taniwha (powerful creature or monster) after he was killed, and the remains of those he had consumed had been extracted from his body. This graphic imagery, and its attendant metaphorical implications, is apt in discussing a uniquely Rangiwewehi way of framing knowledge and the processes we employ to gather, assimilate and engage with our tribal mātauranga (knowledge). Pekehāua had served for a long time as our protector, patrolling our territories and dispatching any rāwaho or foreigner within our tribal boundaries unannounced or unwelcomed. This literal ingestion and embodiment accentuates the key idea that our tribal guardianship is one that, ensures stories and any teachings that traverse our community are appropriately digested in order to be safely and properly housed within a Ngāti Rangiwewehi frame of reference and custodianship. This whakataukāi, as it is applied here, asserts that this framework and body of Rangiwewehi knowledge is paramount in both the theoretical and methodological foundations of this study, and the governance frameworks of the tribe. Thus, the saying reflects our “epistemological constructs”, “cultural codes, and world views”, and privileges Ngāti Rangiwewehi historical accounts that emphasise the importance of maintaining and protecting our knowledge base as essential to ongoing tribal well-being.<sup>28</sup>

This proverb continues a recurring theme of the thesis: that there is inherent value in tribal mātauranga as a storehouse of knowledge that enables traditional understandings of law and governance to guide us in contemporary times. Just as kawa and tikanga<sup>29</sup> provide the legal

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<sup>26</sup> Hirini Moko Mead & Neil Grove *Ngā Pēpeha a ngā Tūpuna* (Victoria University Press, Wellington, 2004) at 17; Richard Taylor *Te Ika a Maui: New Zealand and its inhabitants* (AH & AW Reed, Wellington, 1870, reprinted 1974) at 161.

<sup>27</sup> Ibid, Mead & Grove.

<sup>28</sup> The use of oral narratives and “pūrakau” to express indigenous epistemologies, values, codes, and worldviews is commonplace in native research. See Jenny Lee, “Decolonizing Māori narratives: Pūrakau as a method” (2009) *Mai Review* 2 3 at 1. This is crucial, and is highlighted by Linda Tuhiwai Smith, who urges a “bringing to the centre and privileging [of] indigenous values, attitudes and practices, rather than disguising them within Westernised labels.” Tuhiwai Smith, above at n1 at 125.

<sup>29</sup> “Tikanga may be seen as Māori principles for determining justice. Tikanga grew out of, and was inextricably woven into, the spiritual and every day framework of Māori life. Besides, as moral and ancestral authority, tikanga adds rationale, authoritativeness and control which is timeless. In that sense tikanga can be defined as law in its widest sense, while kaupapa and kawa is the process and ritual of tikanga.” Ministry of Justice, *He Hinātore* above at n6 at 10. Although, as evidence of tribal variation, within Te Arawa and Ngāti Rangiwewehi our understanding

framework for the organisation of Māori and Rangiwewehi communities, they also provide culturally safe and ethical frames of reference that drive the best outcomes for these collectives. Local indigenous kōrero (sayings and stories) and their inherent tikanga, then, are now more commonly applied in the framing of the theory and methodologies for research projects within indigenous communities worldwide.<sup>30</sup> Furthermore, they emphasise the inherent potential of our culturally grounded theories, as Leonie Pihama notes, in “deconstructing dominant constructions that have been imposed upon Māori people through processes of both overt and hegemonic violence. This allows Māori people to move outside of dominant constructions to reconstruct Māori institutions within our definitions and frameworks.”<sup>31</sup>

This thesis follows a natural progression from my earlier masterate study “Anō, ko te riu ō Tāne Mahuta.”<sup>32</sup> This was the first assertion of te riu ō Tāne Mahuta as a framework that best embodied Rangiwewehitanga (Rangiwewehi knowledge). Within that framing, “Anō, ko te riu ō Tāne Mahuta” explored those features that make us uniquely Ngāti Rangiwewehi, and considered what we would need to know, teach or learn, in order to best strengthen our Rangiwewehitanga. With a focus in educational and pedagogical instruction it asked, how might we frame a curriculum for imparting and expanding our cultural essence and collective strength?<sup>33</sup> Within the broader context of the present study, this focus is shifted from a question grounded in the fields of education and pedagogy to a consideration of law and governance. In a legal framework, the outcomes remain similar in the continued demonstration that Rangiwewehitanga is a paradigm for de-colonial tribal well-being. Within the further context of this chapter, Rangiwewehitanga also provides the ideal foundation from which to develop theories and methods of culturally transformative tribal research that align with our specific

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of kawa and tikanga is almost the opposite in that although the understandings are effectively the same the words are reversed. For us the tikanga are the processes, rituals and regular enactments of the broader jurisprudential framework embodied within the principles and core values that are kawa. See also Mead, Hirini Moko *Tikanga Māori Living by Māori Values* (Huia Publishing, Wellington, 2003) at 7 for a discussion of this distinction.

<sup>30</sup> Indigenous centred research encourages local stories and knowledge as foundational interpretive frames of reference that better voice and present native knowledges and perspectives. Ranginui Walker’s seminal history of Māori and New Zealand, for instance, is itself based on a proverbial saying “ka whawhai tonu matou”. Ranginui Walker *Ka Whāwhai Tonu Mātou, Struggle Without End* (Penguin, Auckland, 1990). Māori have long used, and continue to utilise, whakataukī and kōrero to frame and configure their theses and arguments. See for instance, Graham, H. Smith, ‘Tāne-nui-a-rangi’s legacy: Propping up the sky. Kaupapa Māori as resistance and intervention’, *Creating Space in Institutional Settings for Māori* (International Research Institute for Māori and Indigenous Education, Auckland, 1992). Naomi B Simmonds ‘Tū te turuturu nō Hine-te-iwaiwa: Mana wahine geographies of birth in Aotearoa New Zealand’ (PhD thesis, Waikato, 2014).

<sup>31</sup> Leonie Pihama, ‘Tungia te Ururua, kia tupu whakaritorito te tupu o te harakeke: A critical analysis of Parents as First Teachers’ (MA thesis, Auckland, 1993) at 13.

<sup>32</sup> Mahuika, above at n2.

<sup>33</sup> Ibid.



ethical requirements, whilst connecting with and building upon the considerable body of Kaupapa Māori research theory and literature, which is highly influential with Indigenous researchers<sup>34</sup> and is steadily gaining recognition and acceptance even within mainstream government institutions in New Zealand.<sup>35</sup>

This chapter draws on oral and written tribal archives to discuss our practice and understandings of governance, including the governance of the research. It begins to explore how the kawa and tikanga inherently embedded within Rangiwhewehi knowledge offer insights into culturally appropriate ways to govern the research and methodology of this thesis project. Although it is the intention of this study to openly privilege Ngāti Rangiwhewehi frames of reference, this does not mean we are opposed to non-Rangiwhewehi or even non-Māori theories or methods, insights or approaches. Indeed, our ancestors were always innovative, and enterprising, and like them we are open to whatever possibilities might be of benefit or advantage to the collective.<sup>36</sup> Within this chapter then we will explore the rich tapestry of methodological and theoretical strands that have been woven together in this project, unpacking both the academic and cultural considerations that shaped and influenced the process and protocols that were employed: “An eclectic use of theory and method has its advantages, in that it allows new ideas and possibilities to assist rather than claim or colonize spaces that, in this instance, have long resisted foreign invasion.”<sup>37</sup>

The chapter offers the potential for explicitly Ngāti Rangiwhewehi grounded articulations of tribal research theory and methodology that draws on kaupapa Māori insights and understandings, whilst also identifying those features of oral history theory that empower our aspirations and therefore warrant inclusion within this project’s theoretical and methodological toolbox. After exploring whakapapa as a central organising system within Māori society generally, this chapter will further highlight the insights and understandings that whakapapa as a framework offers in both the governance of our tribal research and the governance of our

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<sup>34</sup> The inclusion of Linda Tuhiwai Smith as part of the editorial board for the *Sage Handbook of Critical and Indigenous methodologies* shows the respect that her work has gained, and the important contributions it is making to Indigenous critical theory beyond New Zealand’s shores. Norman K Denzin Yvonna S Lincoln & Linda Tuhiwai Smith, (Sage Publishing, London, New York, 2008).

<sup>35</sup> ‘Te Kotahitanga’ was a successful kaupapa Māori educational initiative aimed at improving educational outcomes for Māori see R Bishop & M Berryman *Te Kotahitanga: Culturally responsive professional development for teachers* (Routledge Taylor & Francis Group, New York, 2010).

<sup>36</sup> A number of visitors, including French missionaries and Thomas Chapman, complained while in the Rotorua region “of what they described as ‘extortionate’ Māori demands for payment. But such demands - for permission to cross rivers and streams, guides, canoe hire, food and other services – were in themselves no more than evidence of Māori commercial acumen.” V O’Malley & D Armstrong *The Beating Heart A Political and socio-economic history of Te Arawa* (Huia Publishing, Wellington, 2008) at 10.

<sup>37</sup> Mahuika, above at n2 at 17.

wider tribal affairs. From there the chapter explores how our use of tribal wānanga provides a framework for gaining deeper insights and understandings into our culturally based understandings of co-constructing knowledge, and appropriate cultural ethics for collecting and disseminating knowledge within and beyond our communities.

Wānanga also provides a useful framework for considering tribally based theory, methodology and methods which enable and empower tikanga and kawa as the ethical scaffolding for culturally appropriate ways of collecting, analysing, evaluating, disseminating and then synthesising our knowledge through research.<sup>38</sup> Wānanga have the further benefit that they adapt easily to the tribal variations in tikanga and kawa and consequently are easily facilitated within our communities.<sup>39</sup> Reflecting the wider themes throughout the study, this chapter asserts the importance of grounding our research approaches, just like our governance approaches, in traditional teachings and understandings. This chapter advocates that our traditional teachings contain important guidance from our ancestors which have as much relevance and importance today as they did for our ancestors in the past. By advancing and utilising our own tribal research methods, real meaning and relevance is afforded to those for whom the research purports to advocate.<sup>40</sup>

While filling in te Riu, “the hollow” of Tāne Mahuta<sup>41</sup> with these stories, ideas, and concepts, this chapter echoes the theme within the wider study that our ancestral knowledge, as embodied in our whakapapa (genealogy), waiata (songs), karakia (incantations), reo (language), whakataukāki (tribal sayings), our kōrero tuku iho (oral histories)<sup>42</sup> and pūrakau (tribal stories)<sup>43</sup> hold important teachings and understandings that guide us toward better futures, long-term well-being and success.

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<sup>38</sup> Wānanga has been defined by the Waitangi Tribunal as “an ancient process of learning that encompasses te reo and mātauranga Māori... [It] embodies a set of standards and values. Waitangi Tribunal *The Wānanga Capital Establishment Report* (Legislation Direct, Wellington, 1999) at 21.

<sup>39</sup> Wānanga is a popular research methodology adapted by Māori researchers. See Shane Edwards *Localised Paradigms: Kaupapa Wānanga as a Paradigm for Research Methodology and Ethics* (issue 10 of a monograph, 2013) Naomi Simmonds ‘Wānanga: Regrouping methodologies from a Kaupapa Māori perspective’ *Institute of Australian Geographers & The New Zealand Geographical Society Conference*, Melbourne Victoria, 29 June-2 July 2014.

<sup>40</sup> “Centering” indigenous methods is, as Linda Tuhiwai Smith argues, crucial to ‘privileging indigenous values, attitudes and practices rather than disguising them within Westernised labels such as ‘collaborative research’ above at n1 at 125.

<sup>41</sup> Mahuika, above at n2.

<sup>42</sup> Nēpia Mahuika “Kōrero Tuku Iho: Reconfiguring Oral History and Oral Tradition” (PhD thesis, Waikato, 2012).

<sup>43</sup> Lee above at n28.

## 2.1 The Importance of Kaupapa Māori to a Study of Rangiwhewehi Governance

One of the very important methodological and theoretical strands of this thesis is Kaupapa Māori: an approach to research that advocates Māori-centred “epistemological” traditions which frame “the way we see the world, the way we organize ourselves in it, the questions we ask, and the solutions we seek.”<sup>44</sup> The use, privileging, and normalising of Ngāti Rangiwhewehi proverbs, pēpeha, principles, values and language that names and drives this thesis is inextricably connected and indebted to the deep literature in Kaupapa Māori theory and method that has long argued for the legitimacy of Māori ways of knowing.<sup>45</sup> While this thesis is grounded in Ngāti Rangiwhewehi definitions of governance, the methodological rationale and theorising for why this tribal knowledge is crucial to the argument proposed in this study is largely outlined in already existing Kaupapa Māori literature. Thus, while this thesis cannot simply be thought of as an exclusively Kaupapa Māori driven study, it absolutely aligns with, is inspired and informed by, Kaupapa Māori philosophies, methods and approaches. Indeed, this thesis is very much kaupapa Māori theory and method in action – a tribally centred study of how governance is defined and may be best practiced to enable and empower Ngāti Rangiwhewehi peoples and their aspirations and desires.

So, what is Kaupapa Māori and how is it important to this thesis? Kaupapa Māori is an approach to research that is now widely used by Māori researchers in multiple disciplinary contexts. It is not, however, a topic commonly written about in legal scholarship although Māori legal scholars have referred to it and used it albeit in only a few examples. Its popularity is reflected to some extent in the rapid growth of writing on Kaupapa Māori that has been produced in the last decade.<sup>46</sup> What is now defined as Kaupapa Māori research arose from twentieth century resistance and activism that insisted it was inappropriate for non-Māori researchers to continue

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<sup>44</sup> Linda Tuhiwai Smith “Kaupapa Māori research” in M Battiste (Ed.). *Reclaiming Indigenous voice and vision* (University British Columbia Press, Canada, 2000) 225-247 at 230.

<sup>45</sup> Rangimārie Mahuika “Kaupapa Māori theory is critical and anti-colonial” *Mai Review* 3:4 (2008) 1-16.

<sup>46</sup> See for instance, Shayne Walker Anaru Eketone & Anita Gibb “An exploration of Kaupapa Māori research, its Principles, Processes and Applications”, *Journal International Journal of Social Research Methodology*, 9: 4, 2006, 331-334; Leonie Pihama Sarah Jane-Tiakiwai & Kim Southey, *Kaupapa Rangahau: A Reader – A collection of readings from the Kaupapa Rangahau Workshop Series* (2nd Edition, Te Kotahi Research Institute, Ngā Pae o te Maramatanga, Waikato, 2015); Fiona Cram Kataraina Pipi Kirimatao Paipa “Kaupapa Māori Evaluation in Aotearoa New Zealand” In F Cram K A Tibbetts & J LaFrance (eds) *Indigenous Evaluation. New Directions for Evaluation* 159 (2018) 63-77; Tanner Pouarii “New Pacific Standard: Using Tivaevae to inform a new strategic business model for Pacific art and design” (MA Thesis, Auckland University of Technology, 2018).

carrying out research on Māori, and by a desire to create space for Māori to employ our own ways of knowing as valid and meaningful.<sup>47</sup> Kaupapa Māori has, in many ways, been seen as a response to research and the impacts on Māori peoples and their communities. It is not a simplistic rejection of colonial oppression and displacement of indigenous knowledge, but a proactive assertion of Māori ways of knowing and being based in traditional and ongoing tribal and living paradigms of knowledge. Kathie Irwin characterises it as research “which involves the mentorship of elders, which is culturally relevant and appropriate while satisfying the rigour of research, and which is undertaken by a Māori researcher, not someone who happens to be Māori.”<sup>48</sup> In these ways, Kaupapa Māori can be thought of as an approach to research that centres Māori practices, ethics, and ways of knowing. Graham Hingangaroa Smith has defined Kaupapa Māori as “the philosophy and practice of being Māori” and “a theory of change” while Linda Tuhiwai Smith has described it as “a social project” that is about “bringing to the centre and privileging indigenous values, attitudes and practices, rather than disguising them within Westernised labels.”<sup>49</sup> These attitudes, values, and paradigms in Kaupapa Māori, as Tuakana Nepe argues, have distinct epistemological and metaphysical foundations which date back to the beginning of time and the creation of the universe.<sup>50</sup> They are resonant in whakapapa (genealogy), waiata (songs), whakatauki (proverbs), tikanga (Māori law and protocols), kōrero tuku iho (oral histories), and in te reo Māori (the Māori language). Kaupapa Māori is connected to a history of activism, not just of the 1980s and the introduction of educational learning nests such as Kura Kaupapa Māori and Kōhanga reo, but to deep histories of Māori leadership and resistance exhibited by outstanding figures such as Te Kooti Arikirangi and Sir Apirana Ngata.<sup>51</sup>

In a very simple way, Kaupapa Māori philosophies and methods are about creating space for Māori to define our understandings of the world, from education, demography, geography, history, psychology, and the law, in our terms and by using our language, history, and cultural worldviews to do so. But Kaupapa Māori also has a wider intellectual span that includes

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<sup>47</sup> Smith, above at n 1.

<sup>48</sup> Cited in Smith, above at n1 at 184.

<sup>49</sup> Graham Smith, above at n30, describes Kaupapa Māori as “the philosophy and practice of being Māori” in “Tāne-nui-a-rangi’s legacy” at 1. Graham Smith also refers to it as a “theory of change” in “Whakaoho Whānau: New formations of Whānau as an intervention into Māori cultural and educational crises.” He Pukenga Kōrero 1:1 (1995) at 21; Linda Tuhiwai Smith, above at n44 at 233.

<sup>50</sup> T M Nepe “Te Toi huarewa tipuna. Kaupapa Māori an educational intervention system” (Unpublished master’s thesis, University of Auckland, Auckland, 1991).

<sup>51</sup> Graham Smith, “Whakaoho Whānau” above at n49 refers to the activism and leadership of Te Kooti Arikirangi and Sir Apirana Ngata as historical examples of kaupapa Māori resistance in action. In this way he notes how Kaupapa Māori theory is seen as a philosophical framework that underpins these resistance initiatives.

reference to philosophies and theories in de-colonialism, transformative praxis, critical consciousness raising, race, gender, narrative, memory, trauma, and liberation. Graham H. Smith, for instance, asserts that Kaupapa Māori is not ‘a rejection of Pākehā knowledge and or culture’, but ‘advocates excellence within both cultures.’<sup>52</sup> In reference to the Brazilian educationalist Paulo Freire, Smith notes how Freire’s linear theory of conscientization, where consciousness leads to resistance and transformative praxis has a similar yet cyclical experience in the Māori world.<sup>53</sup> Kaupapa Māori approaches and philosophies continue to evolve and grow as they illustrate Māori centred approaches to describe our ways of experiencing and defining consciousness raising, de-colonialism, historical trauma, the nation, and in this thesis, more specifically, governance.

While not written about extensively in legal scholarship, Kaupapa Māori is addressed by a number of Māori legal experts and commentators. In his doctoral study, for instance, Carwyn Jones drew explicitly on what he considered “key principles” in Kaupapa Māori methodology.<sup>54</sup> He argued that the application of Kaupapa Māori in his research related most importantly to the “epistemological framework and the conceptualization” of his project as a whole.<sup>55</sup> This thesis shares a similar sentiment and aim, but with an explicit Ngāti Rangiwewehi centred focus. Other Māori legal scholars have been less explicit about the place of Kaupapa Māori in their work. Writing on human rights and the law, Valmaine Toki notes how “marae justice” is focussed upon the collective rather than the individual in a setting that is culturally consistent with tikanga Māori and kaupapa Māori.”<sup>56</sup> While admitting that her work “probably falls within the general ambit of kaupapa Māori research”, Ani Mikaere writes that she had not “devoted much energy to investigating” Kaupapa Māori in any depth.<sup>57</sup> She warns that “[w]e should guard against producing a kaupapa Māori research elite, thereby simply proving that we can “do research” in the same rather smug, self-congratulatory way that

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<sup>52</sup> Graham Smith “Kaupapa Māori: Educational resistance and intervention in Aotearoa (New Zealand)” in Graham Smith (ed) *Higher education for indigenous peoples* (Auckland: Research Unit for Māori Education, 1993) at 5.

<sup>53</sup> See Graham Smith “Paulo Freire: Lessons in Transformative Praxis” in Peter Roberts (ed) *Paulo Freire, Politics and Pedagogy, reflections from Aotearoa-New Zealand* (Palmerston North: Dunmore Press, 1999) at 35-41.

<sup>54</sup> Carwyn Jones “The Treaty of Waitangi Settlement Process in Māori legal History” (unpublished PhD thesis, University of Victoria, 2013) at 39.

<sup>55</sup> Ibid at 41.

<sup>56</sup> Valmaine Toki & Natalie Baird “An Indigenous Pacific Human Rights Mechanism: Some Building Blocks” *Victoria University of Wellington Law Review* 40:1 (2009) at 230.

<sup>57</sup> Ani Mikaere “From Kaupapa Māori Research to Researching Kaupapa Māori: Making our Contribution to Māori survival” Key note Address for Kei tua o te Pae Hui Proceedings The Challenges of Kaupapa Māori Research in the 21st Century (Pipitea Marae, Wellington, 5-6 May 2011) at 29.

Pākehā do it and in the process replicating their exclusionary practices.”<sup>58</sup> Most importantly, she points out that in her work “one of the reasons why we don’t talk about kaupapa Māori research” explicitly is probably because “the principles it prescribes are simply taken for granted” and normative.<sup>59</sup> In this thesis, Ngāti Rangiwewehi ways of knowing are also considered normative and legitimate, yet this study also notes how this tribal knowledge relates to, and in many ways illustrates, many of the arguments and philosophies advanced in Kaupapa Māori writing and research. Thus, Kaupapa Māori ideas about centring, privileging, and legitimizing Māori language, tikanga, whakapapa and knowledge are entirely relevant to the method and structure of this study.

Although Kaupapa Māori is not explicitly or widely discussed in Māori legal scholarship, many of its underlying ideas are evident in the work of Māori legal commentators. As Carwyn Jones notes, for instance, “[i]n the field of criminal justice, Māori researchers such as Moana Jackson and Caren Wickliffe underpin their work with the assumption that one of the primary objectives of research in this area is to achieve some form of Māori self-determination or autonomy in the realm of justice.”<sup>60</sup> Moana Jackson has specifically argued that “kaupapa Māori theory has continually had to address the constant need to justify the legitimacy of the way we see the world.”<sup>61</sup> He argues that it has been part of the strategy that our people have developed to address “colonisation and the marginalising delegitimizing of Māori knowledge.”<sup>62</sup> Self-determination, autonomy, and the legitimizing of Māori perspectives in the law has a direct correspondence to the same philosophies inherent in Kaupapa Māori approaches. In this thesis, Ngāti Rangiwewehi articulations of governance are congruent with Kaupapa Māori methods and approaches that assert the need for Māori to regain control of our lives, and our culture.<sup>63</sup> Kaupapa Māori theory then provides a platform from which this study strives to articulate a Ngāti Rangiwewehi experience, understanding, and aspiration for governance that is not

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<sup>58</sup> Ibid at 31.

<sup>59</sup> Ibid at 32. It is important to note too that at the time this was written Ani Mikaere worked at Te Whare Wānanga o Raukawa, a Māori tertiary institution, and she had previously worked at a mainstream Pākehā university. In her keynote address she discusses the influence had on her work.

<sup>60</sup> Cited in Jones, above at n54 at 46; Jackson Moana *Māori and the Criminal Justice System: A New Perspective He Whaipanga Hou* (Department of Justice, Wellington, 1987) at 64; Caren Wickliffe, “A Māori Criminal Justice System in the Context of Rethinking Criminal Justice” in F. McElrea, ed., *Re-thinking Criminal Justice Vol. I: Justice in the Community* (Auckland, N.Z.: Legal Research Foundation, 1995).

<sup>61</sup> Moana Jackson “Research and the Consolation of bravery” Hui Reflection for Kei tua o te Pae Hui Proceedings, The Challenges of Kaupapa Māori Research in the 21st Century (Pipitea Marae, Wellington, 5-6 May 2011) at 72.

<sup>62</sup> Ibid.

<sup>63</sup> Russell Bishop “Initiating empowering research?” *New Zealand Journal of Educational Studies* 29:1 (1994) at 175-188.

merely an alternative to mainstream definitions of governance in Aotearoa New Zealand and internationally.

Kaupapa Māori in this thesis is multifaceted in that it informs the way the research of this study has been undertaken from a particular Māori view, but also the underlying arguments and philosophies that situate tribal knowledge at the heart of this research. So, while there is no neat decisive explanation for what Kaupapa Māori is, for the purposes of this project it is best illustrated in Rangiwhewehi terms, stories, and knowledge passed on and inherited. Kaupapa Māori as a method advocates te reo Māori, but that language here can only be articulated in Ngāti Rangiwhewehi idioms and refrains if it hopes to capture and present a local meaning of governance that makes sense to who our people are.<sup>64</sup> This study also aligns with the idea in Kaupapa Māori approaches that the project outcomes and focus is driven by the needs and desires of the community.<sup>65</sup>

Kaupapa Māori philosophies and approaches, then are evident throughout this study. From the use of Rangiwhewehi proverbs, language and knowledge that headline Chapters and sections to the continual affirmation of our tribal narratives and mātauranga as definitive and legitimate explanations of our own legal underpinnings relevant to governance. Indeed, the body of this thesis reflects Kaupapa Māori approaches, aspirations and philosophies. Chapter four introduces the importance of deep pre-European conceptions of governance while Chapter five reveals how Ngāti Rangiwhewehi negotiated post-European arrivals and invasions with the intent to be self-determining in both the assertion and enhancing of our governing philosophies and models. Finally, Chapter six explores the possibilities for Ngāti Rangiwhewehi to demonstrate our commitment to retaining our autonomy, and knowledge as the focal point of how we propose to govern onwards and into the future. Kaupapa Māori, then, throughout this thesis, supports the enabling of methodologies that centre Rangiwhewehi knowledge and ways of knowing. It advocates the framing of our knowledge and our governance approaches in traditional teachings and understandings and draws our metaphors and ways of narrating to the

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<sup>64</sup> It has been suggested that language is also embedded with cultural beliefs, practices and understandings. For Kaupapa Māori, the language is a crucial part of how Māori express and take ownership of our ways of knowing and being. See G H Smith “Kaupapa Māori theory: Theorizing indigenous transformation of education and schooling” Paper presented at NZARE/AARE Joint conference, Kaupapa Māori Symposium, Auckland, December 2003; Linda Smith above at n39.

<sup>65</sup> This is emphasised for instance by Pare Kana ‘Kaupapa Māori theory’ Te Kura Toi Tangata Māori Education Postgraduate Conference, (University of Waikato, Hamilton, 3 December, 2007) and Linda Smith, above at n1 at 10.

fore, where the tribal knowledge held within “the hollow” of Tāne Mahuta enables our storytelling, ideas, and concepts to serve as the evidential base of this study.

In the sections that follow, aspects of Kaupapa Māori philosophy and theory are more explicitly outlined in the local tribal terms that serve as the contextual foundation of this thesis. The privileging of this knowledge, then, follows a Kaupapa Māori overview, where the papakōhatu (foundation stone), Tarimano stands as the geographical and epistemological basis on which much of the narrative and knowledge of Rangiwhewehi governance is found and remains firm and in place. The importance of Whakapapa is then accentuated as another important principle that is used in this thesis to discuss Ngāti Rangiwhewehi ideas of governance. Whakapapa was also used in this way by Carwyn Jones in his doctoral thesis and is part of the Kaupapa Māori approach he adopted, and through which he contended “the position and authority of the researcher is affirmed.”<sup>66</sup> Kaupapa Māori is also evident in the way wānanga is utilised in this thesis, and provides a Māori specific example of how governance works in practice. Finally, in this chapter, Kaupapa Māori can be seen in the notion of praxis, which Moana Jackson argues is necessary to transformation. He writes that the issue is “not so much how we go about the transformation, but what we need to transform”, and asks, “what are the things that will help our people survive and be whatever they wish to be?”<sup>67</sup> This thesis takes up that challenge, and in its evolution of Kaupapa Māori within the ultimate expression of Rangiwhewehitanga seeks to offer a local perspective that is most apt, accountable, and culturally appropriate in order to find the answers. As this study will attempt to demonstrate, Rangiwhewehitanga provides both a source of those “things that will help our people survive and be whatever they wish to be” and the insights necessary to inform “how we go about the transformation.”<sup>68</sup>

## **2.2 “Ko Tarimano te Papakōhatu”: The Foundation of Rangiwhewehi Law, Governance and Research.**

For my people, Tarimano is our papakōhatu.<sup>69</sup> It stands as a foundation upon which the mana and authority we exercise emanates over the lands, water, and resources in our care. When it was placed in the whenua our ancestors recited karakia (incantations) and performed rituals to consecrate both the stone and the space. At that time our people were not yet identified as Ngāti

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<sup>66</sup> Jones, above at n49 at 48.

<sup>67</sup> Jackson, above at n56 at 76.

<sup>68</sup> Ibid.

<sup>69</sup> Tarimano is the name of both the marae generally and the papakohatu, or foundation stone, specifically.



Rangiwewehi.<sup>70</sup> We existed then as whānau and hapū, smaller and quite independent groupings whose loyalties were maintained by whakapapa connections to illustrious figures. One of these was the tupuna (ancestor) Ruao who journeyed to Aotearoa from the homeland Hawaiki. He planted the papakōhatu (foundation stone) we call Tarimano at the mouth of the Awahou river. He named the river “Te wai mimi ō Pekehāua” after his pet taniwha who accompanied him from Hawaiki and took up residence in a cave within the walls of the head spring Te Waro Uri. The waters of our river would forever keep the foundation stone cool and clean while dispersing its mana (spiritual power) and magic throughout the district through the water of our lake, Rotorua-nui-a-Kahumatamomoe. But “we” also existed before this place. The consecration of this papakōhatu, now newly positioned at Tarimano contained within it the mana and mauri (life force essence) of times before. Our kawa and tikanga - the guiding principles and teachings - that provided order and explanation across generations were contained and dedicated anew within this precious vessel. Thus, it serves still as both a protector and a reminder of where we have come from and who we are. In revisiting our traditional stories, teachings and insights we are living and practicing the law as Anishinaabe legal scholar John Borrows has discussed:

Law is best lived and practiced relationally. When we see law as a verb, not a noun, we understand it is something we do. Law is not an inanimate force that magically works without active human engagement. Learning and practicing law is about action.<sup>71</sup>

In recounting the story of our papakōhatu, we reconnect to the relationships of the places the stone has occupied before, and in each telling we recommit to maintaining those histories and the lessons they teach – mana tangata (status from personal actions), mauri (life force energy), mana motuhake (autonomy) – our connection to this place as our awa (river), our maunga (mountain), our whenua (land), asserting our authority and the reciprocal responsibilities and obligations that are embedded in that inheritance. This authority to preside and govern over these lands and people is, then, an inherited right proclaimed in the personal and collective statement of our tribe:

Ko Tiheia te maunga.  
Ko Awahou te awa.  
Ko Tarimano te marae.  
Ko Ngāti Rangiwewehi te iwi.

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<sup>70</sup> Our people were not yet known as Ngāti Rangiwewehi because the ancestor after whom Ngāti Rangiwewehi is named was not yet born. But whether he had yet been physically formed or not, the concept of whakapapa implies the connection throughout time and space that sees us always present in the dreams of our ancestors or the memories of our descendants.

<sup>71</sup> John Borrows “Seven Gifts” above at n17 at 7.

This is our pēpeha (tribal saying): a declaration of our political, cultural and spiritual birth-right that identifies the geographical, political, social and cultural boundaries of our people, mapping us physically and spiritually onto and into the land through which we claim our identity. Ngāti Rangiwewehi kuia Harata Hahunga has made these comments regarding the connection between our law and the cultural ties and philosophies that embedded our law within the land:

In a sense I think our law is written in the land. We personify the physical as our gods, tupuna, and of course ourselves so when we share our stories, we are literally drawing on or extracting that knowledge from the land. The law lives or dwells in the tupuna who also happen to be the land, water, our natural resources.<sup>72</sup>

Even our identification through the name of the tribe, Ngāti Rangiwewehi invokes generations of ancestors, their genealogy, beliefs, stories, history and culture and ties us to the lands that sustain these memories. It is within these histories and inherited frames of knowledge and reference that we find the explanations and definitions of Māori law and governance. To understand Ngāti Rangiwewehi governance, it is crucial to know that it is specifically situated within a geographical space, which gives us mana whenua. It is bound to particular ancestral lines of descent that give legitimacy to those who exercise power, and authority to those who exercise that power through whakapapa, which similarly bestows a wide range of rights as well as obligations and responsibilities on all of those concerned. Its operation within our traditional society was seamless, but through the settler-colonial-capitalist gaze was rendered, at least to their eyes and minds, invisible by their own conceptions of what ‘law’ ‘governance’ or ‘politics’ should look like. Today, then, these tribal sayings are also necessary assertions of not merely our indigenous identity, but how this distinctiveness is an inherited authority relevant to the governance and regulation of our tribal political affairs.

Encapsulated within the pēpeha (tribal sayings) above is a proclamation of authority over geographical areas, and the complex social and political networks or the interwoven multifaceted governance system that underpins what it means to be Ngāti Rangiwewehi. In this way, Ngāti Rangiwewehi governance and identity are inextricably connected. For those who possess the requisite cultural capital to understand, the references to governance embedded within our pēpeha (tribal sayings), te reo (language) and history of our people are both obvious and pivotal in expressing the many concepts of governance that are intrinsic to Rangiwewehi politics. The principles of governance are delicately woven through our cultural pillars, our

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<sup>72</sup> Harata Hahunga Interview 1 January 2013 Hamilton.

language, history and our traditions, and existed long before the ‘Crown’ or the word ‘kāwanatanga’ found purchase in our vocabulary or day to day lives.<sup>73</sup>

Although it is often easy to draw comparisons between ‘tikanga’ and the ‘law’, they are not simplistic parallel concepts. Tikanga and kawa encompass a far wider range and more sophisticated set of relationships, concepts and frameworks.<sup>74</sup> Within this complexity, the diverse array of contexts in which they can be overlaid reveal the brilliance of tikanga and kawa as a framework for governing all areas of our lives, from the practical and pragmatic, to the political, cultural and spiritual. Māori legal and governance frameworks can focus on the regulatory aspects of tikanga without any need, or desire, to separate them out from the broader spiritual and cultural aspects of tikanga. When utilising these frameworks in tribally based and administered projects such as this it is the spiritual, cultural and embedded ethical aspects that make indigenous developed research approaches essential. Harata Hahunga commented on the importance of creating these options as an alternative to:

the West’s default position of separating things out in a reductionist fashion. The same thing happens in governance where the orthodox view holds that good governance must separate governance from operations – that is such an artificial divide. The tūpuna used tikanga to navigate both elements. I’m not saying that separate governance arrangements are either ideal or bad but just that the West assumes there is only one way – their way. Many smaller Māori entities still use blended governance arrangements, and there are practical reasons for this eg size, lack of people to do the separate tasks, lack of funds to pay for people to do the different tasks.<sup>75</sup>

Given the supposed separation of religious and spiritual ideology within what is commonly accepted as the colonial legal and governance systems, the strong affiliation of our regulatory frameworks with our spiritual and cultural understandings has often been an argument used to undermine the authority and legitimacy of our systems. When asked whether tikanga in fact adequately describes a Māori system of law, Chief Justice Durie has contended that:

The question might more aptly be whether there were values to which the community generally subscribed. Whether those values were regularly upheld is not the point but

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<sup>73</sup> The word ‘kawanatanga’ is a transliteration of the English term kawatanga, which in the drafting of the Treaty of Waitangi in 1840 was used in the Māori version to denote the concept of sovereignty. This has for some time been the cause of a great deal of contention because in 1835 the Declaration of Independence was signed by a small group of Māori chiefs to acknowledge their sovereignty, but only five years earlier the word tino Rangatiratanga was used for sovereignty, rather than kawatanga. The concept of tino Rangatiratanga more closely aligns with the concept of sovereignty, and the implication was that the British had intentionally misled the signatories. See Claudia Orange *The Treaty of Waitangi* (Bridget Williams Books, Wellington, 2011); Mason Durie *Te Mana Te Kāwanatanga The politics of Māori self-determination* (Oxford University Press, Melbourne, 1998).

<sup>74</sup> See Ministry of Justice *He Hinātore* above at n6 and Hirini Moko Mead *Tikanga Maori* above at n29.

<sup>75</sup> Harata Hahunga above at n72.

whether they had regular influence. Māori operated not by finite rules alone, or even mainly, but as in Christian law, by reference to principles, goals and values that were not necessarily achievable. They were largely idealised standards attributed to famous ancestors.<sup>76</sup>

This connection to those who went before has been, and remains still, a significant motivation for generations in participating and fulfilling long held obligations to tūpuna (ancestors). Upholding the mana of your ancestor is a serious matter, and their presence, whether in the photographs that adorn the walls of our ancestral meeting house, the carvings that support the structure, or their presence a-wairua<sup>77</sup> (in spirit) has provided both inspiration and caution as required. In this way, governance is a personal relationship to tūpuna enacted as part of that collective relationship both past and present. For me, the role model set by my grandfather, and the sense of responsibility to fulfil to some degree the noticeable gap left by his absence has been an ever-present motivator for my own personal activity in the governance and politics of Ngāti Rangiwewehi. Governance as a birth right, then, is only meaningful when it is lived. In Ngāti Rangiwewehi, this living inheritance is passed on, for each a personal apprenticeship, which for me was experienced through informal training that prepared me for the roles I hold now. What this chapter points out in this regard has been that the system of law that governed traditional Māori society was markedly different from that of the colonisers, but was equally, if not more legitimate, even if it did come from different sources as Dr Carwyn Jones notes:

The different sources of law, whether those are waiata, kōrero pūrakau or kōrero tuku iho, our legal traditions are embedded in these essentially mnemonic devices, as ways of helping to remember the important legal principles that are contained within them. That means when we come to talk about law, when we come to engage in formative legal communication... the way that we engage in legal argument, think and identify important legal principles does need to be different.<sup>78</sup>

These sources and repositories of Māori law may not appear obviously different from the sources of mainstream law and governance, but they do require distinctive Māori interpretive approaches, a shift in the way we analyse them and a change in our perception of what counts

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<sup>76</sup>ET Durie “Custom Law Address to NZ Law Society for legal and social philosophy” 24 Victoria University of Wellington Law Review (1994) at 3.

<sup>77</sup> A simple translation is often offered as ‘spirit’, but wairua is much more than just spirit. “Wairua is an expression of forces beyond those of this world. While there is an important relationship between life and death, so there is also a crucial relationship between the physical and the special. Māori acknowledge the wholeness of life in which the wairua is ever present. It pervades all Māori values.” Ministry of Justice, *He Hināture* above at n6 at 184.

<sup>78</sup> Carwyn Jones “Māori Legal Theory as an Exercise of Self-Determination” (Manu Ao Seminar, 24 August 2011, retrieved from [www.manu-ao.ac.nz](http://www.manu-ao.ac.nz) seminars tab)

as a legal precedent or “legitimate” resource.<sup>79</sup> The sources Carwyn Jones refers to here are all oral sources. The orality of these sources were recorded and retained by our ancestors in multiple ways, through naming, stories retold in song or within carvings that adorn our ancestral meeting houses.<sup>80</sup>

### 2.3 A Whakapapa for Rangiwehita

E kimi noa ana i te timatatanga,  
o te ihi, te wehi, te mana, o ōkū tūpuna,  
whākina mai kei Ōrangikahui

These lines comprise the opening verse of the Ngāti Rangiwehi anthem, ‘E kimi noa ana’ which like other tribal oral traditions, conveys the knowledge and wisdom of our ancestors. For those who are appropriately trained, these treasured repositories of tribal knowledge reveal many of the values and principles that underpin a tribal theory of law and governance and have equal relevance and application within a Ngāti Rangiwehi framed approach to research. A possible translation of the verse asks, ‘where is the beginning point of the ancestral powers and authority of those of our ancestors who now lay at Ōrangikahui?’ The song then guides us through a number of sacred sites of significance to the tribe, alluding to the whakapapa and genealogical ties that connect us to those places and the histories and mātauranga embedded within both the land and the people. In doing so, the song begins to highlight the key concepts and principles that this thesis will continue to explore as it demonstrates Rangiwehita as a de-colonial and tribally grounded jurisprudence of governance. Perhaps the most important of these concepts and principles would be Whakapapa.

The word whakapapa itself actually means to lay one thing upon another.<sup>81</sup> It is often interpreted as genealogy, but the concept of whakapapa is far more nuanced and involved than a simple study of lines of descent. Whakapapa is one of the primary organising frameworks for

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<sup>79</sup> Waiata, pūrakau and kōrero tuku iho require language skills, but also specific tribal cultural knowledge in order to interpret their meaning correctly. These sources have also been dismissed as superstitions and “heresay” by colonisers who questioned their legitimacy. Nēpia Mahuika “Kōrero Tuku Iho” above at n42.

<sup>80</sup> Ibid.

<sup>81</sup> The online Māori dictionary offers one definition of the word whakapapa “to place in layers, lay one upon another, stack flat” see

<http://Māoridictionary.co.nz/search?idiom=&phrase=&proverb=&loan=&histLoanWords=&keywords=whakapapa> (last accessed 27 July 2018).

Māori society, locating a person or people within a specific geographical, historical, socio-cultural and political context, as explained by Te Arawa activist Potaua Biasiny-Tule:

Whakapapa contains an extensive narration of birth, of life, and of death, ensuring each individual finds a place to exist, to grow and to stand. Whakapapa is about family, but it is also an all-embracing cultural concept that allows us as Māori to access the past, to acknowledge our deep roots, to select exemplars of affinity and to take pride of place in the moving swirls of time.<sup>82</sup>

Whakapapa enacts a process and practice of connection necessary for the proper ordering of Māori society, linking people and places, history and memories in an all-encompassing structure of law and order. As whakapapa provided important connections within Māori society, these connections and the recognition of our relations went beyond our human brothers and sisters to acknowledge our wider relationship with mother earth and sky father, and all of our relations within the world as well. As a framework for governing regulation of societal behaviour, the reciprocal relationships articulated within whakapapa created both rights and obligations, and appropriate means of enforcement should individuals or collectives choose not to fulfil the legitimate expectations the context implied. The governance of these relationships extended the understanding of these familial ties to our relations within the natural world, and the resources that we relied upon to ensure our survival. Whakapapa therefore embodies a recognised and understood system of governing that once operated effectively to regulate societal behaviour and our engagement with the environment. By virtue of whakapapa the law is also embedded within us as descendants of the Gods. Within the context of this chapter, the understandings and insights whakapapa offer also has relevance for the way in which we govern our relational connections in and through our research practice. Thus, in providing the whakapapa down to Rangiwewehi I am literally describing and laying out the foundation for who Rangiwewehi was as a person, and also therefore who we are as a collective. This foundation is the same grounding for our understanding and approaches to research and indeed what enables our Rangiwewehitanga to take shape as a body of jurisprudence, or a decolonial governance paradigm.

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<sup>82</sup> Potaua Biasiny-Tule “Rangatahi is the twenty first century: a new century, a Māori millennium” in M Mulholland (ed) *State of the Māori nation twenty-first century issues in Aotearoa* (Reed Publishing, Auckland 2006) 169-178 at 175.

Whakapapa Table 1. Rangiwewehi<sup>83</sup>

Puhaorangi= <i>Kuraimonoa</i>
Ohomairangi
Tumamao
Mawake
Ruatapu
Atuamatua
Houmaitawhiti
Tamatekapua= <i>Motuotaku</i>
Kahumatamomoe= <i>Hinetapaturangi</i>
Tawakemoetahanga= <i>Tuparewhaitaita</i>
Uenukumairarotonga= <i>TeAokapurangi</i>
Rangitihi= <i>Papawharanui</i>
Tuhourangi= <i>Rongomaipapa</i>
Uenukopako= <i>Rangiwhakapiri</i>
Whakaue-kaipapa= <i>Rangiuru</i>
Tawakeheimoa= <i>TeAongahoro</i>
Rangiwewehi

Each of these names is more than just a representation of an ancestor, they also comprise an entire body of wisdom and experience, histories and lifetimes throughout which the values, principles and processes that have developed to shape how we govern, how we function, how we learn and pass on our learnings have been successively passed down over time.

Knowledge and understanding of who these ancestors are, and perhaps more importantly how they led to the creation of me, is not only a principal part of my identity as a Ngāti Rangiwewehi person, but a critical factor in how I came to be considered to fulfil a part of my tribal obligations through the carrying out of this project. There is an implication inherent in the knowing of my whakapapa and my past participation in the tribe that I have enough grounding in our tikanga and kawa, in my Rangiwewehitanga to be able to carry out this research in ways that will be in alignment with the guiding principles, values and beliefs of the tribe. As such, provision of my own whakapapa from my ancestor Rangiwewehi is a necessary qualification for this task.

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<sup>83</sup> H Hahunga 'Hahunga Family Personal Papers' private collection 2008.

Whakapapa Table 2. From Rangiwewehi to Rangimārie, through my Great-Grandfather<sup>84</sup>

Rangiwewehi= <i>Hinekurarangi</i>
Kererukaiwai= <i>Te Uruupoko</i>
Whakaokorau= <i>Tawhiri</i>
Kitengaroa
Timata= <i>Waiatara</i>
Wharawhara= <i>Te Tukitu</i>
<i>Te Mākao</i> =Te Kuha
<i>Te Taiawa</i> =Mateiwa
<i>Te Pukehuia</i> =Te Hāhunga
Kuramarere= <i>Hoana Kakawa</i>
Samuel Pekehāua= <i>Rangimārie</i>
<i>Harata</i> =Nick
<i>Rangimārie</i>

Whakapapa Table 3. From Rangiwewehi to Rangimārie, through my Great-Grandmother<sup>85</sup>

Rangiwewehi= <i>Hinekurarangi</i>
Kererukaiwai= <i>Te Uruupoko</i>
Whakaokorau= <i>Tawhiri</i>
Kitengaroa
Ngaepa
Uru
Aperahama= <i>Te Waipoporo</i>
Hākopa
Te Hehe
<i>Hoana Kakawa</i> =Kuramarere
Samuel Pekehāua= <i>Rangimārie</i>
<i>Harata</i> =Nick
<i>Rangimārie</i>

In certain mainstream views of research such close familial relationships with the research participants, and a strong personal investment in the outcomes and objectives of the project might imply that my subjectivity makes it difficult to be able to engage without bias or attachment. However, as Ngāti Huri geographer and Mana Wāhine scholar, Naomi Simmonds, has explained, as Māori and Indigenous researchers we make conscious decisions to divert from the Eurocentric monocultural ‘norm’ in order to highlight the issues we face: “My

<sup>84</sup> Ibid.

<sup>85</sup> Ibid.



methodology is deliberately subjective so as to accommodate and represent multiple, complex and sometimes contradictory experiences. Mana Wāhine does not seek to appear neutral.”<sup>86</sup>

Within our cultural framing of the world in terms of relations, the sharing of information, our knowledge and mātauranga inherently creates obligations and relationships intended to last beyond the project the information was shared to support. Indeed, this building of relationships is especially important to maintain proper accountability, something we have become increasingly insistent upon in light of past experiences of being ‘researched’. This has led to a significant preference to work with our own researchers, the implication being that their grounding in the culture will hopefully ensure they have a better understanding of tribal expectations, the kawa and tikanga, or the rules of engagement so to speak. Furthermore, your whakapapa connections create an added binding to ensure the time and energy invested in you through the research process and tribal induction enable the tribe and the individual to reap further benefits beyond the initial project.

In the context of business, Kahungunu scholar Chellie Spiller argues that this relational feature of Māori culture, which demonstrates external expression of tribal values and principles like manaakitanga and koha or gift giving, highlights the importance of honouring and enhancing the mana and mauri of those we engage with. These practices consequently give us a positive edge in developing transformative relations: “the Māori edge is relational and creates value in the spiritual, cultural, social and environmental dimensions, and value in those relationships can foster economic well-being in business.”<sup>87</sup> Similarly, there are inherent values and practices based in our cultural framing of the world that enables us to develop governance practice, research practice, educational practice and business practices that add value to all we do. Furthermore, these values and practices enable our people to move forward empowered to more fully live and experience their lives as Rangiwewehi.

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<sup>86</sup> Naomi Simmonds “Mana Wahine Geographies: Spiritual, Spatial and Embodied Understandings of Papatūānuku” (MSocSc Thesis, University of Waikato, Hamilton, 2009) at 51.

<sup>87</sup> Cherie Spiller ‘Relational Well-being and Wealth: Māori Business and an Ethic of Care’ in Selwyn Katene & Malcolm Mulholland *Future Challenges for Māori He Kōrero Anamata* (Huia Publishing, Wellington, 2013) 177-186 at 183.

## 2.4 Wānanga as Theory and Methodological Praxis

Wānanga are uniquely Māori articulations of ‘oral history’ that empower tribally grounded ethical foundations, and in this thesis provide vibrant examples of Ngāti Rangiwewehi governance in action.<sup>88</sup> For our people, oral history presented in wānanga are guided by our kawa and tikanga. It is a cultural practice steeped in ritual and tradition but evolves and adapts over time with the people. In this way our processes are able to both resist notions of ‘western’ democracy, law and governance all the while embracing and elevating our own articulations of these ideas within our specific and localised terms.<sup>89</sup>

This section explores the idea of wānanga, as a model of governance. It draws on several wider bodies of theory from oral history ideas around the potential of voice to facilitate liberation, and the connections with the orality of large parts of our culture, to Jerome Bruner’s ideas around spiral theory reflecting the unfolding of the discussion in the context of a wānanga, like the unfurling within the koru. The koru is representative of the spiral pattern from a young fern frond reflecting the evolving nature of knowledge and learning. Just like the koru, as the discussion within the wānanga circles around to return to the same content again, each exposure allows us to gain new perspectives and insights. In this way the repeated cycles enable deeper exploration and expanded comprehension of our needs, desires and expectations through utilising tribally grounded and empowering frameworks for decolonial tribal development, our Rangiwewehitanga. As Hohua Mohi has commented, “ko woku whakaaro i ngā ra ō mua, ko tō te iwi mahi he whakarahi i ā ia... we work in an almost symbiotic way. Ours is a very inclusive iwi... we’re like a wheke, kia torotoroa atu ōna ringa, ko tōna mahi he kohikohi mai i ngā tāngata.”<sup>90</sup> This characteristic enables us the flexibility and openness to try new things if they will be of benefit for us.

Against this backdrop wānanga then function to create the necessary space, physically, mentally, emotionally and spiritually, for us to explore and experiment with our ideas and concepts in an environment that encourages collective and individual engagement with our cultural content. In this way wānanga provide a means to secure meaningful participation in the research as subjects, actively engaged, contributing and being legitimised in our own

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<sup>88</sup> Nepia Mahuika, above at n42.

<sup>89</sup> Rangimārie Mahuika “The Value of Oral History in a Kaupapa Māori framework” Te Pouhere Korero 3 (2009) 91-104.

<sup>90</sup> One possible interpretation of this could be: “In my view, in the olden days the purpose of the tribe was to expand and extend itself... we work in an almost symbiotic way. Ours is a very inclusive iwi... we’re like an octopus, extending its tentacles to gather the people in.” Hohua Mohi, wānanga recording WS117004.

authority and experience, whilst simultaneously making a positive contribution to the construction and transmission of that same tribal mātauranga. Such an approach is far more empowering than treating participants as ‘objects’ being researched, effectively mined for data and information, whose value extends to their ability to contribute useful material within the context of the project. In this regard wānanga provide a de-colonial and dialogical process and experience that neatly dovetails with our Rangiwehita, tikanga and kawa. Consequently, as with many theories and approaches, it is often how the researcher utilises the theory that unlocks its true power and potential, as Paul Thompson discusses in relation to the transformational potential of oral history:

Oral History is not necessarily an instrument for change, it depends upon the spirit in which it is used. Nevertheless, Oral History certainly can be a means for transforming both the content and the purpose for history. It can be used to change the focus of history itself, and open up new areas of enquiry; it can break down barriers between teachers and students, between generations... it can give back to the people who made and experienced history through their own words a central place.<sup>91</sup>

This study advocates the same line of thinking described by Vine Deloria when he discussed the need to use our stories and examples as opportunities to explore the places where our worldview and those of the colonizers may have come close enough in overlap that they provide a window of understanding for the colonizer into our ways of seeing the world.<sup>92</sup> The processes of colonization have effectively ensured that Indigenous people have been taught how to function and perform within the acceptable boundaries set by the mainstream for us. Some of us know their ways better than our own. But as Naomi Simmonds, Ngāti Huri geographer and mana wāhine scholar has explained, sometimes even when we have forgotten, the land will remember for us.<sup>93</sup>

Our oral traditions recorded also as intricate physical carvings in our poutokomanawa teaches us that our ancestor Māui pulled from the depths of the ocean a giant fish which became the landmass that the world knows today as the North Island of New Zealand. With the passage of time other ancestors arrived from the homelands of Hawaiiki to settle in what was then called Aotearoa, the Land of the long white cloud. Although my people are able to trace our line of descent back to Māui, Ngāti Rangiwehi are more commonly associated with the Te Arawa waka, whose territories stretch from Maketū on the eastern coast to the mountains of Tongariro

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<sup>91</sup> Paul Thompson *The Voice of the Past Oral History* (Oxford University Press, New York, 2000) at 3.

<sup>92</sup> Vine Deloria Jr *The World we used to Live In* (Fulcrum Publishing, Golden Colorado, 2006).

<sup>93</sup> Naomi Simmonds “Taku Ara Ra: Re-Storying the Journeys of our Ancestress for Collective Well-being” Native American Indian Studies Association Conference (University of California, Los Angeles, 17 May 2018).

in the center of the North Island. Ngāti Rangiwewehi's specific tribal boundaries are much smaller however, beginning at the center of our sacred Island Mokoia in the center of Lake Rotorua and fanning out to the coastal boundaries at Te Puke and back inland to the forests and mountains of Mangorewa Kaharoa Te Taumata.

Our people were the first to live in these areas and when the Europeans or Pākehā arrived, our authority over these lands was undisputed. With the arrival of Pākehā the indigenous population became known as Māori, a word which means to be normal or ordinary in contrast to the strange new people arriving in our lands. In February of 1840 a meeting was held at a place called Waitangi between representatives of the British Crown, the Church of England, some local settlers and a number of tribal leaders, predominantly from the Northern Tribes. At that meeting attempts were made to convince the Tribal leaders to sign what is now known as Te Tiriti o Waitangi (the Treaty of Waitangi). The Treaty would facilitate the transfer of governance or kawanatanga to the Queen of England and her representatives, and guaranteed Māori all the rights and protections of British citizenship whilst also protecting their tino rangātiratanga or chieftainship over their lands, forests, rivers, mountains and all their precious things. The right of pre-emption was retained for the British Crown.

Although the Treaty of Waitangi was signed by some of those Māori in attendance on the 6<sup>th</sup> of February in 1840, arguments about the inconsistencies in translations between the two treaty texts, a lack of understanding about the correct meaning of terms used in the English text and the legal implications of the signing have raged ever since. While the Treaty of Waitangi records an important and historic partnership agreement made between Māori and the British Crown, it is an important point to note that while many tribes did sign the Treaty, many did not. Neither Te Arawa nor Ngāti Rangiwewehi ever signed the Treaty of Waitangi as Te Heuheu Tukino II decreed: "these words are my command for this waka of Te Arawa, never agree that we become slaves of this woman."<sup>94</sup> Such attitudes obviously pose some problems if, as John Keane has asserted, "the principle that the governed must consent to their representatives [is] fundamental to the vision of representative democracy."<sup>95</sup>

Such problems are relatively simple to overcome if as a colonizer you can claim to be representative of those peoples you seek to subjugate by virtue of your own self-evident

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<sup>94</sup> Enid Tapsell *A History of Rotorua: A Brief Survey of the Settlement of Rotorua and Environs by our Pioneers, Māori and Pākehā* (E. Tapsell, Rotorua, 1972) 46; O'Malley & Armstrong, above at n36 at 13.

<sup>95</sup> John Keane "Rethinking the history of the impact of representative democracy upon Indigenous Peoples" *Journal of Colonialism and Colonial History* 13:1 (2012).

superior power. The ideals of representative democracy are easily rescued by the portrayal of the indigenous horde as uncivilised, barbaric and lawless savages.<sup>96</sup> Thus the need to civilise and save the Natives, whilst also finding ways to govern and manage their own growing settler populations provided perfect justification for the imposition of a new system of law which would of course, apply ‘equally’ to all.<sup>97</sup> The Māori people, whether they signed the Treaty or not, soon found that this ‘equality’ was an illusion, and afforded no protection from the oppression of the law itself. We have resisted its imposition ever since and have sought to retain and maintain our own cultural perspectives, understandings and traditions. Although the methods we have utilised to do so have expanded and adapted over time, the foremost means of preserving and transmitting our cultural teachings and customs remain our own approaches to oral history. For Ngāti Rangiwewehi, one such approach is embedded within the practice of wānanga.

Within Māori culture wānanga have always been educational forums. Traditional wānanga were formal institutions, with the term used to describe simultaneously the buildings dedicated for the purpose, the ritualistic pedagogy utilised for transmission of the syllabus and the content to be conveyed. Although all tribes had their own wānanga, it is important to understand that the way in which each wānanga was conducted, and the content that was passed on would vary due to the different experts who presided in each place and the specific tribal variations in customs and traditions, as the 19<sup>th</sup> century Wairarapa chief Te Matorohanga taught: “Hold steadfastly to our teaching: leave out of consideration that of other [tribes]. Let their descendants adhere to their teaching, and you to ours.”<sup>98</sup>

In a more contemporary context wānanga has been described as: ‘an ancient process of learning that encompasses te reo and mātauranga Māori... [It] embodies a set of standards and values. As a verb, ‘to wānanga’ is to make use of mātauranga Māori in all its forms in order to teach and learn.’<sup>99</sup> Yet the tribal variations of old times continue today as Te Ururoa Flavell articulated:

The philosophy behind tōku rangiwewehitanga was about Ngāti Rangiwewehi identifying what makes us unique... those are the things, the values, the philosophies, the practices, that those around our tupuna whare left for what we should be doing... don’t worry about

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<sup>96</sup> Ibid. See also Moana Jackson “The Colonization of Māori Philosophy” above at n17.

<sup>97</sup> Jackson, above at n60 at 3.

<sup>98</sup> S Percy Smith *The Lore of the Whare-Wānanga written down by H T Whatahoro from the Teachings of Te Matorohanga and Nepia Pohuhu Priests of the Whare-Wānanga of the East Coast*, NZ (New Plymouth, 1913) 84

<sup>99</sup> Waitangi Tribunal, *Report on the Aotearoa Institute claim concerning Te Wānanga o Aotearoa*, WAI 1298 (Legislation Direct, Wellington, 2005) [accessed 21/11/11 from [www.waitangitribunal.govt.nz](http://www.waitangitribunal.govt.nz)]

what anyone else does, what do we do and why do we do it which is basically what we are talking about now in our wānanga and we've always talked about it in our wānanga.<sup>100</sup>

Thus wānanga enables an evaluation of knowledge and experience through a specific cultural and tribal paradigm. The inherent orality of the process lends itself well to consideration of the approach as a uniquely cultural framing of oral history practice, in this case within the frames of reference of most relevance to Ngāti Rangiwewehi. The set standards and values described here are embodied within tikanga and kawa, our customs and protocols, and in the context of an approach to oral history and research, provide embedded within the process culturally appropriate ways to collect, consider, analyze and disseminate the knowledge and information that is shared.

Oral history has been described as “a work of relationships,”<sup>101</sup> and this is perhaps in part why oral history holds such relevance within our relational culture. However, the fundamentally different ways in which we conceive of our relationships, with the past and the present, our collective and individual identities, the overlapping memories and narratives that are assigned to each, and then to those outside of our ‘kinship’ groups serve to redefine oral history within distinctively Indigenous frames of reference.

For instance it has been asserted that “there is no oral history before the encounter of two different subjects, one with a story to tell and the other with a history to reconstruct.”<sup>102</sup> Although this makes perfect sense within a Western conception of oral history this view implies a particular purpose and approach which do not necessarily align with a Māori perspective of oral history. Indeed within our genealogical understanding of the world, little distinction is made between the collective and the individual, and in this way we have told stories about ourselves to ourselves down through the generations from the beginning of time. Our oral histories existed before we did and yet have always been retained through our bloodlines as we descend from the first spark of creation and the Gods who formed and shaped our world. For those unfamiliar with our perception of time and space the ways in which wānanga discussion flits back and forth from generations long past to the present time may be disconcerting, however it serves to highlight the very real way in which participants experience our ancestors

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<sup>100</sup> Te Ururoa Flavell, Tokū Rangiwewehitanga Wānanga Recording WS117002 Fri Oct 8 2010 (2.01.30- 2.02.19) Held by Te Maru o Ngāti Rangiwewehi

<sup>101</sup> Alessandro Portelli “What Makes Oral History Different?” in Luisa Del Giudice (ed) *Oral History, Oral Culture and Italian Americans* (Palgrave Macmillan, New York, 2009) at 21.

<sup>102</sup> Alessandro Portelli *The Battle of Valle Giulia: Oral History and the Art of Dialogue* (University of Wisconsin Press, Madison, Wisconsin, 1997) at 9.

as constantly present, always there with us, guiding and supporting us, not lost and irretrievable in some distant past, long forgotten.

This point was articulated by tribal members discussing an incident of vandalism against a carved pou of our ancestor Kereru, which was erected in what is now a public reserve, to acknowledge that the area had once formed part of our traditional tribal territory:

Anaru Bidois: “You could say that that’s just a carving, but that’s not just a carving, that’s my tupuna, that’s me, and so as much as we understand that and we feel that, they understand that too, they might not understand it in the way that we do but they will see this as an encroachment on their territory”... Hohua Mohi: “And they know how much it hurts us when they cut down our tupuna... because it’s not just the carving, it’s what the carving represents.”<sup>103</sup>

The irony that our ancestor being placed on our traditional tribal lands in 2010 was viewed as an encroachment by non-Māori New Zealanders is exacerbated by the fact that this land was lost through legal chicanery dressed up as legislation, and first enacted in 1862. The Native Lands acts were deliberately and explicitly designed to individualize Māori communal land ownership, undermining our resource base while providing greater access and opportunities for settlers.<sup>104</sup> These measures were considered essential for “the salvation of the Māori” and leading him away from “the inherent defects of Socialism.”<sup>105</sup> This merging of our present and our past is another example of the constant reminders we face of the failure of democracy or any of the other apparent gifts of western governance and civilisation that were supposed to be delivered to us in equality before the law.

That is not to say that our own processes are predicated primarily on the principles of equality. Our society is ordered according to genealogical descent, and the seniority of your lineage is a significant factor in your social ranking and status. Similarly, because we view certain types of knowledge as sacred, Māori society is not one that favours universal and indiscriminate access to all of our tribal teachings. Indeed, within traditional wānanga only a limited number of specially selected candidates would have been considered for entry into the higher institutions of learning. However our traditional teachings provide numerous examples of teina or younger siblings whose skill and aptitude enabled them to secure leadership positions over more senior

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<sup>103</sup> Toku Rangiwehewhitanga Wānanga Recording WS117002 Fri Oct 8 2010 (1.35.11) Held by Te Maru o Ngāti Rangiwehewhi

<sup>104</sup> See David V Williams *Te Kooti Tango Whenua The Native Land Court 1864-1909* (Huia Publishers, Wellington, 1999).

<sup>105</sup> “The Māori and Communism” *Timaru Herald*, Volume LX, Issue 2674, 11 April 1898, 4, last accessed at <http://paperspast.natlib.govt.nz/cgi-bin/paperspast?a=d&d=THD18980411.2.36> [06/07/2014]

members of the family, as in the example of Māui-tikitiki-a-Taranga, who was the youngest of his siblings.<sup>106</sup> In contemporary times, and within Ngāti Rangiwewehi specifically, the desire to encourage more wide-spread participation in tribal affairs and the need to maintain what knowledge still remains has led to a relaxing of some protocols. While the negative impacts of colonization have created a number of barriers in terms of tribal members lacking knowledge and confidence in our language and cultural teachings wānanga are providing a useful tool to rebuild those foundations as Anthony Bidois pointed out:

It's through wānanga like this that you learn to break down those types of barriers to those things and get used to the way things are done here on our marae, [Wendy] and [Sue] and them were classics and those other ones, when they used to come to our reo (language) wānanga down here you know they used to be shy to they used to come out to go to the tangi but you know they were that whakama (shy) that they didn't know what to do because they've never been around the marae that much. Now they come in and they jump up and do the waiata (songs) and stuff because they're comfortable and it's through those wānanga we had.<sup>107</sup>

In this sense, although wānanga provide a key method of recording, retaining and reviving our oral histories and traditions they provide an interesting demonstration of the dynamic nature of our oral history practice. Within the literature of Oral history a distinction is often made between those works that emphasise “the materials of oral history, the narratives and their interpretation” and “the process by which they come into being *as* oral history narratives and are presented as such.”<sup>108</sup> Arguably, for Ngāti Rangiwewehi, to distinguish between the form and the process by which we create our ‘oral’ histories would not only be difficult but counterproductive. The wānanga itself produces an ideal environment in which the oral history can be artfully woven from strands of the tribe’s collective memory, augmented by the individual contributions of iwi members, both past and present. The process by which that weaving unfolds has inbuilt accepted modes of validation and analysis which give authority to the narrative and ensure appropriate clarification and dissemination as an inherent design feature of the discussion. Although the ‘individual’ wānanga participant is free to draw his or her own interpretations, the nature of the spiralling discussion, the contributions from numerous participants all with their own recollection and experience of the account, provides an engaging articulation of the collective understandings held in relation to that narrative. Thus, in a very visceral way wānanga enact Alessandro Portelli’s observation that ‘Each interview is

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<sup>106</sup> Maui and his stories are discussed in more detail in Chapter 4.

<sup>107</sup> Governance Wānanga 3-5-2013 Recording 1 Tarimano Awahou Rotorua. Held by Te Maru o Ngāti Rangiwewehi[48.33] Names changed within quote for anonymity.

<sup>108</sup> Portelli, above at n101 at xii.



an *experience* before it becomes a *text*.’<sup>109</sup> Yet within the communal and collective of the iwi wānanga experience the nature of those traditional research roles are blurred, distinguishing between ‘interviewers’ or perhaps more accurately ‘facilitators’ and ‘participants’ is not always obvious in either the experience or the text.

Within the wānanga the ‘interview’ process is transformed. The roles and boundaries assumed within normal mainstream oral history practice merge and are transfigured to produce very much an ‘oral history’ but perhaps not as you know it. Wānanga is not simply a group interview. The roles of interviewer and interviewee are not so easily identifiable or distinct. Even where there are nominated facilitators of the discussion, unlike a standard oral history interview they are never the ones to open the proceedings. They do not set the rules, and even if they have a particular agenda in mind it is always the will of the collective that will dictate whether or not that agenda is met. The customs and protocols of the tribal group provide the template for how proceedings unfold, always beginning with a formal greeting and prayer, acknowledging and inviting the ancestors for their ongoing presence, their guidance and their inspiration.

Even the intention, nature and activity of participants is recast within wānanga, where the underlying purpose is to develop greater clarity in the collective understanding of our narratives by virtue of the individual iwi members developing further insights and an increased sense of belonging in new and different ways. Participation does not require all those in attendance to speak. Listening is participation too, and one’s presence is always acknowledged, valued and considered to influence what is shared and how it is done. In privileging the ethical procedures set out by the tribal frameworks, the power imbalances often created within the relational positioning of interviewer and interviewee, the researcher and researched, or facilitator and wānanga participant are provided a stronger foundation for equilibrium within our Rangiwhewhitanga. As such, although our oral history is by no means a democracy, there is always a role and space for everyone if they are only willing to take the time to learn and, in time develop an understanding and respect for our rules. Although it may take time to learn these social niceties, the wānanga is a safe space to learn and to grow for anyone who is willing to take instruction and is offered an invitation to participate.

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<sup>109</sup> Ibid.

## **2.5 Rangiwehita in praxis: The aspirations and the reality of this project.**

Theoretical ideals of wānanga are one thing but coming to terms with the living reality of these practices can be something quite different. Within this project we carried out a series of wānanga sessions, some were facilitated by me and other sessions were facilitated by a mixture of tribal members or associates, endorsed governance training providers and consultants brought in to coordinate a number of strategic planning wānanga. Many had, in most cases some kind of affiliation or prior relationship with the tribe collectively, or with various members individually. I endeavoured to attend all of these wānanga and workshops, however where I was unable to be physically present, I was able to access the reports, recordings or overviews of what transpired within the wānanga and utilise it within the thinking and discussions that have informed this research.

In addition to these wider group sessions there were a number of individual or couple interviews undertaken with key governance and tribal leaders, elders, trustees and treaty settlement negotiators. Using some of this material however became problematic as the interviews were taken during a particularly traumatic and divided stage of our Treaty of Waitangi settlement journey. There was much important insight and experience shared which has shaped and influenced the writing and thinking evidenced within this dissertation and the final arguments and recommendations it makes. However, as a result of concerns about the appropriateness of sharing all of this material it was agreed that the study would need to draw on additional sources that would be equally relevant to deepening our understanding of Rangiwehita, and its applicability within future governance arrangements of the collective.

To supplement the governance wānanga materials and individual interviews there were further public meetings held as part of the government stipulated processes including the ratification of the settlement package and the post-settlement governance entity. These meetings were recorded as part of the recommended Crown approved requirements, and they captured a wide range of views that Rangiwehi had shared in our tribal forums throughout the settlement process as we negotiated a deal with the Crown, developed and transitioned into our new post-settlement governance entity and figured out how the post-settlement governance entity would integrate with our existing governance bodies in operation within our framework.

Throughout some of these interviews and public meetings some of the comments made, in tone and word, demonstrated the intensity of emotion, and the high levels of passion and personal

connection that was evoked both by those directly involved in the treaty settlement negotiation process and the development of our post-settlement governance bodies and the wider iwi members following and supporting the journey. Many unhelpful disagreements, misunderstandings, and divisions developed, or were further entrenched throughout the settlement process from which the tribe are still working to heal from and resolve. It was felt rather than use these materials as direct sources the study would instead attempt to more broadly summarise some of the general views articulated within those sources. This decision was made in accordance with the desire to uphold the tribal value of manaaki, and its intention to akiaki, encourage or nurture the mana, or personal power, prestige, esteem and well-being of both the individual and the collective. In order to manaaki those individuals who within those recordings and meetings powerfully articulated their hurt, anger, frustration, disappointment and dissent, as well as the wider collective, we need to recognise and acknowledge where those emotions were coming from to support the healing and resolution necessary to enable Ngāti Rangiwewehi to more easily move forward from here.

It is a Ngāti Rangiwewehi tikanga that our wharenui is an appropriate forum for the airing of our concerns and issues to facilitate the proper discussion, support and potential processes for long term resolution. As Nanny Ella often repeated, the wharenui is the place to say it, and to give people an opportunity to respond. The iwi and kaumatua are there to support but part of the key to this approach being successful is the proper airing and resolution within the wharenui, and then all kōrero would be left there and everyone is expected to move on. This is intended to avoid excessive moaning and complaining or the creation of contexts where people or processes are being undermined after the matter has been appropriately discussed and agreed to be resolved. Harata Hahunga has also commented on the connection between these divisions and the settlement process:

I suppose the whole settlement process highlighted and exposed our weaknesses. We need to rally ourselves and remember our bodies of knowledge, our time-honoured processes, work together again, and rebuild. The centrality of hui as a place to air our views constructively is still strong in the iwi, but some of us need to work on that, as we do on other kaupapa.<sup>110</sup>

That is not to say that Ngāti Rangiwewehi have always been successful in following through on all of our cultural ideals, but it is not difficult to recognise the significant impact observing this one tikanga or practice of airing our views appropriately could have had if everyone in the iwi had managed to consistently practice it throughout the entire settlement journey.

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<sup>110</sup> Harata Hahunga above at n72.

Historically, Ngāti Rangiwewehi have been known for being an iwi manaaki and providing impeccable and generous hospitality to guests and visitors. Unfortunately, the pressures of the settlement journey produced significant friction that iwi members commented on during interviews and wananga. Several people expressed that they felt insecure at times and a number of iwi members shared concerns that our normal high standards were at risk, at that the circumstances were perhaps not bringing out the best in us at some points.

These comments are made not in any way to besmirch the mana of my tribe, or to cast aspersions on any individual tribal members either, but rather, to highlight the need for us to become more consciously aware of the kawa, tikanga, values and practices that we affirm and claim as representative of our long-term vision and aspirations. These experiences have not been unique to Ngāti Rangiwewehi's experience. However, if we say that manaakitanga is a core and central characteristic of Rangiwewehitanga, and we do, then we must exercise that quality, and be mindful of how we actually exercise it. It is not enough to demonstrate manaakitanga only within formal spaces such as tangihanga (traditional funeral rites) and pohiri (welcome ceremony). Ideally, it is applied in all areas of our lives as individuals, and all areas of our collective life as Rangiwewehi.

The difficult balancing act needed to give proper respect to our cultural frames of reference, whilst negotiating the requirements of the academy is no small task. The decision to expose yourself and your people anew to the world of research is also not a simple thing to do. For those of us who live with the legacy of a Settler-colonial past, many of our day to day choices are in fact political decisions, whether we are conscious of it or not. But to carry the burden of mainstream Western stereotypes about Māori becomes a little heavy after a while, and all the more frustrating for the inconsistencies, ignorance and intolerance. Playing with the idea that there is content in the form this thesis takes on the dubious task of attempting to meet the dual goals of ensuring both its form and content are judged to meet the university standards whilst employing that same form and content to affirm and assert Rangiwewehi matauranga and priorities, fulfil tribal aspirations, and make a useful contribution for my own and other iwi and indigenous peoples as we seek to decolonise and affirm our own ways of knowing and being in all areas of our lives. This idea of 'content in the form' provides a more comfortable configuration inbuilt with its own procedures, ritual and regulations which demonstrate and support the overarching argument of the thesis: that Ngāti Rangiwewehi and Iwi Māori have our own ways of doing things which are better suited to us. Our frameworks and values for governance (whether governing knowledge theory and method or political entities and

organizations) are more capable of meeting our diverse needs and we should be encouraged and empowered to use them. I understand and appreciate that the current reality of our situation is not one where it is entirely easy to see the Government giving over that kind of power and authority, however as Ngāti Rangiwhewehi have continued to mediate these issues we have achieved traction, improving our circumstance in some ways whilst ever waiting for the Government to step up and do its part. One of the central arguments of this study is encouraging Ngāti Rangiwhewehi to search for ways to work within and beyond the limitations of our existing colonial system and its inherent circumstances, while patiently waiting for the Government to fulfil its responsibilities as Treaty partner. As a result, with Ngāti Rangiwhewehi's current governance frameworks, all of our entities could be said to utilise both tikanga and kawa, with several legal entities based in the colonial system while the overarching tribal authority is a tikanga based body.

Another layer of complexity in this project was contemplating who in fact were the specific audience being addressed. Meeting the institutional criteria were of course a necessity and obviously an important component for the completion of the doctorate. However, in truth, the desire to complete the project within this academic domain was primarily motivated by the intention to have the work taken seriously, as well as the ability to access the much-needed resources that made this pathway viable to support the completion of work the tribe required. The ultimate motivation for this research was always the needs and aspirations of the tribe, current and future, and the desire that this study produce more than a theoretical engagement with the issues of relevance to the collective but offer some practical insights and strategies to create forward momentum towards our collective goals and aspirations.

Dilemmas of whether iwi members should be the envisioned primary readership and the potential shaping and crafting of the dissertation were emboldened by my experiences from the master's thesis. Having so many of the iwi read, engage, enjoy and then have questions and ideas about the possibilities for progressing the recommendations from that project, provided reassurance that this project similarly was being awaited amongst the governance reviews taking place in the iwi following settlement. I was further encouraged by Naomi Simmonds observations that there are multiple 'outputs' that can come from a tribal research project, some of which might have immense value for the tribe without even being recognised as an acceptable output from the University.<sup>111</sup> While the University and academic environment may

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<sup>111</sup> Naomi Simmonds Keynote paper Iwi and Hapū Well-being Symposium (University of Waikato, Te Kotahi Research, Hamilton, 16 June 2016.)

privilege one type of output over another, this in no way inhibits a strategic researcher from incorporating multiple benefits for the tribe. In addition, the actual dissertation may not be the most important outcome from the research, at least in terms of our tribal aspirations for long term decolonization and transformation. Such decisions around the most appropriate pathways and avenues that may lead from this work remain to be discussed and decided by Ngāti Rangiwhewehi at a later date.

Throughout the time that this study has been underway, the iwi has continued to hold regular governance wānanga, and over the last two years have been in the process of undertaking an extensive governance review. In part this review aims to support proper integration following our Treaty of Waitangi settlement, and to ensure our entities are functioning effectively and cohesively to enable the iwi to more easily and efficiently enact our plans to move us towards our long-term goals. Each wānanga, and my continued involvement in the governance review committee has enabled regular opportunities to present on my research to date and receive ongoing feedback and engagement with the iwi at consistent intervals, facilitating both my accountability to the wider collective, but equally the continued input and influence throughout the duration of the project. In addition to these more public and formal presentations on the research, there has also been a small team of trusted advisors from within the tribe to provide support, feedback and assistance throughout the period of the study. Informal discussions with key tribal leaders during this period of time, in conjunction with the regular presentations and update on my research not only insured that I was able to receive the guidance and support that I needed, but similarly provided the necessary assurance to the tribe that I was furthering the project in accordance with their desires and aspirations.

Indeed, in the later phase of this project my presentation to the governance review committee on the proposed Rangiwhewehi governance wānanga that will be discussed in more detail in chapter six has now been integrated into the latest recommendations from the committee on the next phase of our governance review. It has been exciting to be a part of what has in many ways been a theoretical project, focused as it has been on Rangiwhewehitanga as a way of conceiving of and framing tribal views of governance and yet has some real-life opportunities for implementation and further expansion through refining the ideas and possibilities we have discussed throughout the incubation stage of this research. These observations allude to earlier comments noting that my involvement in this project began long before the doctoral studies, and the discussions for the next phase of introducing the Rangiwhewehitanga governance wānanga confirm that my involvement will continue well beyond the completion of this project.

This is in part the commitment to research within Rangiwewehi, it is the beginning of a life-long education and relationship. This commitment to filling te riu o Tāne Mahuta is ever evolving, as it should be.

This chapter provided an invitation to explore te riu o Tane Mahuta, a conceptual framing of the theoretical and methodological foundations for Rangiwewehi centered research. This exploration of course begins with a discussion of the ideas and aspirations of kaupapa Māori. As an approach to culturally empowering and transformational research, kaupapa Māori has provided much inspiration and guidance for articulating a more explicitly Rangiwewehi grounded approach to research theory and practice. Rendering more obvious, the alignments and connections between this unapologetically Rangiwewehi approach and the existing and significant body of work within kaupapa Māori enables further positioning and contextualising of this study within the wider and sometimes disparate bodies of literature that converge in addressing this thesis question: What frameworks for governance would most empower Ngāti Rangiwewehi to be self-determining in and beyond this post-settlement era? From kaupapa Māori and Ngāti Rangiwewehi perspectives,<sup>112</sup> the answer must be found within our own ancestral teachings, cultural frameworks and principles.

As the remainder of the dissertation will demonstrate, tribal mātauranga provides the necessary insights to navigate contemporary times. Whakapapa and wānanga are presented as two possible examples among many, in this case a framework and model, each embedded with and through their use demonstrate, the living articulation of tikanga and kawa.<sup>113</sup> As we engage them we negotiate again the best way forward within the particular context and circumstances, guided by the values and concepts of our ancestors as we explore the potential they offer for Māori and non-Māori alike.<sup>114</sup> This chapter echoes a dominant theme within the broader study, the relevance and value of traditional cultural knowledge and understanding in guiding our research and governance practices in contemporary times. While this chapter sought to provide a theoretical and methodological guide to support understanding and reading of the study, the

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<sup>112</sup> The use of the plural here is important as it is employed to consciously identify that there is not one single kaupapa Māori perspective, nor is there one homogenous Ngāti Rangiwewehi perspective.

<sup>113</sup> See for example on the ‘ethic of kaitiakitanga,’ C Spiller E Pio L Erakovic & M Henare “Wise Up: Creating Organizational Wisdom Through an Ethic of Kaitiakitanga” J Bus Ethics (2011) 104 223-235; C Spiller L Erakovic M Henare & E Pio “Relational Well-Being and Wealth: Māori Businesses and an Ethic of Care” Journal of Business Ethics (2011) 98:153-169.

<sup>114</sup> Ibid Spiller et al. “Wise up” emphasises the significant contribution cultural principles and understandings offer within business and governance contexts, citing Māori organizations utilising those cultural points of difference: “Features that make the Māori economy especially distinctive, and give it its competitive ‘edge’ are its relational approach to business, which has been shown to work especially well with forging long-term supplier arrangements and joint venture partnerships with other global firms” at 224.

following chapter will move beyond the supporting literatures of kaupapa Māori and Rangiwhewhitanga into more explicit governance, law and Treaty of Waitangi settlement focused bodies of work.



### 3. Ngā niho tēte o Pekehāua: An Indigenous articulation of governance

This thesis seeks to offer one articulation of Indigenous governance, originating from the traditional cultural frameworks and jurisprudence of the tribal nation of Ngāti Rangiwewehi. As the title indicates, this is ‘an’ Indigenous articulation of governance, and accordingly the thesis acknowledges the many diverse understandings of and approaches to governance, that can be found amongst the various Indigenous nations of the world, including the variations that may exist among the other tribal nations within Aotearoa (New Zealand). Governance is, in essence, a culturally bound concept, and therefore the ways in which a society chooses to define what is good governance, what its purpose might be, and how best to achieve those objectives, are all reflections of the cultural values, principles and frameworks that underpin that society. The focus of this study then, is an examination of how Ngāti Rangiwewehi governed ourselves traditionally, how the forces of colonization that effectively sought to deny and marginalise our traditional systems of law and governance have impacted on our approaches to governing ourselves, and considers what possibilities exist for our tribal nation to reassert our own governance frameworks within the post-settlement governance era we now find ourselves in, to ensure the realisation of our goals and aspirations for tribal self-determination and tino rangatiratanga.<sup>115</sup>

The Māori phrase utilised within the title for this thesis comes from a line from a well-known Ngāti Rangiwewehi mōteatea called ‘E noho ana au’.<sup>116</sup> Our songs have always been used as a convenient way to retain and transmit knowledge, values, identity and understanding across generations. In this way our waiata<sup>117</sup> are a useful source of information and provide invaluable grounding in culturally appropriate ways to approach and deal with a number of issues that we face, even in these modern times. The full line from the waiata reads ‘Mau rawa te whakaaro, he aha tēnei e patuki ake nei, tērā koa ko ngā niho tēte o Pekehāua’. It can be translated as

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<sup>115</sup> Commonly translated as sovereignty, authority and self-determination the debates over its meaning have been central to many debates around the meaning and application of the Treaty of Waitangi, as article two “confirms and guarantees to the Chiefs and Tribes of New Zealand and to the respective families and individuals thereof the full exclusive and undisturbed possession” translated as “te tino rangatiratanga” over ‘their Lands, and Estates Forests Fisheries and other properties which they may collectively or individually possess so long as it is their wish and desire to retain the same in their possession.’ See Te Puni Kokiri *He Tirohanga o Kawa ki te Tiriti o Waitangi A Guide to the Principles of the Treaty of Waitangi as expressed by the Courts and the Waitangi Tribunal* (Te Puni Kokiri, Wellington, 2001) at 10-11; Mason Durie “Tino Rangatiratanga” in Micheal Belgrave Merata Kawharu & David Williams (eds) *Waitangi Revisited: Perspectives on the Treaty of Waitangi* (Oxford University Press, Melbourne, 2005) 3-19; Orange above at n73; Durie *Te Mana me Te Kawanatanga* above at n73.

<sup>116</sup> A Mōteatea is a traditional chant or lament. The words and translations of each song used within the thesis will be provided at Appendix 1.

<sup>117</sup> Song

‘deep in thought I ponder as to what is this gnawing within me, that is like the serrated teeth of Pekehāua.’ These words come from my ancestress Hineiturama, and articulate a level of contemplation that became all-consuming, as she grappled for the most appropriate way to deal with a hurtful and difficult situation she was facing. Much like our tupuna kuia,<sup>118</sup> Ngāti Rangiwewehi have long been torn by our experiences of colonization, our poor treatment at the hands of the Crown, and the most appropriate way forward to ensure proper protection of our mana and mauri<sup>119</sup> and the restoration of our Rangiwewehitanga.

A conscious decision was made to select a portion of the line that refers to Pekehāua, who is our most famous taniwha<sup>120</sup> and the beloved kaitiaki of Ngāti Rangiwewehi. He lived in the springs named after him, Pekehāua puna or Taniwha springs. At one point in time Taniwha springs was a thriving tourist spot providing work and revenue for the tribe. The head spring was confiscated in 1968 under the Public Works Act 1928 for water supply to the Ngongotaha community. The springs then, have also provided significant motivation to pursue a claim against the Crown for historical breaches of their responsibilities under te Tiriti o Waitangi. Initial discussions with the then Rotorua County Council provided assurance that the iwi would be adequately compensated for the take, however over time this failed to materialise. Although the confiscation of land and the resource and income that it had provided the marae were difficult for the tribe, equally disturbing was the manner in which we were treated and the repeated failure to acknowledge our rights and connection to our puna. Although our claim was filed in 1991, it took 23 years for our settlement to be ‘completed.’ Furthermore, because the Treaty settlement was with the National level government our puna, which was deemed as belonging to the local body government, was not able to be returned as part of our settlement package.<sup>121</sup>

In light of the various ups and downs we have faced as we continue to navigate our way towards greater recognition of our self-determination, the description in the thesis title ‘like the serrated and gnawing teeth of Pekehāua’, seemed an apt description of the complex and challenging political environment within which Ngāti Rangiwewehi are attempting to mediate the successful accomplishment of our goals and aspirations. Similarly, the phrase evokes a visceral

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<sup>118</sup> A female ancestor

<sup>119</sup> Mauri is the life force essence present in all animate and inanimate objects, it bestows a sense of identity and form. The concept is central to understanding the deep philosophical underpinnings of Māori and Ngāti Rangiwewehi traditional society. See *He Hinātore* above at n6.

<sup>120</sup> A taniwha is in this context a type of powerful water spirit or creature, who was also a kaitiaki, a guardian or protector of our people and our geographical territories.

<sup>121</sup> The Ngāti Rangiwewehi Claims Settlement Act 2014.

sense of the multiple, intricate and delicate issues we are required to negotiate in the course of our journey if we are to remain true to our desires to restore and maintain our Rangiwewehitanga. Although it is understandable that as an iwi we celebrated the completion of the Treaty of Waitangi settlement, the establishment of the post-settlement governance entity in 2014 and the long and difficult journey we have taken in order to arrive at this point, we must remember that the journey is not over yet. Indeed, in many ways, it has only just begun.

### 3.1 Ko te whiu o te kōrero

Ko te whiu o te kōrero, i whiua i Tarimano

Ko TeAongāhoro ko te ruahine o Tawakeheimoa

Kia rere ki mua, Ko Rangiwewehi e<sup>122</sup>

These three lines compose the opening verse of the Ngāti Rangiwewehi<sup>123</sup> waiata (song) ‘Ko te Whiu.’ The waiata was written by Kato Flavell, a prominent and well-respected kuia<sup>124</sup> responsible for a number of our most regularly performed and iconic iwi (tribal) anthems. The significance of her work remains for our people today as a record of our tribal teachings and history, a font of knowledge to strengthen and revitalize our iwi identity and within the context of this study, a useful source for the exploration of Ngāti Rangiwewehi understandings of Governance.

In the opening line, the invocation of Tarimano refers to the first papakōhatu of Te Arawa, our foundation stone and the primary marae of Ngāti Rangiwewehi.<sup>125</sup> Through the naming and claiming of places that are inherently ours the song asserts the significance of these spaces as not only key contributors to an understanding of our identity, but further affirms our symbiotic relationship and the responsibility we hold as caregivers for these sites. As we have found ourselves having to fight for recognition of our relationship with and rights to these places and

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<sup>122</sup> One possible interpretation of these lines is often rendered as “It is said Tarimano is the foundation, Te Aongahoro the revered spouse of Tawakeheimoa, whose first born son was Rangiwewehi.”

<sup>123</sup> Ngāti Rangiwewehi are a tribal group from the Te Arawa confederacy who occupy territories within the Bay of Plenty district of the central North Island of New Zealand. Tribal boundaries begin at the center of Mokoia Island in lake Rotorua and extend along the north-western shores of the lake, travelling inland specific tribal boundaries. Waitangi Tribunal *Maunga Rongo Report on Central North Island Claims Stage 1* (WAI 1200 v1, 2008).

<sup>124</sup> Elderly woman or grandmother. Kato Flavell was a first cousin to my grandfather Sam Hahunga.

<sup>125</sup> Tarimano means the waiting place of thousands and is the name of Ngāti Rangiwewehi’s primary marae. A second marae belonging to a portion of the tribe who are based in Te Puke is known as Haraki. At one point, these marae have a strong connection which has unfortunately not been maintained as effectively as it once was. A papakōhatu is a foundation stone. Within Te Arawa we refer to three papakōhatu bought on the Te Arawa canoe from our homelands in Hawaiiki and placed at Tarimano, Te Papaouru and Te Pakira. These have been described as the three main meeting places of Te Arawa and maintain that reputation even today.

spaces, the sites themselves have regularly provided the motivation necessary to unite the people in defence of our taonga (treasures) and the essence of Rangiwewehitanga<sup>126</sup> that they represent. As kaitiaki<sup>127</sup> our charge extends to protecting more than just the physical locations but also the knowledge and mātauranga<sup>128</sup> that maintain our connections to and understandings of the importance of these spaces.

The traditional frameworks for governance alluded to within this song once provided a cohesive body of regulations by which our whenua (land) and resources were allocated and preserved. In the second and third line the overarching governance framework of whakapapa<sup>129</sup> is highlighted as the lyrics identify Tawakeheimoa and Te Aongāhoro as the parents of our eponymous ancestor Rangiwewehi.<sup>130</sup> Whakapapa articulates both the collective and individual identities and relationships and the reciprocal responsibilities we share. These relationships and responsibilities flow through all of our genealogical connections beyond our immediate relatives and the wider human family. Our ties to Rānginui and Papatūānuku<sup>131</sup> and all of their tamariki (children) and mokopuna (grandchildren) join us quite literally not only to the earth and the sky but to everything in, on, under and between them. In contrast to the anthropocentric view of humans as superior to all other life forms on our planet commonly associated with Western epistemological traditions, whakapapa tells us that we are all related and connected with corresponding rights and duties.

These understandings have had a significant impact on our approach to environmental issues. Our relationship to our water has motivated and influenced significant mobilisation of Ngāti Rangiwewehi people and resources as well as providing opportunities for the tribe to further assert our authority over our territories and our resources, especially our water. The tribe have despite limited funding established our own Tari Taiao (Tribal Science and Environmental Unit) so that we might assert more authority and influence on local governance matters with the local

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<sup>126</sup> A word used to describe the key factors or aspects that contribute to one's identity as a Ngāti Rangiwewehi person. Also described as a Ngāti Rangiwewehi specific term for our self-determination and tino rangatiratanga.

<sup>127</sup> Guardian, steward, protector.

<sup>128</sup> Knowledge, wisdom or understanding.

<sup>129</sup> Genealogical connections and ties, whakapapa is also a framework for understanding relationships and a body of knowledge. Whakapapa is unpacked and explored in more detail in chapter 2.

<sup>130</sup> Tawakeheimoa is the name of Ngāti Rangiwewehi's ancestral meeting house at Tarimano. Te Aongahoro was his wife and is also the name of our dining room. Tawakeheimoa and Te Aongahoro are the parents of the ancestor after whom Ngāti Rangiwewehi is named. A whakapapa table detailing these connections is provided in the appendices.

<sup>131</sup> Rānginui (Skyfather) and Papatūānuku (Earth Mother) are referred to as the parents of the Gods from whom we all descend.

Rotorua Lakes District Council, and the Regional Bay of Plenty governance bodies through lodging an Iwi Environmental Management Plan.<sup>132</sup> Ongoing and continuing involvement in research projects with leading national environmental science organisations such as GNS has nurtured important relationships with useful outside organisations and produced leading insights and developments around our water that has been helpful for all of us. We've also displayed our willingness to fight against the Crown directly where necessary, as we did in our Environmental Court cases against the local Rotorua District Council, and our broader Treaty of Waitangi settlement claims.

As such whakapapa embodies a specifically Māori<sup>133</sup> and Ngāti Rangiwewehi way of seeing and perceiving the natural order of our world, and our appropriate positioning within it. Whakapapa thus provides a useful cultural framework that demonstrates the traditional values and principles for regulating apportionment of individuals entitlements and obligations within the wider iwi collective. Through the tikanga and kawa<sup>134</sup> contained within whakapapa, it similarly encapsulates the rules that structured resource allocation, decision-making processes, dispute resolution, accountability of the leaders to the wider collective and the selection and appointment of iwi leaders too.

Perhaps even more importantly, within this one short opening verse is encompassed significant evidence for one of the key themes of this study: the assertion that Ngāti Rangiwewehi, like all Māori and Indigenous peoples, had our own conceptions and understandings of governance which organized and underpinned our world. Our systems of governance are as legitimate and valid as those of other cultures and served us well in the production of strong self-determining tribal nations long before Pākehā<sup>135</sup> arrived at our shores. Even through our initial encounters with the early settlers there is ample evidence to show how our community solidarity combined

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<sup>132</sup> Under the Resource Management Act 1991 when a regional council is preparing or changing a regional statement (s61(2A)(a)) or a regional plan (s66(2A)(a)), or a territorial authority is planning to prepare or change its district plan (s74(2A)), they must take into account any relevant planning document recognised by an iwi authority. There is some budgetary commitment at Local authority level to encourage tribal participation in policy statement, plan-making and resource consent processes. Participation in the resource consent processes has provided important opportunities for Ngāti Rangiwewehi to exercise our mana whenua and tribal authority whilst being involved in broader environmental decision-making within our territories.

<sup>133</sup> A collective term used to refer to the Indigenous people of New Zealand, the word actually means to be normal or ordinary.

<sup>134</sup> Tikanga and kawa refer to cultural customs and protocols and provide an effective system of rules and regulations for governing and identifying appropriate behaviours in Māori society. They vary between tribal groups, however there are common threads that enable interaction across tribal groupings without too many difficulties.

<sup>135</sup> Word used to signify non-Māori New Zealanders, commonly used to refer to those who are white and/or of British and European descent.

with our ingenuity, adaptability and entrepreneurial tendencies led to dramatic economic and technological growth amongst Māori. Early settlers were both surprised and impressed by the scope and proficiency of the Māori fishing industry that they found on their arrival.<sup>136</sup> Even before the Treaty of Waitangi was signed Te Arawa had established a large-scale and highly organized tribal enterprise preparing and trading flax.

It is clear then, that Indigenous success is antithetical to the goals of colonization, whose systematic processes sought to undermine, then eradicate or assimilate the first peoples of Aotearoa.<sup>137</sup> Indeed Te Arawa made a conscious decision not to sign the Treaty of Waitangi for fear that it would undermine their authority as Te Heuheu Tukino II articulated: “these words are my command for this waka of Te Arawa, never agree that we become slaves of this woman.”<sup>138</sup> The Crown has always argued that non-signatories and signatories alike are bound by the Treaty of Waitangi, and through the settlement process have explicitly bound non-signatory tribes thus reinforcing retrospectively the apparent legitimacy of the proclamation made by Captain William Hobson on 21 May 1840 by which the British Crown claimed sovereignty over all the territories of New Zealand.<sup>139</sup> The institution of a Westminster style government was considered the next logical step in establishing a purportedly legitimate system of governance over the nation whilst providing a suitable symbol of Colonial authority and superiority. Such efforts although they clearly changed the socio-political landscape irrevocably, never diminished Māori calls for greater recognition of our status as *tāngata whenua* and our inherent right to self-determination.

Once the House of Representatives or Parliament was established, and Māori were excluded from participation in the governing of the country’s affairs, a very specific agenda of legislation and policies was unleashed to take full advantage of the ground work already laid to further undermine and destabilize Māori and tribal infrastructure, the central governance frameworks of traditional Māori society.<sup>140</sup> As various tribes sought to protect the rights they were promised under the Treaty of Waitangi, they were declared rebels thereby justifying demonstrations of the Crown’s military force and prowess. If the might of the Crown could not literally destroy the insurgents, then they would at least beat them into submission and acceptance of the new

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<sup>136</sup> Knox Colin “Whakapumau te Mauri Values-based Māori Organizations” (unpublished Phd thesis, Massey University, 2005).

<sup>137</sup> A Māori word for New Zealand

<sup>138</sup> Tapsell, above at n94 at 46; O’Malley & Armstrong, above at n36 at 13

<sup>139</sup> Orange, above at n73.

<sup>140</sup> *Maunga Rongo Report* above at n123.

colonial order. As iwi sought to retain their lands and resources and organize themselves to prevent the legalised theft of land, the government responded with legal machinery like the Native Land Court which through the fragmentation and individualization of Māori land ownership subverted and sabotaged the very foundations of Māori society.<sup>141</sup>

Over the years the breaches have continued but Māori have never forsaken the dream that at some point these injustices will be recognised and restitution made. Indeed, as James Anaya has discussed it is this hope that gives Indigenous people a unique strength and tenacity which enables them to carry on in the face of seemingly insurmountable odds.<sup>142</sup> Thus when the New Zealand government established the Waitangi Tribunal in 1975<sup>143</sup> to address the multitude of claims regarding Crown breaches of the Treaty of Waitangi and later embarked on a more affirmative approach to the settlement of Treaty claims many Māori were hopeful that this may indicate an appropriate pathway toward the resolution of these long held grievances. For Ngāti Rangiwewehi, although we have been part of other claims within the wider confederation of Te Arawa,<sup>144</sup> our specific historic claims were filed in June 1991, and were considered to be settled by the passing of legislation in May 2014.<sup>145</sup>

Against this backdrop this doctoral thesis focuses on what steps might enable Ngāti Rangiwewehi to assert our self-determination and iwitanga within this new post-settlement governance era. In exploring these potential pathways, the study has sought initially to come to a deeper understanding of what a Ngāti Rangiwewehi perspective on governance is, its purpose and potential through the evolution of our existing governance frameworks. Affirming the relevance of our traditionally and culturally bound governance approaches whilst demonstrating the experience our people have gained as we've mediated and negotiate the imposed colonial systems in our efforts to secure tino rangatiratanga<sup>146</sup> and tribal self-

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<sup>141</sup> Ibid.

<sup>142</sup> Keynote Presentation at UNDRIP: Implementation of the United Nations Declaration on the Rights of Indigenous Peoples in Aotearoa –Theory and Practice symposium (University of Waikato, Hamilton, 24-25 July 2014).

<sup>143</sup> The Treaty of Waitangi Act 1975 established the Waitangi Tribunal as a forum for hearing cases in relation to the Treaty and created the avenue for any Maori to take a claim to the Tribunal where they have been disadvantaged by any legislation, policy or practice of the Crown. The Tribunal does not enforce the law but instead makes recommendations to the Government. An amendment was passed in 1985 which then enabled claims to be made retrospective to 1840.

<sup>144</sup> See for example Te Arawa Lakes Settlement Act 2006; The Central North Island Forests Land Collective Settlement Act 2008.

<sup>145</sup> The Ngati Rangiwewehi Settlement Act 2014 above at n18.

<sup>146</sup> Highly contested term it was initially used within the Declaration of Independence 1835 as a Māori concept of sovereignty. However, in the translation of the Treaty of Waitangi the term was downgraded to mean self-determination and a new word constructed to translate sovereignty as kāwanatanga. Other dictionary definitions

determination have been insightful. The study acknowledges the changes that have taken place as a result of our engagement with and gradual reluctant assimilation into the dominant settler system. As we navigate our way through this new post-settlement era, if the tribe has any hope of maintaining our tino Rangiwhewhitanga<sup>147</sup> and expressing self-determination on our terms, it is essential that our governance is grounded within traditional principles as embodied within our tikanga and kawa. Achieving this ultimate objective will require a careful program of decolonization and reindigenization which will necessarily impact on more than just the governance of the tribe.<sup>148</sup>

The purpose of this chapter within the overall structure of the thesis is to prepare the foundations. Like the papakōhatu of Tarimano<sup>149</sup> it provides a starting point from which the boundaries of the study are more clearly delineated. From here it should be obvious that the aims and objectives of the project were always grounded in and bound to primarily serve the interests of Ngāti Rangiwhewhi. Although I make no apologies for that, I humbly (and with the mandate of my people to do so) share this small offering of our knowledge and experience with our Indigenous relations in the belief that observing what other indigenous peoples do within their communities, even in diverse and vastly different cultural and colonial contexts, offers insights, inspiration and opportunities to empower and encourage the growth of our collectives and the connections between our communities. Beyond the Indigenous nations who remain fighting for recognition of their rights, in negotiating a relationship that will be productive and constructive for all parties, this study may offer some insights to those outside of other tribal groups, to national level discussion of these issues further promoting understanding of indigenous governance in the International arena also. As the chapter provides a brief introduction to the literature connected to Māori and Indigenous governance and positions this project in relation to what already exists within the field, it highlights the ways in which this study expands on or aspires to add to the current work in the area. Inherent in this survey of the

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for tino rangatiratanga include domination, power, control, and rule see [www.Māoridictionary.co.nz](http://www.Māoridictionary.co.nz). The term and its usage within this thesis will be discussed in more detail within Chapter 2: Anō ko te riu o Tane Mahuta.

<sup>147</sup> Rangiwhewhitanga is all of the aspects that make us unique. It is an embodiment of our tribal identity and includes the cultural framing for our world, our place in it and how we might appropriately engage with it. Mahuika “Ano ko te Riu” above at n2.

<sup>148</sup> Linda Tuhiwai Smith, above at n1.

<sup>149</sup> The papakōhatu is the foundation stone. Within Te Arawa traditions it is said that three foundation stones were bought from our ancestral homeland of Hawaiiki. These are said to lay within the three main marae of the Rotorua district, with each mentioned in the Ngāti Rangiwhewhi ‘E kimi noa ana’ (included in the appendices). Tarimano is the first of the papakohatu and the home of Ngāti Rangiwhewhi. Te Pakira is noted as the second at Whakarewarewa, and is the primary home of Ngāti Wahiao and Tuhourangi. Te Papaouru is the third and final foundation stone located at Ohinemutu, the home of Ngāti Whakaue. There is some discussion as to whether these foundation stones are in actual fact physical stones or rather metaphorical terms used to describe what were during the 19<sup>th</sup> century the main meeting houses of the confederation of Te Arawa tribes.



field is identification of several key concepts central to an understanding of this study, outlining the different interpretations that have been used by others in the literature and the way in which they will be used within this study.

### **3.2 Mai Maketū ki Tongariro: Identifying boundaries, barriers and benefits.**

‘Mai Maketū ki Tongariro’ is an aphorism used to identify the broad geographical boundaries of the Te Arawa tribal confederation, of which Ngāti Rangiwewehi is a part. However, boundaries change and shift over time, and similarly as explained in the introduction the boundaries for this project have changed considerably over the course of its journey. That being said, the shift in focus has also allowed space to explore what insights our evolving understandings offer us in our attempts to equip our tribal governance frameworks with the strategies necessary to realise iwi self-determination within this post-settlement era. Although the settlement journey saw the addition of the Te Maru o Ngāti Rangiwewehi Private Trust, through the duration of the negotiation period, and the post-settlement governance entity Te Tāhuhu o Tawakeheimoa, these are only two of a number of governance bodies created to oversee the affairs of the tribe.

In considering this wider tribal governance framework, and given the desire of the iwi to be more mindful of a Ngāti Rangiwewehi specific approach to governance, one of the intentions of the project was to survey our history as a tribe and consider what elements, values or principles of governance can be identified from the ways in which the iwi and its leaders have conducted their affairs historically. In identifying our own frameworks and conceptions of governance and how they adapted to meet the changing circumstances, the study also contends that Māori and Iwi already have their own existing legitimate and valid frameworks for governance, and these systems hold greater potential than Crown-imposed frameworks to support tribes realise their long-term goals for success and well-being. If we continue to ignore our traditional approaches in favour of Western corporate models Crown assimilation which is counterproductive to Māori and iwi aspirations for true self-determination, will continue. Similarly, recognising and utilising our own culturally framed and grounded approaches creates avenues that will address not only the governance issues we face, but wider questions

around tribal succession planning, cultural revitalization and healing of intergenerational colonial trauma.<sup>150</sup>

In the process of discussing our experiences of coming to a fuller understanding of what we want and need from our governance, it was clear we wanted to exercise our self-determination, assert ourselves and our cultural identity and give priority to our values, principles and processes. This settlement journey has provided a unique opportunity to become more mindful of, and to engage with our understandings of governance, in order to create the necessary space to discuss and formulate how we might best implement these changes. The contrasts that were highlighted by the Crown's assumptions about the process and our distinct roles within the governance of our settlement were instructive. At other times our internal responses, our disagreements around the ways we felt compelled or constrained to respond in a particular way, only served to stress how our desire to express and embody our tribal self-determination was inhibited within the settlement journey.

Such experiences affirm the settlement process itself as a continuation of the Crown's attempts to legitimise their authority over Māori, while seeking to distance themselves from the past that undermines that same authority.<sup>151</sup> Whilst the history is clear, even in contemporary times numerous examples exist throughout the settlement process where the Crown's inability to meet their own criteria for good governance is evident. From the inequitable distribution of power and resources, to the Crown's constant shifting of the goal-posts, or the refusal to negotiate on certain points, often the government would rather that we do as they say, not as they do in our own governance practices.<sup>152</sup> This thesis highlights the ways in which tribal frameworks and principles demonstrate much higher standards of governance within our cultural context than those championed by the Crown. Consequently, the study argues our higher standards, albeit derived from very different systems than those the current national government is based within, would not only better serve our communities but would also better serve the national government if it is in fact serious about the Treaty partnership it has with tribal groups it proclaims to hold in such high regard. From this perspective, the research provides some much needed feedback for the Crown on those issues that need consideration if they are serious about

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<sup>150</sup> See Rebecca Wirihana & Cheryl Smith "Historical Trauma, Healing and Well-being in Māori Communities" *Mai Journal* 3(3) 2014 197-210; Elizabeth Fast & Delphine Collin-Vezina "Historical Trauma, Race-based Trauma and Resilience of Indigenous Peoples A Literature Review" *First Peoples Child and Family Review* 5 (1) 2010 126-136.

<sup>151</sup> CFRT *Maori experiences of Direct Negotiation* above at n19.

<sup>152</sup> *Ibid* for a fuller discussion of a range of criticisms from five different tribal groups who had effectively reached the conclusion of their direct negotiations of their Treaty of Waitangi settlement with the Crown.

developing constructive relationships with iwi and reaping the full benefits that will naturally come from effective governance and comprehensive economic and social development within Māori communities.

One of the underlying themes of this study is that Ngāti Rangiwewehi, although sharing many commonalities with other tribal groups, is a tribal nation in its own right. It claims the authority to speak on its own behalf, to manage and govern its affairs as it sees fit and correspondingly, does not seek to speak beyond its mandate on issues that are the business of some other iwi. As such, without presuming to suggest that Ngāti Rangiwewehi hold the answers for all other tribes approaching Treaty of Waitangi settlement or designing post-settlement governance entities, the information offered is done so in the spirit of support and encouragement. As alluded to earlier, there is much we can learn from other iwi experiences, when we appreciate that we are all seeking freedom from the colonial impositions that attempt to inhibit our ability to truly express and experience ourselves, working together rather than undermining collective efforts towards the same goal.

In addition to affirming and asserting the existence of our own legitimate legal frameworks and governance structures, the study also creates an important space in which to critique/challenge and unpack the existing imposed colonial governance frameworks. We can empower ourselves in these spaces because they reveal that many of the governance issues we face come not from any inherent inadequacies on our part but, instead, from the inherent flaws within the mainstream Western governance systems. As we embrace this knowledge and understanding, we can release the internalised racism that limits our ability to recognise the resources that we have available to us within our cultural mātauranga, our kōrero tuku iho, and the various gifts and skills handed down to us by our ancestors. Drawing on all of the mātauranga we have available to us, we can organise our resistance, plan our revitalization, rebuild our communities and strengthen both our people and the mainstream society with whom we must co-exist, as we explore and begin to see how our approaches, how Rangiwewehitanga as a decolonial paradigm of governance, provides access to possibilities not available within the mainstream. It is my hope that the study will enable Ngāti Rangiwewehi to begin the process of decolonizing our governance frameworks so that the governance approaches we employ can work with the aspirations of the iwi to strengthen and revitalize our long-term well-being within this new post-settlement (although not yet post-colonial) era we now live in.

### 3.3 Positioning this study within the field of ‘Governance’.

The mounting body of literature relating to Māori and iwi governance demonstrates the on-going need for more intimate, or rather ‘local’, research in the field that draws on the immediate values and understandings still in operation within tribal communities. Indeed, in the negotiation of current Treaty of Waitangi settlements, iwi continue to seek recourse for greater recognition of their own governance structures as more appropriate frameworks to meet the wide-ranging needs of their expanding communities. These issues resonate in the literature, reflected for instance by the New Zealand Law Commission’s (NZLC) acknowledgement of ‘[t]ribes’ as: ‘important in maintaining Māori cultural identity and in managing assets and resources for the benefit of the group. Their functions are at once social, cultural, commercial and political. The available legal structures are inadequate for managing all these wide-ranging affairs.’<sup>153</sup> Despite this acknowledgement, the progress made in this area to date has been limited.

The literature relating to tribal and/or indigenous governance features a number of specific case studies illustrating a range of issues and problems facing Māori and iwi organisations.<sup>154</sup> However, to date no such work exists relating to the specific governance experiences of Ngāti Rangiwewehi. This study highlights the context and requirements particular to Ngāti Rangiwewehi, but in doing so draws attention to the diverse realities of differing tribal groups. Such complexities are often ignored through unhelpful and homogenising ‘one-size-fits-all’ approaches, like many of the common and currently advocated governance models.

Moreover, the existing literature relating to Māori and iwi governance also insists on framing the issues within the dominant legal perspectives of the ‘West.’ In addition, discussions of ‘Māori’ governance regularly, and problematically, demonstrate how Māori concepts and

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<sup>153</sup> New Zealand Law Commission *Waka Umanga* above at n24 at 14.

<sup>154</sup> See for example Robert Joseph, above at n25, which provides a comprehensive consideration of the governance arrangements of Waikato-Tainui and Ngāi Tahu, two of the largest New Zealand treaty settlements to date, as well as an international comparison with the Canadian first nations Nisga’a people; Micheal Ross “He iwi rangatira ano tatou nei I mua. Kia pai te whakahaere I nga tikanga mot e iwi. Kia mangu ki waho kia ma i roto. An investigation into the guiding principles and stabilising processes of mana tapu, utu and runanga in Waikato-Tainui” (Unpublished Phd, Auckland University of Technology, Auckland, 2015) which explores the traditional concepts and processes of tapu, mana, utu and runanga as central to the delegation of power and determination of leadership roles and responsibilities within the governance of the Tainui people; Nin Tomas “Coming ready or not! The emergence of Māori hapū and iwi as a unique order of governance in Aotearoa New Zealand”, in *Te Taiharuru* 3 (2010) 14-58, also considers the tribal governance arrangements of Waikato-Tainui and Ngāi Tahu; while Lynette Carter “Whakapapa and the State: Some case studies in the impact of central government on traditionally organised Māori groups” (unpublished PhD thesis, University of Auckland, Auckland, 2003) focuses on the impact of post-settlement governance entities on traditional frameworks and understandings within Ngāi Tahu.

values can be made to fit within existing colonial structures and institutions. While this may appear to be common sense, the underlying discourses inherent within such an approach fail to support the further development of iwi self-determination. As James Tully has pointed out, the language of western political thought “is a language woven into the everyday political, legal and social practices of these societies.”<sup>155</sup> Inherent in such an assertion is an appreciation that there is more than one language involved in this process, with one “the dominant language, that presents itself as a universal vocabulary of understanding and reflection; [and] the other a subaltern language which, when noticed at all, is normally taken to be some kind of minority language within the dominant language of western political thought.”<sup>156</sup> The cultural context of a particular word or concept need not be obvious to have an influence. Thus, the epistemological foundations of these issues, while invisible to some, remain significant stumbling blocks to a productive way forward for others who perceive them as culturally inappropriate or unfamiliar. This study seeks to provide fresh insights, reframing these issues from an explicitly Ngāti Rangiwewehi perspective, consciously employing ‘methodologies and approaches to research that privilege indigenous knowledges, voices, and experiences.’<sup>157</sup>

The active involvement of Ngāti Rangiwewehi participants within this study provides a useful opportunity to not only discuss the assertion of tino rangatiratanga through our tribal notions of governance, but to demonstrate it in action. Subsequently, this study is an iwi based project of significant relevance to Ngāti Rangiwewehi, as it is intended to inform decision making moving forward in reviewing the governance systems in place to support realisation of tribal aspirations within this new post-settlement governance era. However, this project also has meaning beyond our tribal borders, where a large number of other iwi are faced with similar concerns. Questions of how Māori and iwi might remain self-determining while operating within a system and framework that is not our own have long been central concerns to indigenous peoples operating within the confining limits of their oppressive colonial regimes. While each tribal context may differ, there are also common themes that unite us. In the same way that this intended study draws on the work of other Māori and indigenous scholars, it

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<sup>155</sup> James Tully *The struggles of Indigenous Peoples for and of Freedom* in Duncan Ivison Paul Patton & Will Sanders (eds.) *Political Theory and the rights of Indigenous Peoples* Cambridge (Cambridge University Press, Cambridge, 2000) 36-59 at 36.

<sup>156</sup> Ibid at 37.

<sup>157</sup> Linda Tuhiwai Smith “On tricky ground: Researching the Native in the age of uncertainty” in N K Denzin & Y S Lincoln (eds.) *The SAGE handbook of Qualitative research* (Sage Publishing, Thousand Oaks, 2005) 85-108 at 87.

likewise offers a distinctive perspective that serves to add to growing literature in indigenous studies, human rights, liberation and governance.

There is now a significant body of literature that attests to the fact that “indigenous knowledge is a rich social resource for any justice-related attempt to bring about social change.”<sup>158</sup> This thesis expands on this contention, and argues that the self-determination of iwi and tribal peoples need not be viewed as a threat to central national Governance. While indigenous transformative politics focuses on the experiences of the oppressed, this study considers that emancipatory process as it intersects with the aspirations of colonisers and oppressors. After all, the notion of a singular national New Zealand polity is a colonial construction. This thesis then seeks to reconfigure that construction within an indigenous theoretical repositioning of New Zealand nationalism.<sup>159</sup> From a Māori governance perspective, ensuring strong and autonomous iwi and hapū will inevitably have a positive impact on the rest of the country, with significant potential improvements across a range of social-economic indicators. Beyond New Zealand borders, as iwi grow in economic and political strength, development opportunities also exist on an international level. Thus, finding ways to move forward and work together while maintaining the mana and self-determination of all parties is a lofty, yet important goal that holds great potential for reasons other than its ability to fulfil Crown obligations under the Treaty of Waitangi. This thesis contributes then, not only to the ‘real’ and present needs of Ngāti Rangiwewehi, but it speaks to and expands a growing literature, and in the process offers a local experience to fit alongside the experiences of other indigenous peoples. In this way it offers potential pathways that serve the needs of indigenous peoples, yet simultaneously navigates those needs within an awareness of the existing anxieties and dreams of the dominant groups with whom these issues are inextricably intertwined.

### **3.4 ‘Governance’, Māori, and the Law: A Review of the Intersecting Literature**

‘Governance’ is a broadly defined term that can be found in various fields of study, each with their own specialised definitions and volumes of work dedicated to the topic. This review

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<sup>158</sup> Semali L M & Kincheloe J L ‘Introduction: What is indigenous knowledge and why should we study it?’ in L. M. Semali & J. L. Kincheloe (eds.) *What is indigenous knowledge? Voices from the academy* (Falmer, New York, 1999) 3-57 at 15.

<sup>159</sup> See Jones Alison & Kuni Jenkins ‘Rethinking Collaboration: Working the Indigene-Colonizer Hyphen’ in Norman K Denzin Yvonna S Lincoln & Linda Tuhiwai Smith (eds) *Handbook of Critical and Indigenous Methodologies* (Sage, London, 2008) 471-487. Notions of intercultural and cross-culture dialogue are the focus of this article. The thesis also engages with those ideas and engages with that singular entity from the perspective of the colonised.

surveys these diverse and sometimes intersecting bodies of literature as they relate to the overarching question of this thesis: to what extent might our tribe assert our tino Rangiwehitanga in a post-settlement governance era?

This review notes the varying, and evolving, definitions of governance that exist within often disparate fields of study and writing, from primary and contemporary political and social documents to reflective secondary studies of the nature and form of governance within communities and cultures. To this extent, this review is not simply an inspection of the diverse writing about ‘governance’, but considers the wide-ranging work that has application to the key strands that tie this study together. This includes bodies of literature that speak more immediately to issues of indigenous human rights, jurisdiction in the law, cultural empowerment and self-determination, the Treaty of Waitangi settlement process, Māori and iwi leadership, and histories of tikanga, local activism, and tribal management, relative to Ngāti Rangiwehi understandings of governance. Moreover, the review demonstrates the existence of a significant and broad data base that supports the undertaking of this thesis, while simultaneously highlighting those specific bodies of literature in which this study is positioned, and to which it contributes.

### **3.5 Identifying the Fields of ‘Governance’ Studies**

To describe ‘governance’ as a distinct and easily identifiable area of research is misleading. It may be more accurate to view the literature as an array of varying disciplinary perspectives, which include ideas of governance within them. Thus, rather than a singularly identifiable body of ‘governance literature’, much writing and research on the topic tends to be grounded within multiple fields of study. Educationalists, for instance, have paid particular attention to governance within the classroom, a recurrent theme in Thomas Sergiovanni’s six editions of *Educational Governance and Administration*, in which the roles of principals, teachers and students are explored within the school context.<sup>160</sup> In contrast, political scientists have tended to explore the evolution of national governing bodies, perhaps most notably illustrated in Michael Gallagher, Michael Laver, and Peter Mair’s fifth revised edition of *Representative Government in Modern Europe*, in which the authors focus on the growth of capitalist

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<sup>160</sup> Thomas Sergiovanni Fred Wirt Paul Kelleher Martha McCarthy (eds.) *Educational Governance and Administration*, (6<sup>th</sup> Edition, Allyn & Bacon, Massachusetts, 2008).

democracies before and after the recent global economic crisis.<sup>161</sup> These studies of governance in practice and action offer specific disciplinary perspectives, inclusive of their own debates about the nature and form of governing processes and structures. R.A.W. Rhodes, for instance, writing of an emergent terminology in political studies at the end of the 1990's, noted a propensity toward the use of 'vogue' words and phrases related to the reforming of the public sector as a type of 'governance without government', a trend, he argued, inherent in the movement toward 'entrepreneurial governance' and 'new public management.'<sup>162</sup> Rhodes' comments are indicative of the discernible influence of corporate ideas relating to governance, across a range of disciplinary perspectives articulated through the literature.<sup>163</sup> Another example is provided by Kaufmann, Kraay, and Mastruzzi (2004; 2007) who assert that 'good governance in education requires enabling conditions: the existence of standards, information on performance, incentives for good performance, and, arguably most importantly, accountability.'<sup>164</sup> The attention to standards, performance indicators, and accountability, is reflective of the ideas that shape corporate understandings of best practice in governance.<sup>165</sup>

Whether discussing governance of a company, governance as an educational act or a broader national and global political structure, scholars in various disciplines have regularly invoked the term to describe the different ways in which societies, cultures, legal entities and communities organise and manage themselves.<sup>166</sup> For example, within environmental scholarship, governance has more explicitly been defined 'as the processes and institutions through which societies make decisions that affect the environment.'<sup>167</sup> However, even within the area of environmental scholarship, 'governance' is identified and discussed in various ways,

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<sup>161</sup> Michael Gallagher Michael Laver and Peter Mair (eds.) *Representative Government in Modern Europe* (5th Revised Edition, McGraw-Hill, London, 2011).

<sup>162</sup> R A W Rhodes 'The New Governance: Governing Without Government' *Political Studies* 44:4 (September 1996) 652-667.

<sup>163</sup> For a more in-depth and comprehensive discussion of the theories of Corporate governance and the application of its principles and practices within Australia and New Zealand Company law see John Farrar *Corporate Governance Theories, Principles and Practice* (5<sup>th</sup> edition, Oxford University Press, Melbourne, 2008).

<sup>164</sup> Kaufmann Kraay and Mastruzzi (2004; 2007) in Maureen Lewis & Gunilla Peterson *Governance in Education: Raising Performance* (World Bank, 2009) 3-4 at 3.

<sup>165</sup> However, even within the more refined focus of corporate governance further distinctions can still be made between best practice governance of companies, and best practice in the public sector or with not-for-profit organisations. See for example Doug Matheson *The Complete Guide to Good Governance in Organisations and Companies* (Profile Books, Auckland, 2004) chapters 3, 4, and 5.

<sup>166</sup> See for instance Koenig Matthias & Paul De Guchteneire 'Political Governance of Cultural Diversity' in Matthias Koenig & Paul De Guchteneire (eds) *Democracy and Human Rights in Multicultural Societies* (UNESCO, Routledge, London, New York, 2007) 3-20, as an example of the trend in governance literature beyond national government bodies, towards the minority and marginalised/oppressed 'ethnic minorities'.

<sup>167</sup> World Resources Institute *World Resources: 2002 - 2004. Decisions for the Earth: Balance, Voice and Power* (World Resources Institute, Washington DC, 2004).



as demonstrated by the rapidly growing area of water governance, an area of particular interest in the New Zealand context.<sup>168</sup> This study considers varying aspects of ‘governance’ as they emerge in these bodies of literature, particularly the ways in which they intersect with Ngāti Rangiwewehi understandings of educational governance, environmental issues, or broader tribal and national politics. In many ways, this suggestion of governance as being engrained and intertwined throughout all areas resonates with the perspective that this study offers of Rangiwewehitanga as a culturally grounded governance paradigm.

This layered and interwoven nature of governance is reflected in the connected yet discipline specific literature. Indeed, in addition to popular topic areas like ‘corporate governance’, ‘educational governance’, and ‘environmental governance’, the structural nature of governance on local and global scales often redefines ‘governance’ within international law, indigenous understandings of law, and local and national, legal and political, structures. While the various topic areas within governance have often expanded to encompass local, national or international, disciplinary perspectives, separate bodies of literature have developed around key issues in governance that occur at each level (local, national and international). Thus, an initial survey of the literature relating to issues of governance at a national level within New Zealand points to the breadth and depth of data available on the topic: from analyses of public sector governance, to constitutional or electoral reforms, and Treaty of Waitangi settlement processes and structures.<sup>169</sup> A strong foundation in historical and often primary source material exists in relation to national level governance. In addition to official Crown or State documents, reports, and records, there is a significant amount of correspondence available through the National Archives that provide insights to Māori and Ngāti Rangiwewehi interpretations of

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<sup>168</sup> See for example Jacinta Ruru *The Legal Voice of Māori in Freshwater Governance: A Literature Review* (Landcare Research, Wellington, 2009); or Linda Te Aho “Enhancing Governance of Freshwater” in New Zealand Law Society *Governing and Running Māori Entities Tribal Development and the Law in the 21<sup>st</sup> Century* (New Zealand Law Society and Te Ohu Kaimoana, Wellington, 2009) 29-36; Linda Te Aho *Freshwater for a Sustainable Future* Paper presented at the Seventh International Conference on Environmental, Cultural, Economic and Social Sustainability (University of Waikato, Hamilton, January 2011).

<sup>169</sup> For a small selection of relevant literature relating to these issues see for example: New Zealand Law Society *Public Sector Governance* (New Zealand Law Society & Clinical Legal Education, Wellington, 2009); Jonathan Boston “Public Sector Management, Electoral Reform and the Future of the Contract State in New Zealand” *Australian Journal of Public Administration* 57:4 32-43; S R Matthew Palmer *The Treaty of Waitangi in New Zealand’s Law and Constitution* (Victoria University Press, Wellington, 2008); Malcolm Mulholland & Veronica Tawhai (eds.) *Weeping Waters: The Treaty of Waitangi and constitutional change* (Huia Publishers, Wellington, 2010); A Mikaere “Settlement of Treaty of Waitangi Claims: Full and final or fatally flawed?” in New Zealand University Law Review [No. 17, 1997] 424; Mason Durie *Te Mana Te Kāwanatanga* above at n73; Nan Seuffert “Nation as Partnership: Law, “Race,” and Gender in Aotearoa New Zealand’s Treaty Settlements” *Law & Society Review* 39:3 (2005) 485-526; Claudia Orange *The Treaty of Waitangi* above at n73; Alan Ward *An Unsettled History: Treaty Claims in New Zealand today* (Bridget Williams Books, Wellington, 1999); Office of Treaty Settlements, *Ka Tika a Muri* above at n21.

governance with particular emphasis on indigenous resistance to ‘being governed’<sup>170</sup> by what were in effect alien colonial notions and institutions.

There have been a number of comparative studies that provide important analyses on indigenous politics and governance issues within the wider international context. Paul Havemann’s edited volume on *Indigenous Peoples Rights in Australia, Canada and New Zealand* (1999), for instance, features a list of noted authors in the field, providing a useful comparative and contextual analysis of legal and political interaction between these colonial nation-states and their Indigenous populations.<sup>171</sup> Of the underlying intent within indigenous attitudes to governance Havemann asserts that ‘indigenous peoples are engaged in the politics of cultural recognition, which continues to present British settler liberalism... with some of its knottiest and most intractable moral, legal, economic, and political challenges.’<sup>172</sup> Indigenous populations can gain much by considering not only the techniques utilised by colonial governments to minimise ‘indigenous issues’, but also the relative success of the responses employed by other indigenous groups facing similar circumstances. Within the growing international literature on indigenous governance, there are a number of studies that are of significant value to this thesis. Among these is Robert Joseph’s doctoral thesis (2006), in which he considers how indigenous peoples, and more specifically the iwi of Waikato-Tainui, Ngai Tahu and Nisga’a, have engaged in the struggle to re-assert greater levels of autonomy and control over their tribal affairs.<sup>173</sup> Similarly, Kirsty Gover’s *Tribal Constitutionalism: States, Tribes, and the Governance of Membership* provides an in-depth comparative analysis of tribal membership governance based on approximately 800 tribal constitutions from indigenous groups in Australia, Canada, New Zealand, and the United States.<sup>174</sup> These studies offer explicit discussions on the lessons that can be learnt by considering both the similarities and the differences across indigenous tribal experiences.

The Harvard Project on American Indian Economic Development (Harvard Project) has also drawn on a comparative approach in their study of social and economic development on

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<sup>170</sup> While there are a several collections of letters from Māori generally there are also a number of letters and accounts of events written by noted Ngāti Rangiwewehi leaders and iwi members including Wi Maihi Te Rangikāheke, Wiremu Tamehana Tarapipipi, and Mita Hikairo held by the National Archives in Wellington and Auckland.

<sup>171</sup> Paul Havemann (ed.) *Indigenous Peoples Rights in Australia, Canada and New Zealand* (Oxford University Press, Auckland, 1999).

<sup>172</sup> Ibid at 1.

<sup>173</sup> Joseph, above at n25.

<sup>174</sup> Kirsty Gover *Tribal Constitutionalism: States, Tribes, and the Governance of Membership* (Oxford University Press, New York, 2010).

American Indian Reservations over the last 25 years. With a clear focus on identifying ‘what works, where, and why’, several New Zealand commentators have noted both the significance of the project’s findings for Māori economic development, and the obvious gap the Harvard Project research highlights within the New Zealand literature.<sup>175</sup> Founded in 1987 by Stephen Cornell and Joseph Kalt, the Harvard Project has inspired a large proportion of the literature related to issues of indigenous governance and has made significant contributions in supporting broader understanding of the circumstances that encourage and promote effective long-term, sustainable economic development for First Nations peoples.<sup>176</sup> The Project’s findings clearly demonstrate that ‘[w]hen Native nations make their own decisions about what development approaches to take, they consistently out-perform external decision makers—on matters as diverse as governmental form, natural resource management, economic development, health care and social service provision.’<sup>177</sup>

The work produced by the Harvard Project, and other groups<sup>178</sup> similarly dedicated to developing and sharing knowledge to support Indigenous governance illustrates the central importance of self-determination and self-rule in effective and sustainable Indigenous development.<sup>179</sup> The large number of case-studies from their research has enabled the identification of patterns and features that demonstrate that it is possible to be both economically successful and grounded in indigenous culture. Indeed, such assertions resonate

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<sup>175</sup> See for example Whaimutu Dewes comments in his paper ‘Governance options’ presented at the New Zealand Law Society Symposium, *Governing and Running Māori Entities Tribal Development and the Law in the 21<sup>st</sup> Century* (New Zealand Law Society and Te Ohu Kaimoana, Wellington, 2009) 43-54 at 45. See also Materoa Dodd “Political Legitimacy: The Treaty and Effective Self-Governance Institutions” Paper presented at the Nation Building and Māori Development in the 21<sup>st</sup> Century Conference (University of Waikato, Hamilton, 30 August-1 September, 2000); Rob Joseph “Contemporary Māori governance: New era or new error?” *New Zealand Universities Law Review* [22, 2007] 682-709; and the New Zealand Law Commission Report *Waka Umanga* above at n24. The Law Commission, noting the significance of HPAIED’s findings, discuss their relevance in the New Zealand context and incorporated them into the new proposed waka umanga model.

<sup>176</sup> Harvard Project results have been published in a number of places including Stephen Cornell and Joseph P Kalt “Reloading the Dice: Improving the Chances for Economic Development on American Indian Reservations” in Stephen Cornell & Joseph P Kalt (eds.) *What Can Tribes Do? Strategies and Institutions in American Indian Economic Development* (American Indian Studies Center, UCLA, Los Angeles, 1992) 1-60; Stephen Cornell & Joseph P Kalt “Sovereignty and nation-building: The development challenge in Indian Country today” *American Indian Culture and Research Journal* 22(3) (1998)187-214; The Harvard Project on American Indian Economic Development *The State of the Nations Conditions Under U. S. Policies of Self-Determination* (Oxford University Press, New York, 2008); Stephen Cornell *Nation Building and Indigenous Peoples* Keynote paper presented at the Nation Building and Māori Development in the 21<sup>st</sup> Century Conference (University of Waikato, Hamilton, 30 August-1 September, 2000). Alternatively many publications are available from the HPAIED publications and research page accessible at <http://hpaied.org/publications-and-research/research-overview>

<sup>177</sup> See [www.hpaied.org](http://www.hpaied.org) last accessed October 2014.

<sup>178</sup> See for example, the Canadian Institute on Governance, <http://iog.ca>, or the Reconciliation Australia Indigenous governance material [www.reconciliation.org.au/home/projects/indigenous-governance](http://www.reconciliation.org.au/home/projects/indigenous-governance)

<sup>179</sup> The Harvard Project on American Indian Economic Development, above at n159 *The State of the Native Nations*.

well with the Indigenous New Zealand literature and within this particular study. Although the literature and research addressing issues specifically relating to Māori and iwi governance is growing steadily, its development remains uneven. Much of the published material demonstrates a greater emphasis on economic development, and a significant proportion focuses on the issues inherent in the development and establishment of post-settlement governance entities.<sup>180</sup>

The increased recognition of Māori and iwi governance as a priority area for future economic development is reflected in the growing body of commissioned research by government departments. From 2003-2006, for instance, Te Puni Kōkiri published a series of reports that analysed case studies of successful Māori business organisations, examining their governance arrangements, identifying factors or characteristics that increased the likelihood of long term sustainable economic development.<sup>181</sup> The emphasis on ‘Māori’ governance models explored in these reports highlighted areas for improvement, minimum standards for effective governance, and offered initial analysis regarding the limitations and issues inherent in the governance structures adopted and experimented with by Māori organisations. Similarly, in 2006, the New Zealand Law Commission published the *Waka Umanga Report*, which included a comprehensive review of the governance models available to iwi, outlining their strengths and weaknesses, in the process advocating the ‘waka umanga’ as a more viable model capable of addressing the major issues facing iwi as they seek to develop iwi mandated and ‘Crown approved’ post-settlement governance entities.<sup>182</sup> Despite the findings in the *Waka Umanga Report*, little progress was made towards finding a more appropriate governance model for Māori and tribal organisations before September 2009 when the New Zealand Law Society, in conjunction with Te Ohu Kaimoana, hosted a one day professional development symposium entitled *Governing and Running Māori Entities: Tribal Development and the Law in the 21<sup>st</sup>*

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<sup>180</sup> For a small sample of literature in this area see: Dr Robert Joseph, above at n25; Robert Joseph ‘Māori Governance and Business Organisations’ in S Watson et al. (eds.) *The Law of Business Organisations* (5<sup>th</sup> new ed, Auckland, Palatine, Auckland, 2009) 788-805; Robert Joseph ‘Māori Governance and Business Entities’ in S Watson et al. (eds.) *The Law of Business Organisations* (5<sup>th</sup> new ed, Palatine, Auckland, 2009) 806-851; A Mikaere ‘Settlement of Treaty of Waitangi Claims: Full and final or fatally flawed?’ in New Zealand University Law Review [No. 17, 1997] 424; Nin Tomas, above at n137; L J Carter ‘Whakapapa and the State: Some case studies in the impact of central government on traditionally organised Māori groups,’ Unpublished Doctoral thesis, University of Auckland, Auckland, 2003.

<sup>181</sup> Te Puni Kōkiri *Hei Whakatinana i te Tūrua Pō: Business Success and Māori Organisational Governance Management Study* (Te Puni Kōkiri, Wellington, 2003); Te Puni Kōkiri *Māori Business Innovation and Venture Partnerships 2005 – Hei Whakatinana i te Tūrua Pō* (Te Puni Kōkiri, Wellington, 2005); Te Puni Kōkiri & Federation of Māori Authorities *Hei Whakamarama i ngā Ahuatanga o te Turua Po Investigating Key Māori Business Characteristics for future measures: Thinking Paper* (Te Puni Kōkiri, Wellington, 2006).

<sup>182</sup> New Zealand Law Commission, *Waka Umanga*, above at n24.

*Century*.<sup>183</sup> Proceedings from this symposium have become regular reference points in the recent literature on indigenous governance in Aotearoa with the range of papers discussing key issues faced by iwi groups in the process of settling their Treaty of Waitangi grievances with the Crown. For example, reflecting on Ngāti Awa’s experiences through the process, Jeremy Gardiner – former CEO of Te Rūnanga o Ngāti Awa – has argued that ‘the formation and structures of many of these entities [PSGEs] are based as much on Crown policy and western principles of good governance than on the cultural values and practices of the people they represent. Therefore, achieving those aspirations is likely to be a result of successfully balancing the requirements of cultural and corporate governance.’<sup>184</sup> Likewise, Whaimutu Dewes, one of Ngāti Porou’s negotiators, pointed out that many of the criteria identified as essential to good governance are not exclusively Western notions. Undertaking further research, discussion, and dissemination, he insists, is necessary to reaching a fuller understanding of ‘Māori governance’ and how best to improve tribal governance models and practices.<sup>185</sup> On issues of freshwater governance, Linda Te Aho also notes that, despite the similarities we share with other Māori and Indigenous peoples our differences are equally important.<sup>186</sup> Te Aho’s assertions reminds us that individual iwi governance arrangements must draw on each tribe’s unique stories, histories and perspectives, to effectively shape and mould the most appropriate vehicle with which to achieve their aspirations. Thus, in examining the evolution of Ngāti Rangiwewehi governance this study seeks to inform the shaping and refinement of the tribe’s post-settlement governance entity whilst contributing an alternative iwi perspective not currently present in the literature. The study then sits within intersecting local and international bodies of literature that at once offers insights into indigenous law and governance, while seeking to expand on those understandings via an explicit exploration of the ways in which Ngāti Rangiwewehi have, and intend to, retain and assert their own mana within this as yet unknown territory of the post-settlement governance era.

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<sup>183</sup> New Zealand Law Society *Governing and Running Māori Entities Tribal Development and the Law in the 21<sup>st</sup> Century* (New Zealand Law Society and Te Ohu Kaimoana, Wellington, 2009).

<sup>184</sup> Jeremy Gardiner “Getting past post-settlement” in New Zealand Law Society *Governing and Running Māori Entities Tribal Development and the Law in the 21<sup>st</sup> Century* (New Zealand Law Society and Te Ohu Kaimoana, Wellington, 2009) 21-28 at 21.

<sup>185</sup> Whaimutu Dewes, above at n175 at 45.

<sup>186</sup> Linda Te Aho, above at n168 at 30.

### 3.6 Defining ‘Governance’ in and Beyond the Literature

Definitions of governance are dealt with in multiple ways in and beyond the literature. Governance, within oral records for instance, is an old concept, with the term attributed various meanings, translations, and interpretations relevant to, and reflective of, multiple societies and cultures across the world. Its ontological roots can be traced to the original Latin terms, ‘gubernare’ or ‘gubernator’: each an allusion to the navigation of a ship or captain.<sup>187</sup> Governance as ‘navigation’ also offers an apt point of reference in which to begin a discussion of its contested meanings within this thesis. Indeed, from the powerful Western conceptions and discourses that have ‘controlled’ global understandings of governance to more recent critiques, contemporary times have increasingly seen greater challenges towards the dominance of certain models over ‘others’. This contestation, particularly in Aotearoa New Zealand, highlights the complexities of a colonial context, where the nature of governance has often been experienced as a ‘technique’ for the exercise of power.<sup>188</sup> Understanding how underlying discourses like ‘colonisation’, ‘nationhood’, and ‘assimilation’ have influenced the development of ‘governance’ as a concept, practice, and growing ‘literature’, is a necessary starting point for considering new, more productive and inclusive ways forward.

In this regard the early New Zealand and indigenous literature is vital to this study, providing a more specific focus on Māori and Ngāti Rangiwewehi perspectives. Inclusive in this canon of writing is the work of Wi Maihi Te Rangikāheke and other prominent Rangiwewehi leaders whose writings illuminate Māori and iwi views on the mismatch between Māori and Crown understandings of ‘governance.’ Te Rangikāheke, for instance, rejected the intrusion of Crown officials in disputes between Māori. His views were provoked by a particular incident in which a Ngai te Rangi woman was ‘seduced’ and taken away from her Ngāti Whakaue husband; an event that had an impact on Te Rangikāheke’s position on Māori and Pākehā understandings of the law and governance. This perspective is forcefully conveyed in his writing:

I will separate myself and tribe from the Law of England lest we should remain any longer under that law, lest it should become of no weight, lest my women should be taken and my land, my goods my everything that I possess... we shall cease laying our cases before the Government of New Zealand also, my adherence is at an end – between a European and a native it is well that it should be judged, when both are Māoris let it be by their own law’.<sup>189</sup>

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<sup>187</sup> John Farrar, above at n163 at 3.

<sup>188</sup> James Tully, above at n155 at 38.

<sup>189</sup> G 8/5 (5), Archives, New Zealand; Also cited in Vincent O’Malley, *The Impact of War and Raupatu on Ngāti Rangiwewehi*, A Report commissioned by Crown Forest Rental Trust in Association with Te Maru o Ngāti Rangiwewehi, June 2009 at 11.

On another occasion, relating to the same theme, Te Rangikāheke once more opined that ‘there is no recognition of the authority of the native people, no uniting of the two authorities... Suggestions have been made, with a view to giving natives a share in the administration of affairs, but to what purpose? The reply is, this island has lost its independence, it is enslaved, and the chiefs with it.’<sup>190</sup> Te Rangikāheke, among others, was often outspoken about his frustrations with the Crown and their repeated failures to support meaningful Māori participation in the governing and administration of Māori Affairs. In a ‘Statement of Evidence given before the Waikato Committee’, a Parliamentary Select Committee appointed to inquire into the origins of the ‘Waikato Crisis’, Te Rangikāheke explained:

I know why the thoughts of the Māori chiefs have turned away from the system of the Pākehā; the mana of this island is trampled upon by the Pākehā system; the Pākehā system is taught to the tribes; the Māories therefore consider that it is taking the mana and enslaving this island. This is the principal cause of the present darkness of the Māories, they are not admitted to share in the Government administration of justice. The Pākehās say that their regulations alone should be law for both races; the Māori chiefs say that the two should be joined, so that the bodies of the Pākehā and the Māori may be joined (or united), and also the thoughts of their hearts.<sup>191</sup>

The insights available through these historical letters and manuscripts provide invaluable primary source material that support and illuminate generations of Ngāti Rangiwewehi conceptualisations and attitudes about governance.

In addition to this local Ngāti Rangiwewehi oral and written evidence, there is a large array of literature related to ‘Māori’ governance in general. This includes both contemporary and secondary literature relevant to the Kingitanga movement from its inception in 1858, the Kotahitanga parliament in the mid-late nineteenth century, and other resistance and religious movements, particularly Ringatū, Rātana, and Parihaka.<sup>192</sup> This broad literature includes diaries, songbooks, written histories, court records, and writing in contemporary newspapers.<sup>193</sup> These sources demonstrate the multifaceted nature of governance, and its contested understanding between Māori and Pākehā communities. Moreover, this literature

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<sup>190</sup> Te Rangikāheke to [Te Arawa chiefs], 3 December 1855, GBPP, 1860 [2747], 181.

<sup>191</sup> Evidence of Wiremu Maihi Te Rangikāheke, Minutes of Evidence taken before the Waikato Committee, 6 October 1860, AJHR, 1860 F-3, 24.

<sup>192</sup> Some contemporary secondary sources for these identified subjects could include: Lindsay Cox *Kotahitanga: A Search for Māori Political Unity* (Oxford University Press, Auckland, 1993); Judith Binney *Redemption Songs: A Life of Te Kooti Arikirangi Te Turuki* (Auckland University Press and Bridget Williams Books, Auckland, 1995); and Dick Scott *Ask that Mountain* (Reed and Southern Cross, Auckland, 1981).

<sup>193</sup> The Māori Niupepa online database is an invaluable resource in this regard as it provides free access to 34 different historical newspapers that were distributed to Māori audiences. The database enables searching for key words and can be accessed at [www.nzdl.org/cgi-bin/library?a=p&p=about&c=niupepa&l=en&nw=utf-8](http://www.nzdl.org/cgi-bin/library?a=p&p=about&c=niupepa&l=en&nw=utf-8) last viewed 30/10/2012.

also articulates the nuance and complexities of governance for Ngāti Rangiwewehi, who were confusingly identified as both rebels and loyalists, cultivated ties with the Kingitanga and Te Kooti, yet always operated with their own aspirations and interests in mind in attempts to remain autonomous agents of their own destiny.<sup>194</sup> Thus, their understandings and models of governance were always iwi-centric and tribally specific.

Defining ‘governance’ then is a key issue in this study, and has considerable attachment to both the oral and written records relative to Ngāti Rangiwewehi. Considering governance within the literature therefore requires an engagement with Māori cultural and linguistic frames of reference and particularly with the intersection where Māori and Pākehā terms collide. The Māori word for governance, predominantly used in the literature, is often referred to in official and government texts as ‘kawanatanga.’ Infiltrating the indigenous lexicon with this problematic term has, it could be argued, been a necessary step in rationalising and justifying the ‘myth’ of nation building inherent in reflections of Treaty of Waitangi history. Kawanatanga in the literature, as an apparently ‘Māori-fied’ and indigenised idiom for ‘governance’, remains detached from the authority to claim sovereignty, the underlying assumption that has become synonymous with settler narratives of nationhood. The debate over the appropriateness of this term, rather than phrases like ‘tino rangatiratanga’ or ‘mana motuhake’, has been on-going since those who drafted the Treaty selected different terms from those used in the earlier Declaration of Independence.<sup>195</sup> The literature that emerged from this debate provides an important body of writing relevant to this study. It shows the continual development of Māori-centred ideas around governance and their preferred relationship to the Crown, balanced delicately with desires and abilities to fully realise self-determination. Within the literature, discussions on these initiatives to assert autonomy are of central importance to this study. The large body of writing available here includes more recent tribal reports and indigenous commentaries, but there remains a significant amount of data in the deep reservoir

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<sup>194</sup> In many Crown documents and accounts Ngāti Kereru are often identified as being ‘Loyalists’ and Ngāti Rangiwewehi as being more unpredictable and often rebellious, clearly ignorant of the whakapapa connections showing Ngāti Kereru as a prominent hapū within Rangiwewehi. For an example of this confusion see Angela Ballara Iwi: *The Dynamics of Māori Tribal Organisation from c. 1769 to c. 1945* (Victoria University Press, Wellington, 1998). Other key Rangiwewehi leaders were also recognised as influential, managing to develop amicable relations with the Missionaries, Crown Officials and traders including Hikairo and Wi Maihi Te Rangikāheke.

<sup>195</sup> See for example I H Kawharu (ed.) *Waitangi: Māori and Pākehā perspectives of the Treaty of Waitangi* (Oxford University Press, Auckland, 1989); Alan Ward *A show of justice: racial ‘amalgamation’ in nineteenth century New Zealand* (Auckland University Press, Auckland, 1995); Ranginui Walker, above at n25; Paul Havemann, above at n171 at 108-122, 162-180.



of government materials, including the *Appendices to Journals of the House of Representatives* (AJHRs) from which the following extract from William Lee Rees has been retrieved:

When the colony was founded the Natives were already far advanced towards corporative existence. Every tribe was a quasi-corporation. It needed only to reduce to law that old system of representative action practiced by the chiefs, and the very safest and easiest mode of corporate dealing could have been obtained. So simple a plan was treated with contempt. The tribal existence was dissolved into its component parts. The work which we have, with so much care, been doing amongst ourselves for centuries, namely the binding together of individuals in corporations, we deliberately undid in our government of the Māoris.<sup>196</sup>

This body of nineteenth century ‘mainstream’ literature is crucial for its exposition of ‘New Zealand’ notions of governance, and how it intersects with prevailing ideas within the international community, particularly for its focus on the law and cultural ‘progression’ of the ‘nation’ as a polity inclusive of ‘laws’ and governance measures for ‘Natives’ and New Zealand ‘citizens.’<sup>197</sup> Included in this body of literature is the vast array of local and national policy that sets the foundations for the institutionalisation and enactment of New Zealand systems of ‘governance.’ Beyond Te Whakaputanga and the Treaty of Waitangi referred to earlier in this review, this primary source material chronicles significant Acts, Statutes, and debates in the House, which highlight the ways in which ‘governance’ has been defined, problematised, legislated and disseminated.

The New Zealand Constitution Act 1852, for instance, established New Zealand as a self-governing colony separating it from the jurisdiction of New South Wales. This Act provided for the creation of Māori districts in which iwi would be able to exercise self-governance according to their own laws and customs.<sup>198</sup> This provision was never fully realised, despite indigenous efforts to create and maintain their own governing entities throughout and beyond the nineteenth century. Despite the potential for indigenous self-determination, the 1852 Constitution Act stipulated that eligible voters must be individual land owners, thus largely excluding Māori who had for a long time exercised communal ownership. Further Crown initiatives were more explicit in their intention to undermine Māori self-governance and traditional practices. In 1862, the Native Land Act established the Native Land Court to adjudicate on the ownership of Māori land and abolished the Crown right of pre-emption.

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<sup>196</sup> William Lee Rees 1836-1912: 1891 AJHR G4, at xviii

<sup>197</sup> Established International documents such as the Magna Carta enshrine key principles and ideas that influenced the shaping of New Zealand governance. The Vienna Convention on Treaties provided the laws relating to how treaties could be entered and how they were validated and recognised. More recent examples include the Charter of the United Nations 1945, the Universal Declaration of Human Rights 1948, and the International Covenant of Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR).

<sup>198</sup> The New Zealand Constitution Act 1852 s71.

Designed to ease the transfer of Māori customary ownership to individual title this process then opened up land for alienation. Alongside the 1852 Constitution, it operated as a powerful colonial weapon that at once facilitated increased European encroachment but more menacingly undermined Māori aspirations to adjudicate on their own land issues, sales and understandings of ownership. Speaking on the purpose of the Native Land Act during a parliamentary debate in 1877, the Hon. Henry Sewell's comments illustrate the depth of information available in the extensive primary documentary sources related to this thesis. Of the Act, he notes:

The object of the Native Lands Act was twofold: to bring the great bulk of the lands of the northern island which belonged to the natives, before the passing of this Act,... within the reach of colonisation. The main other object was the detribalisation of the natives; to destroy, if it were possible, the principles of communism which ran through the whole of their institutions, upon which their social system was based and which stood as a barrier in the way of all attempts to amalgamate the native race into our own social and political system. It was hoped the individualisation of titles to land, giving them the same individual ownership that we ourselves possessed, they would lose their communistic character and their social status would become assimilated into our own.<sup>199</sup>

In hindsight, the anti-‘socialist’ and communist discourses at work here are intriguing in a society where only a few decades later liberalists and labour leaders established an extensive nationwide welfare system. These dismissals of Māori as ‘communist’ ‘natives’ (unfit to self-govern) are not unusual in the late nineteenth century where the rhetoric of Māori extinction looms large. Indeed, excerpts like this from the existing contemporary sources magnify the value, depth and detail, of the data available to this study within the archive. The *Appendices to the Journal of the House of Representatives* (AJHRs) the *New Zealand Parliamentary Debates* (NZPDs), Native Land Court Records, *Statutes of New Zealand*, and the *New Zealand Gazette* (NZG), provide important contemporary bodies of evidence that enable a discussion of the development of Crown policy and attitudes around ‘governance’ as well as the impact those ideas had on Māori and, more explicitly, on Ngāti Rangiwewehi. This primary literature is crucial to this study and sits alongside the written and oral evidence produced by Māori leaders and commentators, whose voices can be found in contemporary newspapers and manuscripts from the nineteenth century onwards. This study employs these literatures, and includes more recent tribal documentation, and wider ‘Māori’ writing and reports, related to the current settlement process.

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<sup>199</sup> Hon Henry Sewell *New Zealand Parliamentary Debates* 1877 vol. 24 at 254.

The emergence of a specific literature focused on ‘governance’ in a reflective and critical sense is not evident until the mid-late 20<sup>th</sup> century. Prior to this, the literature on governance offers definitions for ‘practical’ purposes, but not usually for the critical disruption of the popular ‘nation’ state or colonial ‘empire.’ Governance then is multifaceted, invoked in various disciplines and fields from education, politics, and the environment, to management and law. More recently the literature on governance, and particularly indigenous notions of governance, has focused on more locally centred expositions of the meaning of ‘governance’ and a need to make these fit within broader international ideas and definitions. This approach, however, has provoked increasing debate, with some commentators asserting instead the necessity of reconfiguring western ideas and modes within indigenous frames for governance.<sup>200</sup>

This review has briefly surveyed these intersecting bodies of work, emphasising the ways in which the body of this study will draw on, and contribute to, the existing legal and indigenous governance literatures. Furthermore, this initial review has highlighted the significant volume of archival and tribal material that enables an exploration of the overarching question of this study. Indeed, an investigation of the possibilities for Ngāti Rangiwewehi to achieve our aspirations for self-determination in a post-settlement governance era then sits within a growing local and international literature on indigenous governance. It draws on intersecting governance themes within the literature that include notions of jurisdiction, Treaty law, human rights and self-determination to name only a few. Finally, it draws on a broad literature that includes an extensive contemporary archive inclusive of official documentation, private papers, tribal reports, and commentaries from those involved in the process of settlement and the formation of indigenous models of governance. Thus, this study is informed by a wide array of literatures and seeks to contribute to, and locate itself within, many of these intersecting bodies of work: offering a specific tribal perspective to the ways in which governance is negotiated and refined beyond the settlement process and can be navigated in a way that is at once an act of empowerment and self-determination.

### **3.7 Expanding the Vision: Beyond surviving ‘Settlement’**

The irony of the term ‘settlement’ being used to describe the government dictated process tribes must follow to resolve the issues caused by Crown breaches of our Treaty rights is evident, when viewed against the unsettling history which saw our colonial invaders make space for

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<sup>200</sup> James Tully, above at n155 at 38.

themselves in our lands. ‘Settlement’ in both instances, has always been controlled by the government, and has always been defined in ways ultimately intended to serve their interests, not those of the tribal groupings that they purport to ‘settle’ with. Beyond a focus on appreciating how tribal governance facilitates our long-term visions for tribal well-being and self-determination, a central component of these aspirations is understanding what steps are necessary to enable our healing from the colonial trauma of our past. This thesis is as much about our healing as it is about our governance, as this healing is necessary in order for the collective to move forward united, whole and complete.

Such an assertion is perhaps reflective of a much broader, more expansive and inclusive consideration of what falls within the jurisdiction of tribal governance than the commonly more restricted focus on the proper management and administration of collectively owned tribal assets.<sup>201</sup> However, as a result of various disagreements and divisions created through the pressures and challenges of the settlement process itself, there continue to be issues within the iwi that require proper resolution in order for Ngāti Rangiwewehi to be the strong, self-determining collective body that we aspire to be. This study maintains that the same threats such divisions would have posed in traditional times to the long-term survival and well-being of the collective remain today. Then, as now, these challenges require a return to the underlying values, principles and practices that originally operated to hold our communities together. We must remember that the fractures within our communities were not caused by any inferiority in the cultural frameworks that traditionally governed and ordered our world. These issues were deliberately seeded, through the colonizing ideas, policies, processes and machinery that consciously sought to divide and conquer the indigenous population for their own benefit.

At one point in time, the cohesion of our communities was necessary for survival in a more corporeal sense. This thesis argues that without adherence and proper attention to our traditional frameworks for governance, our survival, in a spiritual and cultural sense, remains very much at risk. Although there has been great damage wrought upon us by our colonizers all is not lost. Throughout our experiences of colonization, in both the historical breaches of the Treaty of Waitangi discussed within our claims, and the contemporary realities we must continue to endure, we have sustained significant trauma which remains to be healed.

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<sup>201</sup> See Robert Joseph ‘Māori Governance and Business Organisations: Entities’ in S Watson G Gunasekara M Gedge Y van Rot M Ross L Longdin L Brown and M Keating *The Law of Business Organizations* (5<sup>th</sup> ed, Palatine Press, Auckland, 2009) 804-852.

Culture is part of the soul. As human beings, we are all part of a culture and not separate from it. When the soul or culture of some persons are oppressed, we are all oppressed and wounded in ways that require healing if we are to become liberated from such oppression.<sup>202</sup>

There now exists a significant and growing body of literature detailing the substantial and on-going destructive impact of colonial oppression and the historical trauma it has caused Indigenous peoples.<sup>203</sup> Increasingly the link between the prevalence of Indigenous peoples featuring in the negative social and economic indices of the societies that have sought to assimilate or eradicate them, and the colonial soul wounds these same people bare, is being made more obvious.<sup>204</sup> Thus, when the deficit theorizing of Indigenous peoples by their colonial states is recognised as part of the problem, and the true causes of the major social disparities are understood and addressed, Indigenous peoples, and the cultural knowledge's embedded within their communities can be empowered to find solutions from within their own frames of knowing. Within the context of this study, this alludes to the monumental changes that will be required if Ngāti Rangiwewehi, or any iwi Māori, are to have any meaningful opportunity to exercise self-determination and realise their tino rangatiratanga within a post-settlement governance era. As Mohawk legal academic Patricia Monture Angus has affirmed:

to address present-day manifestations of the historical oppression as singular, distinct and individualized, without a clear understanding of colonial causation and the subsequent multiplication of forms of social disorder, is to offer only a superficial opportunity for change and well-ness to occur in Aboriginal communities.<sup>205</sup>

Such a superficial offer is arguably a further expression of colonial violence and oppression against these communities that so clearly need help, support and healing. However, this need

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<sup>202</sup> E Duran, J Firehammer & J Gonzalez, 2008, "Liberation Psychology as the Path Toward Healing Cultural Soul Wounds", *Journal of Counselling & Development*, 86, 288-295 at 288.

<sup>203</sup> See for example E Duran & B Duran *Native American postcolonial psychology* (State University of New York Press, Albany, NY, 1995); M Y H Brave Heart & L M DeBruyn "The American Indian Holocaust: Healing historical unresolved grief" *American Indian and Alaska Native Mental Health Research Journal* 8(2) 1998 56-78; T Evans-Campbell "Historical trauma in American Indian/Native Alaskan communities: A multi-level framework for exploring impacts on individuals, families, and communities" *Journal of Interpersonal Violence*, 23 2008 316-338; K Walters Presentation at the "Does Racism make us sick?" Symposium, 13<sup>th</sup> Annual Summer Public Health Research Institute and Videoconference on Minority Health, University of North Carolina, Capitol Hill, North Carolina (2007) Retrieved from <http://www.minority.unc.edu/institute/2007/>; L Pihama P Reynolds C Smith J Reid L T Smith & R Te Nana "Positioning Historical Trauma Theory Within Aotearoa New Zealand" *Alternative* 10:3 2014 248-262 at 251.

<sup>204</sup> K L Walters & J M Simoni 'Reconceptualising Native Women's Health: An 'Indigenist Stress-Coping Model' *American Journal of Public Health*, 92(4) 2002 520-524; Ibid T Evans-Campbell "Historical trauma in American Indian/Native Alaskan communities"; E Duran, *Healing the Soul Wound: Counselling with American Indians and other Native Peoples* (Teachers College Press, New York, 2006); E Duran B Duran M Y H Brave Heart, & S Yellow Horse-Davis, 1998, 'Healing the American Indian Soul Wound' in Y Danieli (Ed) *International Handbook of Multigenerational Legacies of Trauma* (pp341-354) New York: Plenum Press.

<sup>205</sup> Patricia Monture Angus, above at n16 at 26.

for help should not be misread. They don't need to be saved from their traditional cultural ways of knowing and being. Indeed, the events that have sought to undermine their cultural foundations have to a large extent been responsible for much of their current predicament. Rather this is about demanding acknowledgement of our past, the profound impact our historical experiences continue to have on our contemporary realities and, expecting those responsible to be held accountable for their actions. To offer a tribe less than 1% of what has been taken as compensation, wrapped up in an apology for what happened in the past is not only a failure to take adequate responsibility for past actions, but a denial of the continued impact of colonial trauma on Māori and Ngāti Rangiwewehi that we endure through today.

Such circumstances demonstrate the Crowns unjust expectations and effective negligence in their failure to appreciate what is truly at question here. Although this excerpt is taken from a letter written by Sir Peter Buck to Sir Apirana Ngata in 1928, even after ninety years the situation has not noticeably changed:

You and those associated with you are so close to the battlefield that the dust of conflict surrounds you. You are hanging on to trenches, giving way here to consolidate there and so improving the whole position. You are too busy with the daily detail and the continuous duty to know what the relationship of your sector in the line is to the whole line of struggle... it is not a struggle of active opposition but it is a struggle all the same though many may not realise that a struggle is on. With us it is a two-fold struggle; a struggle without and a struggle within... government and officials, materialists and spiritualists would have us abandon all and accept their culture... if we do that we become nothing. We become standardised to wear a made to order suit that was made by European factories with no knowledge of Polynesian hips... we are forced to have alterations made to suit the particular physique.<sup>206</sup>

Even now, in 2018, this remains an apt way to describe the problems iwi face in finding appropriate tribal governance systems that are deemed acceptable within the realm of whiteman governance. Whilst apologising for their past wrongs there remains an unwillingness to make any real alterations to the colonizing governance system still in place, that does not wish to cater to our specific needs, instead preferring to fit us into models and structures it more easily recognises and understands, effectively corporatizing iwi through the settlement process. Indeed, the settlement process and its inherent corporate governance focus seeks to redefine iwi and tikanga, and in reality provides further pathways to the effective assimilation and elimination of the indigenous, whilst easing access to land and resources for further economic development.

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<sup>206</sup> Sorrenson M P K *Na to hoa aroha = From your dear friend: The Correspondence between Sir Apirana Ngata and Sir Peter Buck* (Auckland University Press in association with the Alexander Turnbull Library Endowment Trust and the Māori Purposes Fund Board, Auckland, 1986) at 144.

In many ways then, this study is a consideration of Ngāti Rangiwewehi identity and the ways in which that is shaped, influenced, empowered or undermined by the jurisprudence of governance that oversees our tribal nation. Originally, the legal philosophies that informed our experience were uniquely created within and therefore needed no alterations to support Rangiwewehi ways of knowing and being. Through our engagement over time with the new nations and settlers with whom we initially sought to share our land, this situation changed. Although our people consciously took on many new ideas as a result of these interactions, our willingness and agency in the situation was increasingly restrained as colonization took over and the jurispathic nature of the Eurocentric traditions took hold.

This does not mean however that our original legal and governance frameworks ceased to be. While on the surface much may appear to have changed, there remains within our peoples, and within our knowledge the core of our legal and governance traditions. Although in the early iterations of this project, there was a focus on the development of a specific structure for our post-settlement governance entity, what has become clear is that the structure is less important than the foundation upon which it is built. This thesis contends that the only way for Ngāti Rangiwewehi to be self-determining and assert our Rangiwewehitanga in a post-settlement governance era is by grounding our tribal governance frameworks in the traditional values, principles and cultural practices that give life to our ways of knowing and being. We must build our governance within a foundation of Ngāti Rangiwewehi jurisprudence. We must come to recognise and assert our Rangiwewehitanga as an inherently decolonial paradigm for governance.

This chapter has sought to summarise the aims and objectives of the project, contextualising these aspirations within the intersecting fields of literature that relate to and underpin this study, while highlighting the contributions it hopes to make as evidence of its relevance and value as a unique offering within the context of what currently exists in the area. From here the following chapter will further introduce and expand on the conception of Rangiwewehitanga as a decolonial paradigm for governance that naturally empowers our people as we draw strength and wisdom from our ancestral teachings and the tribally grounded framework for Ngāti Rangiwewehi law and governance.

#### 4. Ngā Kete Rokiroki a Whakaotirangi: Rangiwehita as a Framework for Knowing, Being, and Experiencing the World.

E rua tau ruru – Two years of wind and storm  
E rua tau wehe – Two years when food is scarce  
E rua tau mutu – Two years when crops fail  
E rua tau kai – Two years of abundant food.

When the descendants of Ngāti Ohomairangi<sup>207</sup> were preparing to leave Hawaiiki before their arrival in Aotearoa, Ohomairangi gave to Whakaotirangi several small baskets of kumara seedlings to take to the new lands. Before they departed, Ohomairangi prophesied of a difficult period ahead as they journeyed and settled new homelands. He foretold of a period in time that would be filled with wind and storm, challenging and burdensome for those who sought to adapt from the warm and abundant islands where they were accustomed to living, to the new environment they would soon discover. This, he foresaw, would be followed by a period of time in which food would be scarce. Ohomairangi's visions were indeed prophetic. The storms and turbulent winds of colonisation have since swept aside much of the economic resource base his many descendants, including Ngāti Rangiwehi, once enjoyed. Ohomairangi spoke also of a period in which the crops would fail. Despite many attempts to assert our rights we have not yet achieved the fully favourable outcomes we ultimately seek. Although we would not yet admit failure. We have repeatedly sought our rights as mana whenua<sup>208</sup> and mana tangata,<sup>209</sup> to be able to determine for ourselves our future, to exercise our rights to govern our own affairs and be able to live our lives as Māori, and as Rangiwehi, free from racially, ethnically or culturally constructed prejudice and violence. Finally, our ancestor predicted that all of the hard work and energy that had been invested over time in trying to protect, maintain and grow those kumara seedlings would finally bring forth abundant crops to provide for the people and all of their needs.

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<sup>207</sup> Ngāti Ohomairangi was the collective for the confederation of tribes that were latterly known as Te Arawa. The name of the group was changed to Te Arawa to commemorate an event that occurred during the journey from Hawaiiki to Aotearoa when the waka was nearly consumed by Te Korokoro o te Parata.

<sup>208</sup> The Conservation Act 1987 and the Reserves Act 1977 both define "Manawhenua" in each respective s 2 as "customary authority exercised by an iwi or hapū or individual in an identified area." See also Hirini Moko Mead, *Tikanga Māori* above at n29 at 7.

<sup>209</sup> Huia Tomlins-Jahnke writes that "mana tangata is a fundamental principle in the Māori world that deals with, among other things, the diversity of human endeavour." Huia Tomlins-Jahnke & Malcolm Mulholland *Mana Tangata – Politics of Empowerment* (Huia Publishing, Wellington, 2011) at 4.



The baskets of kumara that were gifted to our tupuna kuia (ancestress) are referred to as ‘ngā kete rokiroki a Whakaotirangi’.<sup>210</sup> Ohomairangi foresaw that after the many struggles and challenges his descendants faced, they would eventually prosper: The kumara would finally bring forth abundant crops and provide the sustenance, support and development the people needed for a healthy and vibrant future. Within the context of this chapter ‘ngā kete rokiroki a Whakaotirangi’ is used as a metaphor for the values, principles and teachings of our ancestors that the tribe seek to embody and ground our tribal governance frameworks within, as well as our approaches to research, enhancing and empowering our tino Rangiwhewhitanga and collective self-determination.

These insights define not only our perspectives on governance but effectively how we see and understand our world, how we know, explain and engage with our experiences, and the ways in which this builds the epistemological and ontological foundations for our world. Thus, “ngā kete rokiroki a Whakaotirangi” much like “te Riu o Tane Mahuta” serve equally well as culturally based explanatory frameworks that enable insights into Rangiwhewhi meanings of governance. These archives of knowledge are richly sourced with examples of Rangiwhewhitanga, in both theory and practice. The earliest written sources include the Native Land Court records, letters, petitions and reports or documents accessible within the public archive. Despite their physical location, Ngāti Rangiwhewhi aspirations include, at some future point, holding physical and digital copies of all of these sources to create a more physically based and accessible archive space.<sup>211</sup> These are significant resources, and are recognised as more appropriately belonging to Ngāti Rangiwhewhi. Of particular note is the prolific work of Wiremu Maihi Te Rangikāheke, whose collection of manuscripts constitute a broad and important body of Rangiwhewhi intellectual property. His extensive writing, commissioned by George Grey in the mid-nineteenth century, hold an invaluable treasure trove of language and kōrero that is connected to our people as part of our genealogical legacy and birth-right mātauranga.<sup>212</sup> In the Māori world, a genealogical connection to knowledge often serves as a

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<sup>210</sup> ‘Nga kete rokiroki a Whakaotirangi’ could be interpreted as the secured or protected food baskets of Whakaotirangi. In some versions the ‘nga’ is replaced with ‘te’ which denotes a singular basket instead.

<sup>211</sup> It is important to hold our own written and oral records. Nēpia Mahuika writes that “oral histories in Aotearoa belong to communities, and despite their residence in public archives are not necessarily available for just any public project or person to plunder.” This is especially true for iwi. Nēpia Mahuika “An Outsiders Guide to Public Oral History in New Zealand” *New Zealand Journal of Public History* (2017) 1 at 16.

<sup>212</sup> Jenifer Curnow writes that Te Rangikāheke produced twenty-one manuscripts “some 670 pages of which he was the sole author, and seventeen more to which he contributed about one hundred pages – in the period before 1854.” She notes that “Te Rangikāheke contributed to Grey’s major folios of songs and proverbs. Fifty seven of these songs and six proverbs were published by Grey.” Jenifer Curnow “Wiremu Maihi Te Rangikāheke, c. 1815

signifier of ownership and the right to govern the way that material and knowledge is utilised, disseminated, and presented in the present. Ngāti Porou leader Apirana Mahuika asserts this sentiment in the phrase “Ko te tangata kaitieki, he whakapapa tōna” which explains that the custodians of our knowledge are identified through their genealogical connections to the knowledge itself.<sup>213</sup> Custodianship, here, is a responsibility that emphasises the reciprocal rights and obligations inherent in our whakapapa. This protocol, law or tikanga, is also relevant to the notion of ownership and governance: that is the inherent genealogical right to govern as a descendant and custodian of the tribe’s knowledge, taonga and kōrero tuku iho (treasures handed on). This foundational precept shapes and influences a Ngāti Rangiwewehi framing of governance because it identifies immediately the “insider” and “outsider” status of those who literally have a genealogical right to govern.<sup>214</sup>

In the past three decades this ownership and expression of cultural and intellectual governance has led to an increase in Rangiwewehi authored literature, starting with Aroha Yates-Smith Masterate study, “*Te Wharepora a Hineteiwaiwa*” (1980) and her doctoral thesis, “Hine! E Hine! Rediscovering the feminine in Māori Spirituality” (1998).<sup>215</sup> Although both studies drew on a range of tribal sources, Professor Yates-Smith’s work was focused on Māori traditions and ancestral teachings more generally, rather than an explicit and exclusive Ngāti Rangiwewehi focus. A more specifically iwi focused study, however, is evident in Te Ururoa Flavell’s thesis, “Na Tarimano I Whakaari... Ko Rangiwewehi te iwi” (1986) which was followed just over twenty years later by my Masterate study “Anō ko te riu o Tane Mahuta,” (2011) and then another Masterate thesis “E Kimi noa ana” (2013) by Ngāti Rangiwewehi

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– 1896” *Kōtare* 7:2 (2008) at 29. Jenifer Curnow “Wiremu Maihi Te Rangikāheke: His Life and Work” (MA thesis, University of Auckland, 1983).

<sup>213</sup> Dr Apirana Mahuika interview with Lawrence Wharerau, *Ngā Taonga Whitiāhua*, Series One, Episode 6, Michele Bristow, kaihautu, Eruera Morgan, Kaihautu Matua, Māori Television. Other scholars have also written about the importance of genealogy as central to their practice because it ‘provides a solid foundation or a “standing place” for those “carrying their genealogies and histories.” See Ty P Kāwika Tengan T O Ka’ili and R T Fonoti “Genealogies: Articulating Indigenous Anthropology in/of Oceania” (2010) *Pacific Studies: A Multidisciplinary Journal* 33:2/3 at 160.

<sup>214</sup> This identifying is a contested issue in Ngāti Rangiwewehi [and is discussed later/elsewhere in the thesis with regard to the role of in-laws, those who have been involved in our tribal governance but are not descendants of Rangiwewehi]. The “insider” and “outsider” dynamic in Māori research is well referenced in the work of Linda Tuhiwai Smith. These terms are useful here to explore the rights and cultural determinants that frame a discussion of ownership and the right to govern. For further reading on “insiders” and outsiders” see Linda Tuhiwai Smith, *Decolonizing Methodologies* above at n1 at 138-142.

<sup>215</sup> Greta Regina Aroha Yates “Ko Te Whare Pora o Hineteiwaiwa” (MA thesis, University of Waikato, 1980); G R Aroha Yates-Smith “Hine! e Hine!; Rediscovering the Feminine in Māori Spirituality” (PhD thesis, University of Waikato, 1998).

scholar and weaver Awatea Hāhunga.<sup>216</sup> Each of these studies collated, discussed, and unpacked, knowledge and understandings of explicit Rangiwewehi mātauranga (tribal knowledge). In addition to these studies, a considerable number of reports, papers, and submissions were also produced as a part of the tribe’s settlement research process. Some of the more impactful research included, the traditional historical report collated for the settlement claim, and records from the environmental court hearings and the attendant resources that were generated as part of that process. While there is an increasingly expanding body of referenceable and recognised documentary sources on Rangiwewehitanga, these exist as textual sources alongside the still rich reservoir of oral and living tradition and knowledge we can draw on to strengthen our cultural foundations.<sup>217</sup> Rangiwewehitanga is embodied in our people, our places, through our determination and tenacity, our language, stories and whakapapa. This chapter, then, further unpacks the concept of Rangiwewehitanga as a decolonial paradigm for not only governance, but for all aspects of our collective well-being. This chapter examines some of the cultural frameworks, values, principles and practices inherent in the stories carved within the central ridge pole of our ancestral meeting house Tawakeheimoa. It further highlights the various insights and principles these traditional resources offer to shape and guide our contemporary governance in alignment with ancestral teachings.

#### **4.1 Tikanga as the First Law**

A key feature of any effective legal or governance system is “a consistency in the underlying ideology, norms or values” which would enable a society to function with coherent beliefs and accepted or recognised standards of behaviour and appropriate sanctions for deviations from those norms.<sup>218</sup> Tikanga as a regulatory framework provided a robust system of law, embedded with its own values and principles which operated not only as the first law of Aotearoa/New Zealand, but as an effective framework for governing Māori society for some time before our introduction to the British equivalent.<sup>219</sup> Although the term tikanga is, within the New Zealand context, relatively common place, perceptions and understandings of what the concept actually

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<sup>216</sup> J W B Flavell “Na Tarimano i whakaari, Ko Rangiwewehi te iwi” (MA thesis, University of Waikato, 1986); Mahuika “Anō, ko te Riu” above at n2; Awatea Hahunga “Mōteatea: He pātaka whakairinga kōrero nō Ngāti Rangiwewehi” (MA thesis, University of Waikato, 2013).

<sup>217</sup> Indeed, the reports and studies produced in writing over this long period of time drew extensively from interviews and oral repositories of knowledge within the tribe.

<sup>218</sup> E T Durie “Custom Law Address” above at n76 at 1.

<sup>219</sup> Ani Mikaere, “Tikanga as the first law of Aotearoa” above at n17.

means and what constitutes appropriate application or respect for tikanga has been a source of much interesting public and private debate.

Tikanga has been described as a Māori culturally grounded way to view ethics, given its strong correlation to the correct, or ‘tika’ way to do something.<sup>220</sup> In his book *Tikanga Māori: Living by Māori Values*, Hirini Moko Mead describes tikanga as:

the set of beliefs associated with practices and procedures to be followed in conducting the affairs of a group or individual. These procedures are established by precedents through time, are held to be ritually correct, are validated by usually more than one generation and are always subjected to what a group or an individual is able to do... Tikanga are tools of thought and understanding. They are packages of ideas which help to organise behaviour and provide some predictability in how certain activities are carried out... They help us to differentiate between right and wrong in everything we do and in all of the activities that we engage in. There is a right and proper way to conduct one’s self.<sup>221</sup>

As such the inherent nature of Māori society as a relational culture<sup>222</sup> also meant that in addition to these normative understandings being passed on intergenerationally, their fundamental purpose was focused on the proper maintenance of relationships: “appropriate relationships of people to their environment, to their history and to each other.”<sup>223</sup> Tikanga provided the framework which positioned one within their world, and lay out the proper ways to honour and enhance your connections with the land, the water, the ancestors both past and present, with friends and foe. This proper positioning similarly ensured individuals understood their reciprocal rights and responsibilities to all animate and inanimate features of the world, and conducted themselves in such a way as to maintain not only their personal well-being, but perhaps more importantly the well-being and interests of the wider collective of which every being was an integral part. Thus, as Jacinta Ruru has explained: “The Māori legal system is predominantly values, not rules based. It encapsulates a certain way of life that depends on the relationships between all things, including people and gods, different groups of people and everything in the surrounding world.”<sup>224</sup>

The prominence of relationships in knowing and understanding not only who you are, but how you should behave in any given context explains the significance attributed to the concept of

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<sup>220</sup> Rangimarie Mahuika “Kaupapa Maori is critical and anti-colonial” above at n45; Nepia Mahuika “Closing the Gaps: From Post-Colonialism to kaupapa Maori and beyond” *New Zealand Journal of History* 45:1 (2011) 15-32; Pihama, Tiakiwai & Southey, *Kaupapa Rangahau A Reader* above at n26.

<sup>221</sup> Hirini Moko Mead *Tikanga Māori* above at n29 at 12.

<sup>222</sup> Spiller et al. “Wise up” above at n113.

<sup>223</sup> Ani Mikaere “Are we all New Zealanders now?” above at n223 at 13.

<sup>224</sup> Jacinta Ruru ‘The Māori Encounter with Aotearoa: New Zealand’s Legal System’ in Benjamin Richardson, Shin Imai, and Kent McNeil (eds) *Indigenous Peoples and the Law: Comparative and critical Perspectives* (Oxford Hart Publishing, 2009) at 113.

whakapapa within a Māori and Ngāti Rangiwewehi orientation. Our whakapapa, are more than simple lists of names and provide a depth of knowledge, history, purpose and direction that is not necessarily present in the term genealogy, which is often used as the parallel concept within the English language. In a very real sense, at least in traditional times, the distinction between an individual and the collective to which they belong was difficult to make. An act that was carried out by or on your relation, was viewed in effectively the same way as it would be if that act had been carried out by or on you specifically.<sup>225</sup> Such understandings therefore meant that one's actions were not simply a reflection of you as an individual, but often more importantly, they were a reflection of the collective. Whakapapa therefore provides an important school of learning, rich storybooks filled with the teachings and insights of our ancestors and the corresponding responsibilities of maintaining their legacy and upholding the mana and mauri of the entire whānau, hapū and iwi as a part of that process. Much more than a way of providing structure and order within our society, the personal and familial connections provide not only insights and understanding about what is necessary on our part, but why these behaviours are preferable for the effective functioning of the entire collective:

The explanations for these rights and obligations, their philosophy grew out of and were shaped by, ancestral thought and precedent. The reasons for a course of action, and the sanctions which may follow from it, were part of the holistic interrelationships defined by that precedent and remembered in ancestral genealogy or whakapapa. The whakapapa in turn tied the precedents to the land through tribal histories, and so wove together the inseparable threads of Māori existence.<sup>226</sup>

The communal nature of our society and the ways in which our governance and legal system reinforced the rights and obligations that came with kinship led to early settlers accusing Māori of being communists. IH Kawharu has similarly noted that hapū effectively functioned as a corporation, an organization in a particular location with an agreed purpose and the people to carry out that purpose.<sup>227</sup> Although the notions of prioritising our relationships may seem very romantic, in reality this collective nature was essential to our collective well-being: “If a people cannot work together, they cannot survive...Individuals must cooperate to accomplish basic

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<sup>225</sup> An example explored in more detail in Chapter 6 involved the killing of a Ngāpuhi Rangatira named Ngā Pae-o-te-Rangi, with most of his group by people from Tuhourangi. Members of Ngāti Whakaue were also implicated in the deaths and out of a desire for utu for the death of their relative, a Ngāpuhi war party left the Bay of Islands with the intention of avenging their losses against Te Arawa generally. Although Ngāti Rangiwewehi were not involved in the killings, through their close relationship and kin-based obligations, they were implicated by default. In this situation, thanks to the brilliance of our ancestress Te Aokapurangi many of our people were saved.

<sup>226</sup> Moana Jackson *He Whaipanga Hou* above at n60 at 40.

<sup>227</sup> Hugh Kawharu “Māori sociology: A commentary *Journal of the Polynesian Society* 1984 vol 93 (3) at 233.

tasks necessary for survival.”<sup>228</sup> Whakapapa as a core concept within our values based system of law regulated behaviour of individuals through this allegiance to and dependence on the collective. The collective, and the need to be included as part of the collective for one’s survival necessitated adherence to societal norms.

Whilst this study contends that the application of traditional teachings to contemporary settings is an entirely appropriate and long-held practice within Māori and Ngāti Rangiwewehi culture, there are those who believe such broad application of specifically culturally and context bound ideas and events extends those teachings beyond the intention our ancestors once held. Hirini Moko Mead describes his experiences when he suggested the concept of a rāhui, a culturally based type of prohibition, on playing rugby with South Africa: “the very idea of applying a Māori concept to a highly political issue raised hackles around the country and caused some furious debate on marae and in the pubs of the land.”<sup>24</sup> However, as esteemed Ngāti Rangiwewehi kaumatua, Anaru Bidois has observed, the purpose of our tikanga and kawa has always been to serve the people, providing appropriate guidance to keep us safe and secure, both in cultural ways but also in practical terms.<sup>25</sup> Taihakurei Durie has endorsed this observation noting that Māori were open to change but remained “protective of the fundamental norms or principles of the conceptual regulators” and that this approach “enabled change while maintaining cultural integrity.”<sup>26</sup> In a similar vein, Uncle Anaru has explained that the changes required in contemporary times challenge us to come to an understanding of why we had certain tikanga and kawa in place, and with this knowledge, we can determine how they may be adapted to better serve us in the new contexts and settings we now find ourselves in.<sup>27</sup>

The emphasis on foundational values that inform the traditional legal and governance system therefore enables tikanga Māori to maintain relative fluidity and flexibility. Despite the relative onslaught of colonisation over the last two hundred years or so it can be said, that the underlying principles embodied within tikanga Māori “have withstood the test of time: principles such as whakapapa, whanaungatanga, mana, manaakitanga, aroha, wairua and utu. While the practice of tikanga was adapted over time to meet new contexts and needs, it nevertheless remained true to those foundational concepts.”<sup>229</sup> Indeed the system, although clearly identifying a distinction between right and wrong, it did so in a way that wasn’t focused on punitive measures for

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<sup>228</sup> Robert Odawi Porter “The Decolonization of Indigenous Governance” in Waziyatawin Angela Wilson and Micheal Yellowbird (Eds.) *For Indigenous Eyes Only: A Decolonization Handbook* (School of American Research Press, Santa Fe, New Mexico, 2005) 87-108 at 88.

<sup>229</sup> Ani Mikaere ‘Seeing Human Rights Through Māori Eyes’ *Yearbook of New Zealand Jurisprudence, special volume: Part 2: Te Tiriti o Waitangi and Human Rights* vol 10 (2007) 53-58 at 54.

infringements rather seeking to encourage the people to value the benefits and well-being that came from respecting and maintaining proper harmony and balance with the environment and one another for the betterment of the collective, as Moana Jackson has described:

Although the Māori system shared with the Pākehā a clear code of right and wrong behaviour, its philosophical emphasis was different. The system of behavioural constraints implied in the law was interwoven with the deep spiritual and religious underpinning of Māori society so that Māori people did not so much live under the law, as with it.<sup>230</sup>

For many Indigenous peoples, their systems of law and governance cannot be separated out from their beliefs and practices around spirituality, or their understandings of their culture. All are intricately intertwined, interwoven and inter-related, and as such, each aspect works to further reinforce and support the others. The only problem with a system that works as interdependently as traditional Māori society once did, is that if any aspect of the framework was to become weakened the entire structure becomes equally compromised.<sup>231</sup> Anaru Bidois has made similar observations within the specific context of Ngāti Rangiwewehi, each component of our system he likened to a part of a wharenui, each of the walls and the pou function to hold up the ceiling, much like our language, spirituality, values and principles such as whakapapa bind us all together.<sup>232</sup> However, without the foundation of the culture to hold it all in place, and the land and resource base upon which to build the whare, none of those other aspects could function as they were properly intended. Within this context the importance and significance of maintaining balance is paramount, which can be seen in the way many of our cultural values and principles revolve around mechanisms and insights into maintaining proper harmony and balance.<sup>233</sup>

## 4.2 Utu as Balance

Tau-utu-utu is a tikanga which operates within Te Arawa, and Ngāti Rangiwewehi, dictating the order of speakers in formal Māori welcoming rituals known as pōhiri. Tau-utu-utu stipulates that the speakers shall start with someone from the tangata whenua or home side, initially opening proceedings, followed by a speaker from the manuhiri or visitor's side, followed by a response again from the home side and repeating until the manuhiri have completed their speeches, after which the final speaker from the tangata whenua side will close. Tau-utu-utu denotes the idea of alternating or reciprocal actions, which in its wider

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<sup>230</sup> Moana Jackson *He Whaipāinga hou* above at n60 at 235.

<sup>231</sup> Waitangi Tribunal *Maunga Rongo report* above at n123; Ministry of Justice *He Hinakore* above at n6.

<sup>232</sup> Anaru Bidois Toku Rangiwewehitanga wānanga Saturday 9 October 2010 WS117003.

<sup>233</sup> Eddie Taihakurei Durie "Custom Law address" above at n76 at 53.

connotations seeks to maintain proper balance and therefore implies greater harmony in all areas of tribal society.

The concept of utu is a key concept in regulating balance within traditional Māori society. Utu remains commonly misunderstood and frequently misinterpreted as being parallel to the English concept of revenge, a concept which for some reason our colonial peers felt aligned more succinctly with our uncivilised barbaric nature. A more appropriate interpretation would be the notion of reciprocity, but embedded within the notion of utu is an almost organic course correction that occurs to bring things back into proper balance and alignment as we see within nature and the environment:

The land, people and life forms were thought to be governed by cycles. By the law of utu, what is given is returned or that taken is retrieved. Utu was not just ‘revenge’ as popularly portrayed; it was a mechanism for the maintenance of harmony and balance. Survival depended on the maintenance of the cycles of nature, and on the maintenance of cycles in human relationships. The latter is illustrated in the careful Māori attention to reciprocal obligations, the maintenance of blood links through arranged marriages and the institution of gift exchange.<sup>234</sup>

In this way utu is to a certain extent a natural outgrowth of cause and effect, rather than some mysterious magical law which is enforced on poor unsuspecting individuals who breach its precepts. A certain amount of this is then about the expected side effects of failing to conduct yourself appropriately. In today’s context if you are not open and transparent in your dealings with the people they will not trust you. If they lack trust in the governance, either as a result of leadership or inefficiencies in the system or its processes they are less likely to support you, which will produce less engagement and consequently the governance cannot be as effective as it would if there was greater levels of trust, support and wider participation. Utu is a major consideration and the restoration of the balance that was damaged through the settlement process is an issue that remains to be addressed within Ngāti Rangiwewehi.

It is important to note that the restoration of balance is not focused solely on the exchange of some material compensation for wrongs experienced by an individual or the collective. Of far greater significance is the restitution of the mana and mauri of all concerned. As Ani Mikaere has commented: “When a wrong is committed it creates the depletion of mana and a situation of imbalance... Action is necessary to restore the mana of the people and groups involved.”<sup>235</sup> The ability of these processes to restore the balance to all parties is an important point of

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<sup>234</sup> Eddie Taihakurei Durie “Custom Law address” above at n76 at 329.

<sup>235</sup> Ani Mikaere “Are we all New Zealanders now?” above at n223 at 16.



distinction, as the process of “Muru rehabilitated not only the victim but also the offender.”<sup>236</sup> Restitution functions on the understanding that someone would not cause an imbalance if there was not already something out of alignment within them, thus in the context of claims between the Crown and Ngāti Rangiwewehi, it is not simply a matter of compensating the tribe for the wrongs wrought upon us in the past by the Crown. At this point the settlement package seems somewhat insufficient to appropriately restore a sense of good faith in our relationships with the Crown, let alone create the proper power balance we seek. At that New Zealand national governance level, this is nothing more than a provocation, hoped to create the environment necessary for the broader changes to come about. At a more local level it is but one of many steps we must make on the journey to healing the traumas we have experienced through colonisation and our efforts to correct the balance it destroyed.

Within the contemporary context of Treaty settlements in New Zealand these insights make obvious the ways the conflict between the underlying jural principles that inform our different approaches to law and governance have in fact led to further damage and imbalance to the mana and mauri of both the tribes and the New Zealand government, and the relationship we share. Instead of forging a pathway for positive and productive partnerships between Iwi and the government, the Crowns continued misreading of almost every situation has led to repeated transgression against all major kawa and tikanga with almost every tribe in the country. Insisting on maintaining their role as colonizer and forgetting their place as guests, they have sought to control the process and privilege their approaches: “it is the manuhiri who are dictating the way that things should be done in the tangata whenua’s domain. It is the wronged party who is being expected to submit to terms imposed by the wrong-doer.”<sup>237</sup> Such an approach will never bring about the balance or restitution that Ngāti Rangiwewehi seek and the New Zealand government purport to desire as well.

With the example of utu and muru we can see an important consideration to be aware of in the understanding of both the content and the application of tikanga and kawa. Hirini Moko Mead explains that tikanga Māori includes both “the knowledge base and ideas associated with the correct practice of a tikanga” and “the protocols associated with the correct practice of a tikanga.”<sup>238</sup> In this regard utu functions as a core concept which explains why and how muru, as a protocol or practice, assists in bringing about balance and restoring utu. The knowledge

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<sup>236</sup>Ibid at 17.

<sup>237</sup>Ibid at 18.

<sup>238</sup> Hirini Moko Mead *Tikanga Māori* above at n29 at 8.

base, often described as mātauranga māori, includes all of the concepts, values and principles that form the basis of our long term cultural well-being and all that grows out of it, including our governance frameworks. As has been touched on previously, the lived experience of this knowledge base is an important component to ensure sufficient understanding of how and why it may be possible to adjust the application of our tikanga in certain circumstances whilst maintaining integrity with the underlying principles.

It is generally accepted that there is a certain amount of consensus around the base values that spans across most Māori tribal boundaries. However, the way we as iwi, hapū and whānau then choose to interpret and express these principles within our specific tribal contexts results in the variations in the protocols and practices on each marae. Within the tribal confederation of Te Arawa, where Ngāti Rangiwewehi are based, these tribal variations also relate to the terms we use to distinguish between the knowledge base and the day to day practices and expressions of that knowledge base. For Te Arawa “the kawa is the major term that deals with the knowledge base,” the unchangeable and immovable foundations that underpin the way we see and experience the world, whilst “tikanga Māori is the practice of that knowledge.”<sup>239</sup> As such within Ngāti Rangiwewehi utu is an underlying value or kawa, of which the practice of tau-utu-utu, or alternating of speakers during our formal welcomes is an enactment or tikanga. Consequently, this practice can be adapted if the circumstances make full performance of the practice untenable.

In this regard tikanga are the human articulations and enactments, the living, dynamic and evolving practices that enable the application of kawa in our day to day lives. Tikanga are therefore necessarily changing, allowing the flexibility inherent in and essential to the survival of Iwi and in this specific context Ngāti Rangiwewehi governance arrangements. Whilst their maintenance is important it seems obvious that if sufficient time and energy were channelled into teaching, nurturing and strengthening our understanding of and adherence to kawa, that in itself would have flow on effects for the tikanga without any major energy or resources being specifically directed towards that kaupapa. If tikanga are the practices and rules that we construct to protect the kawa, or the ways in which we demonstrate the principles and values articulated in kawa, then developing a fuller, deeper and more robust understanding of the kawa will naturally result in an improvement in both our confidence and our ability to implement the

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<sup>239</sup> Ibid.

best possible tikanga for the time and circumstances, protecting and maintaining the kawa, and through doing so the mana of the iwi.

### **4.3 Poutokomanawa Kōrero**

Within Ngāti Rangiwewehi our primary meeting house is Tawakeheimoa, named after the eldest son of Whakae. Tawakeheimoa was also the father of the eponymous tupuna Rangiwewehi after whom our tribe eventually came to be named. The wharenui (meeting house) Tawakeheimoa is a representation of our ancestor, and the various components of the building correspond to various parts of the body. The central pole within the building, which supports the ridgepole, 'tahuhu' or backbone of the ancestor, is known as the Poutokomanawa. The Poutokomanawa is representative of the heart of the ancestor, and although its height above the ground is considerable, in the traditional making of the whare a significant portion of the beam is buried beneath the ground to ensure it was able to offer stability and security for the considerable burden of the beams it would carry, and the people that would shelter within. This seems an apt metaphor for effective tribal governance which similarly relies not simply upon the entities and obvious tangible aspects that we have come to associate with governance, but draws its true strength and stability from the portion that lays beneath the structure, the cultural foundations and the ancestors symbolised in the earth beneath. Although these foundations, embodied as they are within our kawa and tikanga may have changed and altered over time the mātauranga carved into our poutokomanawa provides valuable insights to guide us still today.

Built on the foundations of the papakōhatu referred to earlier in the thesis at chapter 2, the poutokomanawa inside Tawakeheimoa contains the korero and mātauranga that articulate the various principles of Ngāti Rangiwewehi governance. Together they constitute what can be described as the house of our tribal legal theory relevant to Rangiwewehi identity and governance. Inuvialuit scholar Gordon Christie has written that '[t]here is as yet no distinct and vibrant body of scholarship identifiable as Indigenous Legal Theory.'<sup>240</sup> This thesis, and chapter, contributes then, a much needed articulation of indigenous legal theory that Christie suggests is lacking in current legal scholarship. In Ngāti Rangiwewehi, legal theory not only exists, but is distinctive, for those who know what to look for, and where to look. Christie points out the need for more work in this area, identifying only two scholars exploring specifically legally influenced articulations of indigenous theory. He writes:

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<sup>240</sup> Gordon Christie 'Indigenous Legal Theory: Some Initial Considerations' in Benjamin Richardson, Shin Imai, and Kent McNeil (eds) *Indigenous Peoples and the Law: Comparative and critical Perspectives* (Oxford Hart Publishing, 2009) 195-232 at 195.

[O]nly James Youngblood (sakej) Henderson and Patricia Monture-Angus have taken the first steps towards a direct and systematic investigation into the question of whether Indigenous peoples inhabit a conceptual space from which emerge particular, distinct and essential theoretical understandings of the law.<sup>241</sup>

While these are valuable contributions, there are other additions that offer further examples and experiences. In *Braiding Sweetgrass*<sup>242</sup>, for instance, Potawatomi botanist and tribal citizen Robin Wall Kimmerer provides an important indigenous perspective on the governing of the environment, the scientific knowledge derived from those spaces and traditional cultural wisdom. Similarly, Anishinaabe legal scholar John Borrows<sup>243</sup> has authored a number of books that emphasise indigenous legal issues and frameworks within the Canadian context. In Aotearoa New Zealand, Carwyn Jones has also argued for a more conscious articulation and development of Māori legal theories. It is important, he argues, that:

[W]e develop a field of Māori Legal Theory in order to progress and advance issues of self-determination. Māori Legal theory describes ways of thinking about law that are based on the experiences and philosophies of Māori communities. If we recognise that the contested nature of the concept of law gives particular prominence to the cultural and political values of the theorist then having indigenous, and in our case, Māori cultural and political theories inform theories of law becomes important. Especially when we recognise that legal theory is never purely descriptive but always makes... normative claims about how law ought to operate and those normative claims influence the generation of law itself.<sup>244</sup>

This study, with its focus on Ngāti Rangiwhewhitanga, highlights the community - iwi - driven political and cultural theories and philosophies that Jones refers to. It also contends that each tribal nation has within its own teachings and understandings important indigenous theories of law and jurisprudence which are different to the ‘normative claims’ that have been maintained by colonising groups, who suppressed or ignored indigenous bodies of knowledge that have housed native legal theories across generations. Māori legal scholars Ani Makara and Moana Jackson have both commented on the subordination of Māori knowledge in Aotearoa New Zealand’s colonial history.<sup>245</sup> This is a powerfully discursive history that has at once favoured

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<sup>241</sup> Ibid at 195. In this article Christie references James Youngblood (Sakej) Henderson’s ‘Post-colonial Indigenous Legal Consciousness’ above at n17; and Patricia Monture-Angus above at n16.

<sup>242</sup> Robin Wall Kimmerer *Braiding Sweetgrass: Indigenous Wisdom, Scientific Knowledge and the Teaching of Plants* (Milkweed Editions, Minneapolis, 2015).

<sup>243</sup> John Borrows *Drawing Out Law* above at n17; see also *Recovering Canada: The Resurgence of Indigenous Law* (University of Toronto Press, Toronto, 2002); and *Canada’s Indigenous Constitution* (University of Toronto Press, Toronto, 2010) and “Seven Gifts” above at n17.

<sup>244</sup> C Jones ‘Māori Legal Theory as an Exercise of Self-Determination’ (Manu Ao Seminar, 24 August 2011, retrieved from [www.manu-ao.ac.nz](http://www.manu-ao.ac.nz) (seminars tab) last accessed February 2015).

<sup>245</sup> Ani Mikaere *The Balance Destroyed: Consequences for Māori Women of the Colonisation of Tikanga Māori* (International Research Institute for Māori and Indigenous Education, Auckland, 2003); Moana Jackson ‘Research and Colonisation of Māori Knowledge’ (1998) *He Pukenga Kōrero* 4:1 at 69-76.

Eurocentric perspectives and in this process simultaneously dismissed indigenous knowledge and legal theory.<sup>246</sup> “There is” as historian Paul Thompson points out, “always purpose behind the way in which history is constructed/represented, whether to justify ‘war and conquest’, territorial seizure, revolution, counter-revolution, the rule of one class over another. Where no history exists [or can be recognised] it will be created.”<sup>247</sup> For indigenous peoples, the absence of native legal theory in the field is inextricably connected to the power colonisers have exercised over history and the privileging and exclusion of specific bodies of indigenous knowledge.<sup>248</sup> Rangiwehī therefore holds the intention that it should be our accounts of history that should dominate our experience of the world and particularly the meanings of governance and our conceptions of the law and legal theory.<sup>249</sup> Although our accounts have always existed, they have not always been recognised or acknowledged as valid or reliable

research, scholarship or history.



The purpose of this chapter has been to support the reader to understand how Ngāti Rangiwehī see and understand governance and the law. These frameworks drawn from historical foundations inform our understanding of who we are and how we function in the world. They provide the philosophical and political base that articulates the ultimate desires and aspirations our tribal governance framework embodies. In the ‘Poutokomanawa’ of our whare, Tawakeheimoa, these philosophies are drawn from the many histories that speak to our identity, ways of governance, legal concepts and theories.

Image 1. Poutokomanawa inside Tawakeheimoa, Awahou, Rotorua.<sup>250</sup>

<sup>246</sup> Peter Gibbons has discussed New Zealand history as a discursive construction that has served Pākehā interests. Peter Gibbons ‘Cultural Colonisation and National Identity’ *New Zealand Journal of History* 36:1 (1997).

<sup>247</sup> Paul Thompson *The Voice of the Past: Oral History* (Oxford University Press, New York, 2000) at 1.

<sup>248</sup> For this very reason, Linda Tuhiwai Smith has urged indigenous peoples to reclaim our past “site by site under Western eyes.” Māori and iwi legal theories and philosophies regarding governance are inextricably connected to these sites of historical significance. Linda Tuhiwai Smith *Decolonizing Methodologies* above at n1.

<sup>249</sup> *Maunga Rongo Report* above at n123.

<sup>250</sup> Personal collection.

### 4.3.1 Ranginui and Papatūānuku

In our history, one of the first lessons of governance and Ngāti Rangiwewehi legal philosophies can be found in the narrative of Ranginui and Papatūānuku. The story is retold in the very first carving at the top of the poutokomanawa as it connects to support the tāhuhu or ridgepole of the ancestral meeting house. The carving itself shows an image of Tane Mahuta, his hands and arms rooted powerfully as his legs push upwards intervening between the depiction of two faces each carved into the tāhuhu, intended to represent his mother on one side and his father on the other. The story itself begins in the long night Te Pō, and chronicles not only the separation of the sky father, Ranginui, and earth mother, Papatūānuku, but the process that was followed to reach that decision.<sup>251</sup> As I was told the connection and feeling that Ranginui and Papatūānuku had for one another was so strong that their constant embrace held their many children trapped within the cramped and dark confines of their two bodies. As time progressed, and more children were born the circumstances reached a point where many of the children felt they were no longer tolerable. As a result, they held the first wānanga, where all of the children gathered, discussed the problem and possible solutions to their dilemma. Each of the children had an opportunity to share their views and after some discussion the decision was made by general consensus that their parents must be separated.

There has been a common misconception that traditional decision-making by consensus meant that discussion continued until everyone present agreed.<sup>252</sup> Although in the story of the first wānanga not all of Rangi and Papa's children agreed with the final decision. Tawhirimatea was opposed to the separation and hence went to live with his father, battering his siblings and their descendants with biting winds and ranging storms to remind them of his discord ever since. Urutengangara is also said to have had some reservations and out of sympathy for his father sent his children to keep their grandfather company, and we now benefit from their beauty as we witness many of those stars that shine still in our night skies. What is important is not necessarily complete agreement, but that everyone has been accorded the proper respect, given

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<sup>251</sup> Although this book is formally referenced as being written by Governor George Grey, as a part of our treaty claim the Government acknowledged and apologised for the plagiarism of our Ancestor Wi Maihi Te Rangikāheke's work which was published by Grey under the titles *Ngā mahi a ngā tupuna* New Plymouth, Thomas Avery & Sons, 1928 and *Polynesian Mythology and ancient traditional history of the Māori as told by their Priests and Chiefs*, Auckland, Whitcombe and Tombs, 1956 at 1-7. As such these works are referenced in acknowledgement of the origin of the work that is published within them.

<sup>252</sup> D Hall "Māori Governance and Accountability" in J Hayward & N R Wheen *The Waitangi Tribunal: Te Roopu Whakamana i te Tiriti o Waitangi* (Bridget Williams Books, Wellington, 2004) 184-194.

the opportunity to voice their thoughts or feelings, resulting in a significant majority in agreement and willing to follow through on the decision they have made.

Indigenous scholars have argued that giving the space for “balanced consideration of all interests and views” is in line with “the core values of equality and respect” which features strongly in many Indigenous cultures.<sup>253</sup> Highlighting the importance of consensus based approaches to decision-making within indigenous societies as a way of acknowledging the autonomous power that each individual within the collective holds, thus building relationships of trust and respect which are further maintained by the way in which the leadership engages with its members. There is recognition of the need for sufficient unity and consensus to allow the collective power to be shared, rather than an expectation that the power of the group might reside within a particular individual, highlighting the importance of ensuring that everyone within the collective is empowered to participate and contribute to the collective processes and outcomes of governance. However, the significance of this collective participation is not only about the opportunity being provided by the tribal governance processes, this is also about the responsibility on members of the collective to engage in those opportunities. There are a range of reasons why people may choose not to engage, but sometimes the failure of the tribal members to do so is used as justification to suggest that the existing governance structure or approach is the problem. Some scholars have expanded on this point arguing that “persistence of political apathy, ignorance and greed does not mean that traditional forms of government are not viable.”<sup>254</sup> Indeed, similar problems occur in governance structures and systems the world over, without any implication of indigeneity, nor the nations ethnicity, ever being found at fault. Instead, these examples demonstrate that there is work to be done in order to support tribal members to feel both safe and comfortable participating in governance, while at the same time raising the consciousness of all tribal members about the various factors at play that are influencing the ability to govern in accordance with the tribe’s own values and principles.

A key factor in the engagement of Ngāti Rangiwewehi people, or perhaps more appropriately the lack of engagement, is often the disconnection and disempowerment that has occurred through the imposition of colonial governance models and personal and collective historical

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<sup>253</sup> Taiaiake Alfred *Peace Power Righteousness an Indigenous Manifesto* (Oxford University Press, Toronto, 1999) at 26.

<sup>254</sup> Ibid at 29.

trauma inherited as a part of that colonial legacy.<sup>255</sup> For Ngāti Rangiwewehi, much of the healing will take considerable time over generations. There are no quick-fix options to heal deeply held and embedded intergenerational colonial traumas. Holding a long-term vision for the ideal future of our mokopuna and people, and working toward that, will in time enable Ngāti Rangiwewehi to revitalise the value of our language, culture, governance knowledge and ways of being. Ngāti Rangiwewehi governance, is not a simplistic model to be hurriedly or recklessly resuscitated. It is a treasure to be carefully nurtured, watered, feed, awakened expanded and enhanced for the sole purpose of enriching and sustaining our tribal health and wellbeing. In this way, indigenous governance in Rangiwewehi, alongside our knowledge, culture and language, is constantly evolving. The goal is to have it develop in accordance with the expansion of our identity and culture as we choose to articulate and express that in the world around us<sup>256</sup>.

The requirement to follow through and action decisions we make is also an important component of effective traditional governance. At that first wānanga introduced above, the initial decision debated by Tane and his siblings addressed what they should do – the action plan – relevant to the problem. However, once the decision was made that the parents should be separated, the next discussion turned to how, and who would be able, to carry out that action. Accounts of these debates and wānanga, suggest that several siblings tried and failed to separate their parents. Finally, it was Tane who successfully performed the task, opening the space which allowed the earth to be flooded with light and facilitating in that process an advance into Te Aomarama - the world of light.<sup>257</sup>

In Ngāti Rangiwewehi, following through on commitments to the collective, especially when there has been some opposition to the groups final decision demonstrates each individual's commitment to fulfilling your responsibilities to the tribe. Once the people have spoken, then

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<sup>255</sup> Maria Yellow Horse Braveheart defines historical trauma as a “cumulative emotional and psychological wounding over the lifespan and across generations, emanating from massive group trauma experiences.” She writes that it “often includes depression, self- destructive behaviour, suicidal thoughts and gestures, anxiety, low self- esteem, anger, and difficulty recognizing and expressing emotions. It may include substance abuse, often an attempt to avoid painful feelings through self- medication.” Maria Yellow Horse Brave Heart (2003) cited in Rebecca Wirihana & Cheryl Smith “Historical Trauma” above at n150 at 198. See also Elizabeth Fast & Delphine Collin-Vezina above at n150.

<sup>256</sup> In time, the goal would be to govern in our reo, with a deep understanding of how our tikanga, kawa, and history, is foundational to the various aspects of governance in the iwi. This thesis aims to support that, without the pretence of being a supposed guidebook. Governance should be a lived and vibrant code of laws, not simply a list of codes and points collated in a manual or reference book.

<sup>257</sup> Ministry of Justice *He Hinātore* above at n6 at 13.



the action *must* be carried out even though it might not always be easy to do so. If the well-being of the collective is at stake, whether that is in a real or metaphysical sense, much like Tane, there is an expectation in Rangiwhewehi philosophy to dig deep and draw strength from knowing that we followed the proper process: the tika (or correct) way that is agreed upon and supported by the people and the ancestors. Hirini Moko Mead discusses the idea of the ‘monitors of tikanga’, affectionately referred to by some as the ‘taniwha’ or ‘monsters of tikanga.’ These taniwha, he explains, “were particularly helpful to visitors, but rather tough on the locals” and acted as caretakers of the proper observation of these matters but as a result of shifts and changes these roles are no longer being fulfilled as readily.<sup>258</sup> Upholding the mana and mauri of the iwi often requires difficult decision making, vigilance, and auctioning and follow up that may not always make you the most popular.

In Ngāti Rangiwhewehi, this was addressed by Nanny Ella Bidois, who reminded us the whare tupuna is a ‘wharekōrero’ and in accordance with tribal notions of transparency and accountability she explained that “anything you want to say good or bad the whare is where to bring it. Speaking your mind in the whare is ok but kōrero i kōnei waiho i kōnei, it stays here not outside and broadcast.”<sup>259</sup> The code of practice here, or tikanga, is clear. When someone wishes to address an issue, it should be said in the whare to the people, so that we do not hold onto them and allow them to grow out of proportion and become gossip or back biting to the world. Speaking our mind may be difficult, but within Rangiwhewehi governance tikanga there is a correct way, place, and procedure, for doing so which enables everyone to raise their grievances, receive support, while in theory enabling upholding the mana (integrity) of the individuals and the collective within that process. Although at times, our anger, or frustration especially, may overcome us this practice is crucial to allowing our people to speak and be empowered. Much of the dissension and division that took place during the tribe’s settlement journey occurred in this forum.

#### **4.3.2 Te Ika a Māui**

The second story displayed in the carvings on our poutokomanawa is of the ancestor Māui, catching the great fish or what is now called the North Island of Aotearoa New Zealand. Māui and his feats are known and celebrated throughout Polynesia, and his exploration of the Pacific

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<sup>258</sup> Hirini Moko Mead *Tikanga Māori* above at n29 at 20.

<sup>259</sup> Tōku Rangiwhewehitanga wānanga, Saturday 9 October 2010, WS117003.

Ocean requires a number of worthy characteristics valued in any leader.<sup>260</sup> In his famous fishing expedition, Māui demonstrated an ability to lead and unite. He secured the necessary support to enable him to achieve a specific task, and showed commitment, perseverance and determination to see his objective through to completion. Māui exhibited significant resourcefulness in acquiring the tools and the knowledge to raise his fish from the depth. He sought and received the spiritual assistance to fulfil his intentions, and demonstrated he had sufficient courage to realise and fulfil his goals,<sup>261</sup> and as a result of his actions the people received the significant consequent benefits.

Māui provides various examples of valued characteristics within Māori leadership. He is curious, outspoken, confident (and over-confident), witty, a great communicator and often endearing and intrepid. But he also provides examples of recklessness and brazen disregard for conventions and rules.<sup>262</sup> Māui's story reminds us that when it came to the observance of traditional law and governance, our people were pragmatic. The capacity to fulfil specific influential roles was as important, if not more so than the often-rigid criteria that sometimes prohibited people, particularly younger siblings, like Māui, from exercising leadership traditionally. His leadership, to borrow Apirana Mahuika's phrase, was in a sense "inherited", but more accurately, "achieved" through his abilities and actions.<sup>263</sup> An outstanding leader must have the most appropriate skills and expertise,<sup>264</sup> and as such the embodiment of certain

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<sup>260</sup> Maui is a complex and multi-dimensional figure, recognised as a significant ancestor in the Pacific. Katherine Luomala *Maui of a Thousand Tricks: his Oceanic and European Biographers* (Bernice P and Bishop Museum, Honolulu, 1949). Merimeri Penfold *Te Ika a Maui, translated from Peter Gossage The Fish of Maui* (Ashton Scholastic, Auckland, 1990).

<sup>261</sup> Ranginui Walker argues that ancestors like Maui, and their exploits, provide important "precedents" of behaviour to which Māori today can, and do respond, too. Maui, as the youngest highlights the mischievous and often fruitful qualities of inquisitiveness, but also the dangers inherent in being simultaneously reckless and defiant. His example corresponds to both the immense potential in nurturing curiosity and wit, but also the dangers lurking when this is too often accompanied with brazen and careless abandon. R Walker 'The Relevance of Māori Myth and Tradition' in M King (ed) *Te Ao Hurihuri: Aspects of Māoritanga* (Rev ed, Auckland: Reed, Auckland, 1992) at 170-82.

<sup>262</sup> Ibid.

<sup>263</sup> See Apirana Tuahae Mahuika 'Ngā Wahine Kaihautu o Ngāti Porou/ Female Leaders of Ngāti Porou' (MA thesis, Sydney University, 1974).

<sup>264</sup> Wi Maihi Te Rangikāheke identified 8 'pumanawa' or 'Principles of Chieftainship' in his 1850 paper "Te Tikanga o tenei mea te rangatiratanga o te tangata Māori" which he submitted to George Grey. Te Rangikāheke's list is "1. He toa, Bravery; 2. Kōrero taua, war speeches; 3. Mahi kai, food procurement; 4. Tangohanga, feast of celebration; 5. Pupuri pahi, restraining the departure of visiting parties; 6. Kōrero Runanga, council speeches; 7. Kōrero manuhiri, welcome guests; and 8. Atawhai pahi iti, rahi, looking after visitors, small or large." The list demonstrates both a wide range of skills, as well as touches on a number of cultural values and principles, and the necessary knowledge and expertise required for these roles. Whilst being a skilled and articulate leader was important, Te Rangikāheke's list notes the various bodies of knowledge implied in the different types of speeches, those which inspire courage and employ strategy in war contexts, those which demonstrate diplomacy and an ability to resolve disputes or mediate matters within and beyond the community, and then those which enable your

valued characteristics is able to circumvent other tikanga to ensure that tribal leadership roles are appropriately fulfilled.

Rising to prominence despite his status as the pōtiki (or youngest child) is one revealing aspect of Māui's inherent qualities and skills. However, it is important to highlight the education and support he received from specific female leaders in his life, and their role in preparing, teaching him, recognising in Māui certain gifts and skills. His mother, Taranga's protective incantations and ritual are recounted in the gifting of her topknot as a means of safeguarding and identifying his status and origins.<sup>265</sup> His grandmother, Mahuika, gifted him with the resource of fire, one of the most essential and powerful gifts of that time.<sup>266</sup> Another grandmother, Murirangawhenua, imparted to him sacred and powerful knowledge, symbolised in her jaw bone that was ultimately used to secure te ika (the fish) of Māui. These gifts and skills are metaphors and illustrations of the abilities he acquired and the teachings that were embedded within him. Without them, and the guidance of these matriarchs and role-models to fully unlock that knowledge and those abilities, Māui would not have achieved all of his now famous and infamous exploits.<sup>267</sup>

Examples of Māori women's governance roles are important. Ngāti Raukawa legal scholar, Ani Mikaere, argues that the status of Māori women within our traditional legal and governance systems was been severely distorted as a result of colonisation. She points out that, consequently, within many tribes the viral influence of Christian patriarchy demoted Māori women from the normative and accepted leadership roles they once occupied.<sup>268</sup> Within other tribal districts, like Ngāti Porou, and my grandmother's people in Ahipara, there are strong traditions of female leadership, including formal speaking roles that within the tribal confederation of Te Arawa have long been viewed strictly as the domain of men.<sup>269</sup> I was told

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guest to feel welcomed, appreciated and important, whilst displaying your ability to take care of and generously provide for those who come within your care.

<sup>265</sup> George Grey *Ngā mahi a ngā tupuna* (Thomas Avery & Sons, New Plymouth, 1928) and *Polynesian Mythology* above at n251 at 13-14.

<sup>266</sup> George Grey *Polynesian Mythology* above at n251 at 34-36.

<sup>267</sup> George Grey *Polynesian Mythology* above at n251 at 24-25.

<sup>268</sup> Ani Mikaere, *The Balance Destroyed Consequences for Māori Women of the Colonisation of Tikanga Māori, Mana Wahine Thesis Series, Volume One* (International Research Institute for Māori and Indigenous Education, Auckland, 2003).

<sup>269</sup> I recall growing up and hearing stories of the renown Ngāti Porou female orator Whaea McCluthie and a time when she came with Ngāti Porou to Te Arawa and in defiance of Te Arawa tikanga, she asserted her own Ngāti Porou tikanga and stood to speak within the formal part of the welcoming rituals. I also recall growing up being told about my grandmother's sisters from time to time performing formal speaking roles within their tribal area in Ahipara. Stories of women fulfilling these roles always stood out to me because this is not an acceptable practice within the tikanga and kawa that I have grown up with in Te Arawa.

from a young age that in Te Arawa tikanga and kawa, the roles of men and women were different but complementary. While this may be the case, there is much tribal knowledge including the naming of hapū/iwi (tribes and subtribes) and whare tupuna (ancestral houses) after female ancestors which suggest a more significant role than women have been afforded since the infiltration of colonial patriarchy into our understanding of traditional gender roles. In addition, various female forebears in our tribe were said to have been honoured and acknowledged for the important contributions they made to the well-being of the tribe than is commonly recognised today, like our ancestress Te Aokapurangi whose deeds are discussed in more detail in chapter 6.

In Ngāti Rangiwewehi, women have occupied specific governing roles in the transmission of knowledge across generations. The intergenerational transmission of knowledge and responsibility for appropriately passing on the requisite understandings of tikanga, whakapapa and kōrero tuku iho within Ngāti Rangiwewehi has been a domain in which women have played a dominant role. In the week to week running and maintenance of the marae, the monitors of our protocols have predominantly been women. While the paepae (platform for formal speaking) has been viewed by some as space where formal representation of the tribe is expressed and controlled, the majority of the ‘monitors of tikanga’ in my life time have been our Kuia (elderly women). During my lifetime, we have seen the governing power of these ‘taniwha’ exerted during significant tribal events through interjections during formal speeches to the seating of Kaumatua (elder male speakers) midway through their talks.<sup>270</sup> This governance is also exerted in the marae kitchen, where the provision of food and hospitality is viewed as crucial to upholding and enhancing the reputation and mana of the tribe. For Te Arawa and Ngāti Rangiwewehi, in these various contexts, women have played important and influential roles within our tribal governance. In the hosting of formal tribal gatherings our women govern over proceedings in various ways, from their role as the first voice during karanga (an official cry or call of welcome to visitors), following the formal speech making with waiata tautoko (supporting songs and chants), and the governing of the hakari (feast). These governance roles find deeper meaning in their historical ritual and spiritual roots having been inherited and adapted over time to align with changing technologies, needs and circumstances.

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<sup>270</sup> If a male speaker is off topic, taking too long, offensive or behaving inappropriately, they will be sat down by our kuia (elderly woman) who will stand and sing a closing song that effectively signals the end of any formal speech. In this way, women hold significant power to govern what is said, how long someone speaks for, on the marae (meeting grounds).

### 4.3.3 The Death of Kahawai

Within Ngāti Rangiwewehi traditions we are told that the fish that Māui caught was a Whai or stingray, which accounts for the shape of the North Island of Aotearoa New Zealand. However, in the depiction on our poutokomanawa the image shows a kahawai on the end of Māui's fishing-line. This departure from the original story is no mistake. It explicitly alludes to the noted Rangiwewehi rangatira (leader) Kahawai. In his time, Kahawai was said to have consulted with a tohunga to seek spiritual guidance and advice concerning one of the last battles between Te Arawa and Ngaiterangi at a place called Te Tumu.<sup>271</sup> At Puhirua, in the time of Kahawai, a cabbage tree known as Te Rau o te Huia was well known throughout the iwi, the tohunga asked his god to demonstrate what the outcome of the battle would be. If the tree "were to wither, Te Arawa would suffer defeat; if it did not wither, the enemy would be defeated."<sup>272</sup> Although the tree remained strong one leaf withered and fell to the ground, leading the Seer to remark, "Kahore he pai o to hoa, kai roto i to ringa. Kotahi anō tou, kai a koe tonu e Ngāti Rangiwewehi, he whakautu kohenga mō Te Tumu, ko Kahawai tonu/ Your adversary is of no account, he lies in the hollow of your hand. There will be only one of you, o Ngāti Rangiwewehi, and he will be the price for the fall of Te Tumu, none other than you Kahawai."<sup>273</sup> On hearing this prophecy, his cousin Hikairo insisted that Kahawai stay behind and allow the rest of the group to go and resolve the matter. Kahawai responded "E! he aha i kiia ai ko koe hai totara haere i te wao, ko ahau hai kauri tu i te wao? Indeed! Why should it be said you are to be the totara tree which is to leave the forest, and I am to be the kauri tree which is to remain standing in the forest."<sup>274</sup> As a result of his insistence to fulfil his responsibilities as the leader of the tribe Kahawai went to the battle and as foreseen died at Te Tumu.

While Kahawai made the ultimate sacrifice for his people, sacrifices are required of all tribal leaders even if the long-term effects are not always as dire. The example of this ancestor demonstrates in dramatic fashion that in order to uphold the mana of the tribe and achieve the goals and aspirations of the collective we may be required to put aside our individual desires to commit ourselves to the cause. Ngāti Rangiwewehi governance requires a commitment beyond the individuality of the person, a willingness to make sacrifices for the benefit of the collective. Although the offering of one's life is not an expectation in quite the same way today, the seriousness and importance of this work cannot be understated. Kahawai's example

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<sup>271</sup> 'He Waiata tangi mo Kahawai' or 'A Song of Lament for Kahawai' found in Apirana Ngata *Ngā Mōteatea The Songs* Part Three (Auckland University Press, Auckland, 2006) at 82-83.

<sup>272</sup> Ibid.

<sup>273</sup> Ibid.

<sup>274</sup> Ibid.

supports us to reflect on what we are realistically willing to do in order to protect our Rangiwehita. In relation to governance it asks: what are we willing to do to ensure the long-term survival and well-being of our people?

As was touched on earlier in the chapter, sometimes the actions required to uphold tikanga and mana, and therefore the well-being of the tribe, require a certain level of courage, understanding, and conviction, in order to follow through. This conviction may allow a greater appreciation of the roles of governance. Like those of the Kuia who through experience know when and how to manage the dining hall, initiate proceedings, or even end speeches during formal occasions when necessary. Conviction comes from an understanding, like that of papa Hunuhunu Hākopa, who during his time rode a horse through the night to ‘snatch’ a Rangiwehi relation who had died in another tribal region to ensure they were buried at home, and on another occasion literally chased off a visiting speaker from the marae with his taiaha because that person had contravened the tikanga which dictated appropriate speaking order.<sup>275</sup>

These are examples of not simply leadership, but Ngāti Rangiwehi governance in action, administered with purpose and confidence. Governance, then, in Ngāti Rangiwehi must be properly grounded in our tikanga in order to command the need and desire to defend it with that level of passion and commitment. However, because some lack knowledge and therefore confidence, they also lack a sense of security around our tikanga. Some may experience doubt or hold concerns that there are others more appropriate than us to fulfil much needed governance responsibilities. While these feelings are understandable, as a collective Ngāti Rangiwehi should seek to ensure that our collaborative responsibility to police these matters is maintained and well organised—because there is no-one else who can do this for us. As was asserted earlier, the failure of the individual to step up and fulfil their role is, then, a failure of the collective to effectively maintain our Ngāti Rangiwehitanga. Moreover, governance in Ngāti Rangiwehi is never simply about individual roles or responsibilities. It is, at its peak, a collective undertaking that encourages and supports individuals to contribute what they can to better iwi governance.

Another important point that should be noted from the history of Kahawai, is the role of the Tohunga (expert) and spirituality within our traditional tribal governance. Consultation with deceased ancestors, and spiritual sources of guidance and support, was an important avenue for

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<sup>275</sup> This story has been recounted by several different tribal members within personal communications over the time I have been engaged in doing research with the tribe including the late Ella Bidois, a significant Ngāti Rangiwehi kuia.

regulation and assistance in the history of Ngāti Rangiwewehi, and in Māori pre and post European worlds. According to Moana Jackson:

The traditional Māori ideals of law had their basis in a religious and mystical weave which was codified into oral traditions and sacred beliefs. They made up a system based on a spiritual order which was nevertheless developed in a rational and practical way to deal with questions of mana, security, and social stability. Like all legal systems, it covered both collective and more specifically individual matters.”<sup>276</sup>

In time, Māori, and Rangiwewehi too, converted to Christianity, and pre-European spiritual practice and beliefs found themselves significantly challenged and renegotiated.<sup>277</sup> By early twentieth century, Tohunga or tohunga-ism was outlawed and driven into hiding and many traditional religious practices, the processes of civilisation played their part and encouraged a noticeable shift away from acknowledging or indulging in such heathen practices.<sup>278</sup> Although the wairua or spiritual element always remains available to us, within most Rangiwewehi governance spaces and entities the role of wairua is less obvious. These traditional spiritual practices are still present in the background with individuals and in more private settings, the more formal acknowledgments of those spiritual aspects are embodied within karakia, incantations and invocations of our ancestors used to open every meeting we hold, through the songs we use in conclusion of our formal speeches, or the rituals of speech making that continues to provide a bridge between the physical and spiritual realms. Traditionally, it was not possible to separate the notion of governance from spiritual practices, nor was it possible to disentangle cultural practices and spiritual beliefs from governance protocols. These were, in fact, the very foundation stones and philosophical bedrock of our tribal law and governance, and inextricable to tribal identity. Still, in today’s changing world, Ngāti Rangiwewehi governance relies on these inherited, and renegotiated, cultural and spiritual frameworks and systems. We retain them, because we live them.

#### **4.4 Mā ngā pakiaka e tū ai te rakau – With strong roots a tree will stand.**

This chapter intended to provide a deeper exploration into the notion of Rangiwewehitanga as a foundation to strengthen and nourish our tribal roots, gaining empowerment through the

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<sup>276</sup> Moana Jackson *He Whaipanga Hou* above at n60 at 39.

<sup>277</sup> This negotiation of new religions has been well documented and addressed in several books and theses. More recently, Hirini Kaa has argued that Christianity was negotiated in various ways by different iwi. The outcome resulted in several Māori religious movements, Ringatu, Pai Marire, and Ratana. Catholicism was a strong Religious persuasion taken up by Māori in the Te Arawa region, while Anglicanism was also an influential religion then, and even today. See Hirini Kaa “He Ngakau Hou: Te Hahi Mihinare and the Renegotiation of Mātauranga, c.1800-1992” (Unpublished PhD thesis, University of Auckland, Auckland).

<sup>278</sup> See for example Nepia Mahuika “Re-Storying Māori Legal Histories: Indigenous Articulations in Nineteenth-Century Aotearoa New Zealand” *Journal of the Native American and Indigenous Studies Association* (2015) 2:1 40-66; and Māmari Stevens “A Return to the Tohunga Suppression Act 1907” *VULWR* 32 (2001) 437-454.

ancestral teachings that orient our engagement with the world around us. In unpacking the ways in which Rangiwewehitanga embodies the foundational and traditional ways of seeing governance and the values that underpin those tribal views, this chapter has in no way provided a full and comprehensive examination of these matters. As this chapter demonstrated Rangiwewehitanga provides a unique window through which to practice and experience a very specific tribal view of the world, and the ways of knowing, being, researching, governing and teaching within it. Indeed, the complexity of traditional Māori and tribal worldviews, and how they influence our understanding of governance would be enough to fill numerous volumes without the diversion in focus that this study involves. Instead, this chapter has sought to provide sufficient background information to assist the reader in understanding some of the key and fundamental concepts, values and frameworks that are necessary to comprehend our way of knowing and being, and therefore our ways of governing.

A further goal of this chapter was to demonstrate how the traditional systems for law and governance still hold much relevance for the governance issues Ngāti Rangiwewehi face today. Indeed, the chapter has argued that innovation is embedded in our culture thereby allowing our ancestral teachings to provide guidance and insight for every generation, as Potaua Biasiny-Tule has commented:

Māori innovation is a bit different to the mainstream. It's about making connections between the old and the new; between the large and the small; between the whānau, the hapū and the iwi. It speaks to the transitional nature of change and looks to how Māori values can be retained throughout the entire process. And it is an essential part of bringing the culture into a 21<sup>st</sup> century paradigm.<sup>279</sup>

The importance of our whakapapa and the connections it creates are a central part of these essential understandings of Māori law and governance; iwi cannot exist without hapū and whānau, just as hapū and whānau cannot exist without iwi. The destiny of each are inextricably intertwined, and as this study argues the success of both are dependent on the long-term maintenance of our cultural values, principles and frameworks, without which we would cease to be Ngāti Rangiwewehi in any identifiable sense. “It is this rootedness in traditional values that defines an indigenous people; a culture that does not reflect the basic principles of the traditional philosophy of government cannot be considered to be indigenous in any real sense.”<sup>280</sup>

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<sup>279</sup> Potaua Biasiny-Tule “The Shared journey of Māori innovation” 5.30 am Tuesday 4 March 2014 *New Zealand Herald online*

<sup>280</sup> Alfred, above at n253 at 28.



Although our systems were flexible enough to meet the changing needs of the people, a significant aspect in contemporary times that must be taken into consideration and dealt with sensitively is the obvious diversity that now exists within our communities as a result of the fragmentation and disconnection brought about through colonization. Seneca legal scholar Robert Odawi Porter articulated his perception of the issue in this way:

Disruption in traditional governance has occurred primarily because the people, not the government, have changed. Conflict exists because of the inability of the traditional leadership and the traditional system to keep pace with the needs of an ever increasingly assimilated tribal membership who simply do not accept its authority.<sup>281</sup>

Within the Ngāti Rangiwewehi context there are obvious changes that have occurred within our governance practices which we will continue to explore more fully in the following chapter, however I would argue that these changes do not mean that our traditional frameworks and principles are redundant today. Furthermore, in many ways those changes have taken place because as Porter has asserted our people have changed, out of necessity, in order to survive the onslaught of colonization. This is a central motivation and cause for urgency behind this study. We must take the initiative and like our ancestor Kahawai, be willing to take whatever measures are required to ensure the survival, protection and retention of our cultural identity both within our tribal governance systems and within the wider sphere of our cultural influence to safeguard a strong, unique and vibrant cultural identity that remains recognisable as Rangiwewehitanga. Ani Mikaere has summed up the situation well:

While our experience of colonisation has been devastating, its impact should not blind us to the fact that it has occupied a mere moment in time on the continuum of our history. When viewed in this way, it is apparent that while tikanga operated as an effective system of law for our ancestors for thousands of years, the imposition of Crown law represents no more than a temporary aberration from that state of affairs.<sup>282</sup>

The question that remains for Ngāti Rangiwewehi, and indeed the focus of this dissertation then is how best to correct this aberration and find our way back to governing and determining our own affairs in accordance with our own ways of knowing and being.

Having considered the original systems of law and governance that gave order to our dynamic and vibrant tribal communities before our colonization, the next chapter reflects the efforts of our ancestors as they sought to assert and maintain their mana, mauri and tribal authority in a rapidly changing new world. The actions of our ancestors then provide important inspiration

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<sup>281</sup> Robert Odawi Porter 'The Decolonisation of Indigenous Governance' above at n228 at 101.

<sup>282</sup> Ani Mikaere 'Seeing Human Rights' above at n229 at 56.

for our efforts as we continue to assert and maintain the mana, mauri and authority of the tribe, and our ancestors in a settler-colonial-capitalist world that continues to evolve and change, but has never stopped attempting to assimilate or eradicate the indigenous population.<sup>283</sup> This next chapter will continue to affirm the importance of knowing our history, so that we can know who we are, where we have come from, and understand how we got from that place to where we are today. This knowledge further supports us to recognise the myths and lies our colonizers taught us about who or what we as the indigenous natives are, opening our ability to see the wounds that colonization has left us with and the necessary understanding to access the true sources of our healing.

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<sup>283</sup> Sandy Grande, *Red Pedagogy: Native American Social and Political Thought* (Rowman & Littlefield Publishers, Maryland, 2004).

## **5. Ka haere whakamua, me hoki whakamuri: Moving into the future by looking into the past.**

The title for this chapter is drawn from a Māori proverb, and as the English portion of the title implies it translates literally to mean: ‘Moving into the future by looking into the past.’ It encapsulates an important epistemological understanding shared by many Indigenous peoples: that our future must always be shaped by the wisdom and understanding of our ancestors and the lessons learnt through experience from our past. Thus, in Māori culture we refer to the past as being in front of us, ‘i mua’, and the future being behind us, ‘ki muri’, acknowledging that successful navigation of the unknown potential to come can be guided by a fuller understanding of what events led us to be in this particular place in time.

Our ancestors have always been innovative and open to technology and adaptations that support our goals and aspirations, whilst drawing on cultural precedents for guidance and direction. A central argument of this chapter, and the wider thesis, is that until the traditional frameworks for governance and the underlying values and principles that informed them in the past are empowered to direct and dictate our contemporary governance arrangements in the future, Ngāti Rangiwewehi aspirations for self-determination will remain to a certain extent elusive. Although it is important to note that it is Ngāti Rangiwewehi who must choose to empower and privilege our own governance frameworks, values and principles. Indeed, within the context of this study more generally, one of the gifts that examining our past has offered is a deeper and more nuanced appreciation of our own de-colonial paradigm for governance, and an appreciation that we have all that we need to fully embody and enact our Rangiwewehitanga within our governance frameworks moving into and beyond this new post-settlement era.

The intention of looking to the past within this chapter then provides a more specific focus on examples within Ngāti Rangiwewehi’s experience where we have asserted our Rangiwewehitanga in our attempts to negotiate our colonial encounters with the earlier British Crown, and later the New Zealand government. These assertions were seldom appropriately acknowledged, appreciated or received by the Crown. In fact, a central objective of this chapter is to illustrate that historical Crown engagement with Māori and, in particular, Ngāti Rangiwewehi, was always underscored by the assumption of their Eurocentric superiority and inherent racism. It should come as no surprise that these attributes inform and buttress the capitalist-colonial agenda. Colonial governments are in no position to assist or support Indigenous nations in the realization of our aspirations ‘until they have both stopped (and

undone) their multiple forms, thoughts and practices of colonialism.”<sup>284</sup> We cannot afford to wait for the Government to repent of its colonial origins. Similarly, within the governance of our own people, we must be mindful of the discourses and underlying beliefs that inform and influence the governance frameworks, structures, processes and practices that we choose to control the affairs of the tribe.

It was that inherent belief in their own superiority that rendered our colonizers blind to Māori systems of law and governance from the outset. In our starkly different epistemological framings of the law, there was nothing familiar or recognisable, and it was this failure to understand our differences that Ngāti Raukawa legal scholar Jacinta Ruru argues played a significant role in early settlers misunderstandings of Indigenous systems of land ownership, leading to conflict, confusion and tension.<sup>285</sup> Ruru contends that within these settler states the Courts and Governments have long grappled with the best way to reconcile themselves with the local Indigenous peoples, again highlighting the significance of addressing these issues from our past: “How can we move forward confidently, strongly and in good faith in our countries if we fail to acknowledge and dismantle the fictions upon which our countries are built?”<sup>286</sup> One might argue, that at least within the New Zealand context, the government’s desire to reconcile with Māori is largely an exercise to legitimise their role as sovereign while attempting to reconcile their colonial guilt with the narratives and discourses they hold about themselves as democratic, civilised, just nation states. They seek to reconcile the history they attempt to forget, with the image they wish to portray of themselves. This becomes increasingly difficult when the Indigenous peoples refuse to go away, assimilate, or relinquish their claims, rights and their own opposing accounts of history. In truth Ngāti Rangiwewehi along with many of our Indigenous relatives have no desire to reconcile ourselves with colonialism, but instead seek restitution of a just and moral society.<sup>287</sup>

Our experiences of the colonial systems of law and governance stand diametrically opposed to the notion of law as “objective and just.”<sup>288</sup> Despite the passage of 178 years since the signing of the Treaty of Waitangi, the existing models and frameworks the New Zealand government permits for contemporary tribal post-settlement governance retain the underlying colonial

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<sup>284</sup> Patricia Monture Angus, above at n16 at 22.

<sup>285</sup> Jacinta Ruru ‘The legal opportunity for Māori leading New Zealand into the future’ Ngā Pae o te Maramatanga Horizons of Insight presentation March 30 2016 <http://mediacentre.maramatanga.ac.nz/content/legal-opportunity-Māori-leading-nz-future> accessed 10/06/2016.

<sup>286</sup> Ibid.

<sup>287</sup> James Youngblood Henderson, above at n17.

<sup>288</sup> Jacinta Ruru, above at n285.

agendas of the legal system they originate from and operate within, which was designed from the outset to sustain the goals and objectives of the Empire, not those of Māori. Clearly, Ngāti Rangiwewehi expectations are substantially different from those of the Crown as Maria Bargh has so aptly explained:

Māori expectations include a range of structural changes to the way governance operates in Aotearoa, and in the way that political power is shared. Māori seek constitutional change based in forms of tikanga. Māori are guided by the Declaration of Independence (1835) and Te Tiriti o Waitangi (1840) in seeking greater Māori control over Māori resources. Māori also expect an end to Crown breaches of Te Tiriti o Waitangi. In contrast, the Crown focuses attention on acknowledging historical breaches of the Treaty. It seeks to improve the economic position of Māori through economic development, assuming that this will ultimately improve social and political conditions for Māori. The Crown's position does not question the fundamentals upon which its political power is based and instead continues behaviour already proven to be contrary to Te Tiriti.<sup>289</sup>

Even in the articulation of our expectations from the Crown led settlement process, Māori continue to assert our desire for full authority over our affairs and affirm our own standards of governance, our own systems for validating and legitimating our processes and insist on holding the New Zealand government accountable to their obligations and responsibilities under the Treaty of Waitangi.<sup>290</sup> However, these assertions are not solely about holding the government to account but also about finding ways for both Māori and Pākehā to heal our combined colonial trauma through this post-settlement era. As Patricia Monture Angus has stated:

The need for historical honesty is not a need to blame others for the present day realities, but a plea for the opportunity to deal with all of the layers and multiplications of oppression that permeate Aboriginal lives and Aboriginal communities today.<sup>291</sup>

Although Monture Angus is speaking more specifically of the Canadian context, her point applies equally here in New Zealand. Māori have not created this situation and because of the current colonial reality we exist within we are also unable to address all of the necessary issues and fix them for our people because the colonial systems and its agents are unable to recognise the answers our culture offers. Historical honesty is necessary for our colonizers to take

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<sup>289</sup> Maria Bargh 'The Post-settlement world (so far) Impacts for Māori' in Nicola R Wheen & Janine Hayward (Eds) *Treaty of Waitangi Settlements* Wellington Bridget William Books & The New Zealand Law Foundation 2012 166-181 at 166.

<sup>290</sup> This was in effect the principal claim that the Central North Island tribes made and was upheld by the Waitangi Tribunal in the *He Maunga Rongo Report* "the root of all breaches of the Treaty in their rohe was the Crown's failure to give effect to the Treaty's guarantee of their autonomy and self-government. Their tino rangatiratanga, they said, was set aside and actively repressed, rather than protected, by the Crown" above at n123 at 1.

<sup>291</sup> Patricia Monture Angus, above at n16 at 26.

responsibility for the past, and the ways in which their past baggage continues to impact on us today.

Against this backdrop, the main body of this chapter will explore a selection of historical examples of the ways Ngāti Rangiwhewehi sought to mediate the imposition of the colonial system of law through the insistence on and assertion of our own values, understandings and frameworks. Whilst each encounter, in and of itself, may seem inconsequential, when viewed across the span of time there develops a consistent and resolute determination to affirm our stance and status as Ngāti Rangiwhewehi. We must draw strength from even the smallest of steps, each an assertion of our Rangiwhewehitanga all the same. The chapter then shifts to a more contemporary consideration of the same issues within Ngāti Rangiwhewehi's settlement journey and more recent events. This section will more specifically examine how the Crown's interpretation and application of the post-settlement governance principles of representation, transparency and accountability, reveal the same underlying discourses and objectives that have always supported and maintained the development of the British Empire and the extension of its law. Until such time as the Crown is willing to acknowledge and address these influences and move to actively support the realization of iwi self-determination, their actions remain aligned with the original project of Empire which sought to assimilate and eliminate the Indigenous as a barrier to continued colonial and capitalist expansion. It remains important for tribes to recognise this reality, so that we don't become distracted by the Crown's agenda as we determine what frameworks for governance might best empower our self-determination in and beyond this post-settlement governance era.

### **5.1 Ūpoko Tūtakitahi: Stubborn Assertions or Proclamations of Authority?**

The phrase 'Ūpoko Tūtakitahi' as with many of the subtitles and sayings used within this study is drawn from an ancestral narrative. Within Hirini Moko Mead and Neil Groves *Ngā Pēpeha ō ngā Tīpuna*<sup>292</sup> the full phrase is listed as 'Arawa ūpoko tūtakitahi' translated as 'Arawa stopped up head' it explains that 'this is a reference to stubbornness, which was regarded as a tribal trait.'<sup>293</sup> While it is true that Ngāti Rangiwhewehi and Te Arawa have a reputation for being somewhat stubborn or single-minded, throughout my upbringing this specific phrase and characteristic was associated more specifically with our ancestor Rangitahi.

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<sup>292</sup> Hirini Moko Mead & Neil Grove *Ngā Pēpeha ō ngā Tīpuna* above at n26 at 19.

<sup>293</sup> Ibid.

Rangitihi was the great grandson of Te Arawa chief Tamatekapua, and a rangatira of some renown. He fathered eight sons from four wives, and in time established a presence from the Kaituna River to the Ohau Channel.<sup>294</sup> Later, Rangitihi's sons claimed other parts of the Rotorua Lakes district and became known as 'ngā pūmanawa e waru o Te Arawa' or the eight beating hearts of Te Arawa, alluding to the fact that each of his sons represent a major line of descent within the tribal confederation. In addition to the significance of his whakapapa lines, the event that the title to this chapter memorialises is a favourite ancestral story of mine because it demonstrates a range of characteristics evident amongst our people, in addition to the construction of us as being stubborn. 'Ko Rangitihi ūpoko whakahirahira, ko te ūpoko i takaia ki te akatea,'<sup>295</sup> is an alternative phrasing which more obviously connects to the events which gave rise to these sayings. Translated as 'Rangitihi of the proud head, whose head was bound with akatea,'<sup>296</sup> the expression relates to a time during battle when Rangitihi was struck in such a way that his head was split open by a member of the opposing forces. Rangitihi was the leader of his war party, and his warriors were sent into a panic by the site of his injury. He called for some akatea, a native vine used to bind together the palisades of traditional marae. Grasping the akatea Rangitihi bound his head to close the wound then with renewed vigour he returned to the battle and led his side to victory.<sup>297</sup> Although the phrase is often used to allude to stubbornness, the fuller story articulates a far wider range of characteristics and emotions that speak not only to our ancestor's personality but also to his attributes as a leader, such as fortitude, stamina, endurance and determination.

Within my master's research I concluded that there were three core elements central to the knowledge and understanding that is embodied within Rangiwewehitanga. Those elements were identified as our people, our places and what I had at the time termed as survival. This third element was much more difficult to succinctly articulate because in many ways it referred less to an easily identifiable body of knowledge and more to a set of experiences or specific characteristics that came through as a theme in all of the interviews, wānanga and conversations that took place in connection with that project. This concept of survival in many ways is that sense of determination and tenacity that Indigenous people have needed in order to remain

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<sup>294</sup> Anthony Bidois Tepora Emery Rikihana Hancock Rangimarie Mahuika Harata Paterson & Dennis Polamalu *Ngāti Rangiwewehi Historical Report* (Te Maru o Ngāti Rangiwewehi, Awahou, 2009).

<sup>295</sup> Mead & Grove above at n26 at 241.

<sup>296</sup> Ibid.

<sup>297</sup> Don Stafford *Te Arawa* (Reed Publishing, Auckland, 1967) at 57.

present, ever resistant and defiant, continuing to work towards the ultimate dream of being able to thrive, living and expressing ourselves in accordance with our cultural frames of reference.

Within the context of this thesis, that same attribute seemed to be perfectly summarised within the phrase ‘Ūpoko tūtakitahi.’ Rather than reducing the meaning of the phrase to being stubborn, in this story, I have always admired the tenacity and the fierce determination displayed by Rangitihi, his pragmatism, his focus and his undeniable complete commitment to the kaupapa (cause). In effect his strength of will ensured our ancestors survival on that particular occasion, and over the generations his actions (and perhaps his inherited characteristics) have continued to inure our people with the necessary resolve to endure 178 years since the signing of the Treaty of Waitangi without yet giving up.

In Rangitihi’s story I see further qualities that our people possess, the ability to be resourceful and practical, the need to recognise what is at stake, to unite and work together in times of need, a complete belief in the importance of their cause and a determination to do whatever is necessary to see it through to its conclusion. Although Rangitihi’s story is particularly memorable, our historical engagements with colonization have produced many opportunities, across generations of Te Arawa and Ngāti Rangiwewehi to demonstrate those same characteristics, albeit in differing circumstances. This chapter argues that each one of these opportunities was an assertion of our authority, an affirmation of our specific desires and an attempt to mediate and limit the imposition of the colonial system of law and governance on our traditional ways of knowing and being. In line with the broader question of the thesis, this chapter questions the potential of any governance framework that has intentionally wrought so much violence against us to produce now new frameworks that could empower our tribal self-determination in and beyond the post-settlement era. Our experience to date has not created the strongest bonds of trust and reflects similar concerns tribal leaders were beginning to voice, as far back as 1851.

That year a dispute arose in Auckland when a Ngaiterangi woman who was married to a Ngāti Whakaue man had returned to her relatives claiming mistreatment. A group from Te Arawa believed the wife had been seduced and consequently were attempting to gather reinforcements when, in an effort to intervene and avoid any potential warfare amongst the tribal groups, the local authorities persuaded Wiremu Maihi Te Rangikāheke, a prominent Ngāti Rangiwewehi and Te Arawa chief, to allow them to deal with the matter. Te Rangikāheke issued a fiery



decree to the New Zealand Government, following the failure of local settler officials to appropriately resolve the inter-tribal dispute:

I will separate myself and tribe from the Law of England lest we should remain any longer under that law, lest it should become of no weight, lest my women should be taken and my land, my goods my everything that I possess... we shall cease laying our cases before the Government of New Zealand also, my adherence is at an end –between a European and a native it is well that it should be judged, when both are Māoris let it be by their own law.<sup>298</sup>

The incompetence of the Pākehā law to bring any appropriate justice to the situation was compounded by the frustration of not having exercised traditional customary responses and growing fears about the impact of such matters on the individual and collective mana of those involved. Te Rangikāheke's criticism reflects a growing concern amongst Māori in the nineteenth century regarding the reception of colonial law, particularly its depowering impact on tribal authority and the difficulties for indigenous peoples to give and receive laws relative to their own perceptions and desires.

Te Rangikāheke's frustrations have lingered in the Māori world well beyond the nineteenth century. Indeed, Māori have, to this day, lamented the mono-cultural assumptions that have often obscured an appreciation of indigenous ways of giving and receiving law in Aotearoa. As Ngāti Kahungunu legal scholar Moana Jackson has noted:

It is one of the tragedies of Western history that the culture-specific nature of its own systems of law blinded it to the existence of law in other societies. This mono-cultural myopia, when coupled with the economic demands of an imperial ethic, had led to a dismissal of other cultural systems as not being 'legal', and a subsequent imposition of the western way. Māori society was one of many colonial victims of this short-sighted mono-legalism.<sup>299</sup>

The opening stanzas in *A New Zealand Legal History* provide a more recent example of these continual Eurocentric issues. Here the authors write that: 'Any account of the history and development of the New Zealand legal system must begin with the English system from which it developed.'<sup>300</sup> Whilst the English origins of the current New Zealand legal system are not under dispute in this study, the underlying assumptions inherent in this statement seems juxtaposed with the assertion made in chapter four of the same book where the authors write that: 'it is hardly contentious these days to argue that Māori society was governed by law,'<sup>301</sup>

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<sup>298</sup> G 8/5 (5) Arch-NZ; Alan Ward above at n195 at 81.

<sup>299</sup> Moana Jackson *He Whaipanga Hou* above at n60 at 36.

<sup>300</sup> Peter Spiller Jeremy Finn & Richard Boast *A New Zealand Legal History* (2<sup>nd</sup> edition, Thomson Reuters, Auckland, 1998) at 1.

<sup>301</sup> *Ibid* at 123.

presumably for some time before the arrival of its British equivalent. Although it has been more than 100 years since Chief Justice Prendergast described Māori as ‘barbarians’ lacking any form of law or civil government,<sup>302</sup> only more recently has it been acknowledged that: ‘outside of a small group of lawyers concerned with the highly modified Māori ‘custom’ applied in the Māori land courts, Māori law has been wholly ignored by New Zealand lawyers, academic and practising, until recently.’<sup>303</sup>

### **5.1.1 Asserting our own definitions of law and governance.**

Māori and Ngāti Rangiwewehi systems of governance and societal regulation then have often been referred to as ‘lore’ rather than recognised as ‘Law’, by colonial scholars and law-givers, who frequently dismissed what might be identified as Māori law as quaint native customs, or relics of a heathen past to be discouraged and desisted. This redefining of indigenous knowledge is no different to the transformation of Māori traditional ‘histories’ to ‘myths and legends.’<sup>304</sup> This negating of Māori tribal frames of reference has intentionally sought to remove our voices and experiences from the production of not only general historical narratives, but legal historical narratives, who defines law in Aotearoa New Zealand, how it has been given and received by Māori.

Māori, and Ngāti Rangiwewehi, have long asserted that Crown approval is not necessary in order for our definitions, institutions, and values to be legitimate. Māori sovereignty has always been sourced in our own cultural norms and values. Indeed, Māori understandings of law and governance as has been discussed in earlier chapters can be traced back to deeper epistemological beginnings relevant to the shaping of our world. For those who are unfamiliar with the details of these tribal histories, the customs, protocols and teachings embedded within our stories, the relevance of these cultural precedents to contemporary issues of tribal governance may not be immediately obvious. Yet these stories, such as the account of Ranginui Skyfather and Papatūānuku Earthmother, the tales of Māui’s adventures or the experiences of Rangitihi, and the various insights and understandings that flow from each of them demonstrate the potential of our traditional teachings as an invaluable framework through which to consider, unpack and decolonize current tribal perspectives on law and governance.

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<sup>302</sup> *Wi Parata v Bishop of Wellington* (1877) 3NZJur NS 72.

<sup>303</sup> Spiller, Finn & Boast, above at n300 at 123.

<sup>304</sup> For a more in-depth discussion of the reduction of Māori oral histories to myth and legends see Nepia Mahuika’s doctoral thesis on Ngāti Porou oral histories, above at n42.

A central concept in Māori law is whakapapa or our genealogical ties, which provide a system of control that can be traced through the descent lines that link all tribes back to the Gods. For Māori, whakapapa emphasises the divine origins of our knowledge, leadership, skill sets, and bloodlines. Whakapapa provides a living demonstration of the interconnection and interweaving of those bloodlines and the various reciprocal rights and obligations it creates to the wider tribal collective. Whakapapa contains within it, other important cultural imperatives that when understood provide, a comprehensive body of guidelines to ensure the appropriate regulation of conduct.<sup>305</sup>

Caren Wickliffe has pointed out that: ‘To be sovereign, a nation has to govern itself by its own authority and its own laws.’<sup>306</sup> Other Māori legal academics such as Ani Mikaere have argued that Māori and iwi had governed themselves according to their own authority and laws for hundreds of years prior to the arrival of Pākehā. Even with the arrival of Paikēa there are numerous examples that plainly illustrate how Māori exercised their sovereignty according to their own laws and values.<sup>307</sup> Decisions to engage with, and participate in, the giving and receiving of ‘Pākehā law’, were never considered a compromise to tino rangatiratanga or chiefly powers and authority. Instead, the alternative conceptions and approaches accessible through the Pākehā system provided an interesting range of options within which to experiment and potentially augment indigenous approaches should the newer designs prove fruitful.<sup>308</sup>

### 5.1.2 Assertions of Māori Sovereignty

According to Māori, for instance, the Declaration of Independence in 1835 recognised and acknowledged the Chiefs of New Zealand as exercising sovereignty over the country.<sup>309</sup>

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<sup>305</sup> These concepts include for example: the notion of tuakana/teina which relates to the seniority of your birth and was an important consideration in the selection of appropriate tribal leadership; mana whenua –authority derived from the land; mana tūpuna –authority handed down from your ancestors; manaakitanga –hospitality and the need to maintain the mana and reputation of the iwi/hapū/whānau through appropriate behaviour and conduct towards others; whanaungatanga –unity and cohesion through familial relationships; kaitiakitanga –stewardship, the idea of sustainable development and protecting our environment, resources and knowledge for future generations. For further insight into these concepts see Rangimarie Rose Pere *Ako Concepts and Learning in the Māori Tradition* (Department of Sociology, University of Waikato, Hamilton, 1982) and *Te Wheke A Celebration of Infinite Wisdom* (2<sup>nd</sup> edition, Ao Ako Global Learning New Zealand Ltd, Wairoa, 1997).

<sup>306</sup> Caren Wickliffe ‘Te Timatanga Māori Women’s Access to Justice’ Yearbook of New Zealand Jurisprudence Special Issue: Te Purenga 8:2 2005 217-263; See also M Wilson & A Yeatman (eds.) *Justice and Identity: Antipodean Practices* (Bridget William Books, Wellington, 1995) at xiii.

<sup>307</sup> See Nepia Mahuika “Re-Storying Māori Legal Histories” above at n278.

<sup>308</sup> Ibid.

<sup>309</sup> See Waitangi Tribunal *He Whakaputanga me te Tiriti The Declaration and the Treaty The Report on Stage One of the Te Paparahi o Te Raki Inquiry* (WAI 1040, 2014).

Despite claims that sovereignty was officially ceded in the signing of the Treaty of Waitangi in 1840, the reality of exercising sovereignty within the colony was something the Crown found exceptionally difficult throughout the nineteenth century and beyond. Many of those iwi who had signed the Treaty viewed it as a sign of partnership, an agreement where Māori would effectively become dual citizens, with the rights of British subjects as well as tribal sovereignty over their own domains.<sup>310</sup> Mason Durie has described it this way, writing that:

The Treaty would provide for the lawful and orderly settlement of New Zealand by British immigrants. The different roles of Government and tribal authorities would be respected. Māori people would not be unfairly disadvantaged by the colonising process and could expect to return their own social and economic systems. Additional rights, as British subjects, would be extended to all people.<sup>311</sup>

Ngāti Rangiwewehi, and their Te Arawa relatives, decided against signing the Treaty of Waitangi due to concerns about its potential impact on their chiefly authority and tribal self-determination. They were however, very interested in engaging and experimenting with the law. During this period, Alan Ward writes that Māori communities were selectively adopting and incorporating elements of European institutions into their own traditional systems. Due to the adaptive and flexible nature of the traditional social structures and value systems, iwi were keen to encourage a certain amount of settlement in order to facilitate trade opportunities and access the technological advantages observed in settler society.<sup>312</sup> These points are supported by comments shared earlier in the study from respected Ngāti Rangiwewehi leader Hohua Mohi pertaining to traditional and contemporary tendencies to draw in and utilise those things that are of benefit to the tribe.

The majority of tribes were open to the possible advantages they perceived were available in an affiliation with the settler legal systems, and the Crown were more than willing to turn this to their advantage. Thus, tribal desires for greater social and economic development provided fertile ground for successive Crown policies that attempted to secure greater levels of Māori support through the purchasing of affections and loyalty. Governor George Grey's 'Flour and Sugar' policy, for example, encouraged identified influential Chiefs to purchase vessels and mills by providing loans and supporting the arrangements. Grey targeted Wiremu Hikairo, Ngāti Rangiwewehi leader, who was initially advanced a sum of £40 to be used as part payment

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<sup>310</sup> Wickliffe, above at n306 at 232.

<sup>311</sup> Mason Durie 'The Treaty of Waitangi: Perspectives on Social Policy' in H Kawharu (ed) *Waitangi: Māori and Pākehā Perspectives of the Treaty of Waitangi* (Oxford University Press, Auckland, 1989) at 280.

<sup>312</sup> Alan Ward, above at n195 at 16-18.

for a vessel the sale of which unfortunately fell through. This led to Governor Grey making further arrangements in order to secure an appropriate vessel, and the necessary funds to pay for it as the Governor hoped to procure Wiremu Hikairo's loyalty and friendship.<sup>313</sup> Governor Grey hoped these demonstrations of the 'Queens bounty' and the material 'advantages' of receiving British law would strengthen Māori attachments and loyalty to the Crown.<sup>314</sup>

Although Grey's flour and sugar policy might easily be considered a bribe to garner indigenous acceptance of the law, if viewed from a Māori perspective it can be argued that the giving of gifts or *koha* was also in fact a traditional and often ritual component of building strong and significant relationships. Gift giving, in this way accorded proper acknowledgement of the *mana* of a Chief and appeared in line with the highly relational nature of Māori society. Whether they were conscious of it or not, the Crowns actions often simultaneously acknowledged *iwi* and chiefly authority in other ways.

For example, Donald McLean, Native Secretary, vigorously supported the establishment of the *rūnanga* system along the lines proposed by William Martin at the Kohimarama conference held near Auckland in 1860. This proposed parallel system of justice no doubt was viewed by many as a positive nod to covenants made in the 1840 Treaty and would have enabled the greater measure of political partnership that both Māori and Ngāti Rangiwewehi had requested. Indeed, this interpretation was implied in the underlying purpose of the conference, which was conveyed as an opportunity for the Governor to 'learn the thoughts of the assembled Chiefs on many matters affecting the welfare of the Māori people and to receive their advice... therefore it is well that the chiefs of New Zealand should assemble to advise the Governor and learn his thoughts.'<sup>315</sup>

However, the measures of self-governance offered to tribes in the *rūnanga* system, rather than being championed as a pathway towards joint authority, were in reality a Crown sacrifice intended to induce greater levels of indigenous acceptance of colonial authority and systems of law. For the British settlers, such methods were only ever considered temporary measures required to expeditiously facilitate the civilising and assimilation of the Natives.<sup>316</sup> Recognition of tribal lore was accepted as a short-term necessity, especially in the more isolated and out-laying areas, but was always intended as a step closer to proper civilisation and assimilation,

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<sup>313</sup> O'Malley & Armstrong above at n36 at 25.

<sup>314</sup> Governor Grey to Earl Grey (and enclosures), 28 August 1851, GBPP vol.9, 1852-1854 (1779) 53-54.

<sup>315</sup> Donald McLean, Papers, MS-Papers-0032-43, ATL.

<sup>316</sup> Nepia Mahuika above at n42.

as it might more easily facilitate the transition from native customs to colonial rule. Thus, Donald McLean's support for the proposal was based on his belief that it provided 'the most expedient, pragmatic and effective means of gaining the on-going loyalty and adherence of the salaried chiefs who might fill judicial or administrative roles.'<sup>317</sup>

As much as Ngāti Rangiwhewehi were interested in experimenting with the giving and receiving of Pākehā law, they were equally open to considering the ways in which the new system might offer potential improvements for their own approaches. This is evident in an incident in 1854 where a Ngāti Whakaue man named Kiore killed a Ngāti Whatua woman while inebriated. Ngāti Whatua demanded retribution against all Te Arawa living in Auckland. In response, Wi Maihi Te Rangikāheke and a large group of Te Arawa living in the area met with Governor Gore Browne to discuss their concerns in an attempt to broker a solution. Of the event Te Rangikāheke is recorded as saying:

...we give him [Kiore] up to you; your law says that the guilty alone shall suffer. The law of Māoris is to punish the innocent, and oftentimes the guilty gets free. Your law is better than ours, and we submit to it. The tribes have threatened to attack us on account of the crime which our relative perpetrated. Many rumours of this nature have reached us lately; but we look up to you o Governor, as the shield. You are the father of the native people... and we say that the laws you have introduced are likely to ensure tranquillity, and to put an end to native strife.<sup>318</sup>

Typical of contemporary Eurocentrism, Governor Gore-Browne was most pleased with what appeared to be a genuine willingness on the part of Te Arawa to submit themselves to the law. His was a common misinterpretation of Māori intentions. For George Grey and other colonial officials, Te Arawa declarations of 'loyalty' however they may have been induced, may have appeared to offer hope that the tribes were in the process of willingly acknowledging and placing themselves under the authority of the Crown. However, as Vincent O'Malley and David Armstrong note: "for Te Arawa these sentiments were illustrative of their desire for real political partnership, but not at the cost of their own rangatiratanga or institutions."<sup>319</sup>

Perhaps the most compelling demonstration of Te Arawa aspirations for self-determination can be seen in the handling of the murder of a Ngāti Whakaue woman, Kerara, who was viciously

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<sup>317</sup> Ibid, see also O'Malley & Armstrong, above at n36 at 50.

<sup>318</sup> Acting Governor Wynyard to George Grey, 6 January 1855, GBPP, vol 11, 1861 (2747); see also O'Malley & Armstrong, above at n36 at 35. The Chiefs also requested that the Government bring in a prohibition on sales of alcohol as it was considered a major factor in this case but was a recurring issue in many similar cases.

<sup>319</sup> O'Malley & Armstrong above at n36 at 32.

killed by an American sailor, Charles Marsden, in Auckland late in 1855.<sup>320</sup> Throughout Marsden's trial efforts were made to ensure that the assembled Te Arawa chiefs understood the court processes and were able to 'rest assured that the just laws of the English will always be administered with impartiality for the protection of the Māori as well as the European.'<sup>321</sup> Marsden was found guilty and sentenced to death. While the woman's Te Arawa relatives were ultimately satisfied that justice had been served, the process by which that outcome was reached was considered unsatisfactory. Given the preference for joint exercising of authority, Te Rangikāheke argued that the lack of any consultation with tribal leaders over the decision was considered further evidence that:

[t]here is no recognition of the authority of the people, no uniting of the two authorities, even up to this murder. Suggestions have been made with a view to share in the administration of affairs, but to what purpose? The reply is, the island has lost its independence, it is enslaved and the chiefs with it... In the present English system, we are mere slaves.<sup>322</sup>

Te Arawa and Ngāti Rangiwewehi's primary motivation has always been the desire to affirm and maintain tribal authority and self-determination. Often demonstrated by their attempts to secure meaningful political participation and engagement in decision-making over their own affairs, tribal views were reinforced by the reality of their political positioning in nineteenth century New Zealand. Despite Crown assertions to the contrary, in those early stages of the colony the development and implementation of any law was very much dictated by Māori willingness to engage. Thus, it was often extremely difficult for the Crown to exercise authority in large parts of the country, in particular those areas which were almost exclusively Māori districts and had often explicitly rejected the authority of the Queen. Commenting on the fragility of the situation missionary Thomas Chapman opined that:

The natives seem not to know their position – the Europeans seem not to know theirs. The B[ritish] Government assert that every native is a British subject. The natives as a body deny the thing altogether. The laws are declared, but they are neither understood, or obeyed.<sup>323</sup>

Perhaps in reflection Chapman's comments could be read as illustrative of the 'actual' position iwi held, which was as O'Malley and Armstrong explain: 'based firmly on a desire to engage with the Crown and settlers on a number of different levels, but without sacrificing their

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<sup>320</sup> O'Malley & Armstrong above at n36 at 35.

<sup>321</sup> Te Karere Māori –The Māori Messenger, January 1856.

<sup>322</sup> Governor Gore-Browne to W Molesworth, 14 February 1856 (and enclosures), GBPP vol.11, 1861 (2747) 416-419.

<sup>323</sup> Thomas Chapman, Letters and Journals, qMS-0426, ATL; CMS Papers, Micro-MS-Coll-04-036, ATL.

autonomy and rangatiratanga.’<sup>324</sup> Indeed, the belief that they could and should be able to exercise their sovereignty would have also been reinforced by the relatively nominal authority exercised by the Crown. Often more imagined than real, government sovereignty was regularly exposed as powerless to act for fear of potential repercussions.

In 1846, word reached Rotorua of Colonial Secretary Earl Grey’s ‘Waste Lands’ policy and it immediately became a subject of much discussion and concern. Te Arawa were regularly interrogating the Missionaries and other settlers in the district about the policy, seeking clarification about its possible implementation and making clear their intention to oppose it. Missionary Thomas Chapman affirmed his belief that application of the policy would be extremely hazardous, explaining that:

According to Western legal principles which had been developed by Dr Arnold, the headmaster of Rugby school, and Vattel, unoccupied or uncultivated land could not be said to be ‘owned’ by indigenous peoples. Instead it was simply terra nullius or ‘waste land’ freely available for European settlement. This was anathema to Te Arawa (and other Māori) who utilised and claimed the full extent of their land and resources.<sup>325</sup>

Chapman goes on to clarify that Grey ‘had actually been instructed to implement a ‘waste lands’ policy in New Zealand, but aware of the inevitable conflict this would engender he had wisely declined to do so.’<sup>326</sup> This example clearly demonstrates the power iwi had to influence and shape governance in nineteenth century New Zealand. Indeed, much potential still exists for iwi and Māori to exercise greater levels of control and influence over the nature of law and governance in New Zealand if we are strategic, focused on our long-term aspirations and ever watchful for useful opportunities.<sup>327</sup>

As the impact of colonisation has spread over time, Māori have suffered from the effects of land alienation, lacking any immunity to those laws that detached them from the much needed nourishment provided by their traditional economic resource base. The British legal system then infected Māori governance institutions and social structures, re-born as a virus that claimed to civilise its hosts and assimilate them more fully so that they might enjoy all the rights and privileges of British citizens. A staggering number of Māori were enticed and

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<sup>324</sup> O’Malley & Armstrong, above at n36 at 23.

<sup>325</sup> CMS Papers, Micro-MS-Coll-04-044, ATL; O’Malley & Armstrong, above at n36 at 24.

<sup>326</sup> Ibid; O’Malley & Armstrong, above at n36 at 25.

<sup>327</sup> The recent innovation of assigning legal personality to the Whanganui river and the Te Urewera forest is the most recent attempt to use potential pathways available in law in new and different ways to give better alignment between the legal concepts and frameworks we are working with. See Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 ss12-14; Te Urewera Act 2014 s11.



entrapped by the promises and deceptions of colonial officials. They wanted to believe Gore-Browne when he assured them that their adoption by the Queen would ‘make it impossible that the Māori people should be unjustly dispossessed of their lands or property’ and that ‘every Māori was a member of the British nation... protected by the same law as his English fellow subject.’<sup>328</sup> But, as respected Te Arawa kaumatua, Anaru Rangiheua, has lamented:

loyalty came at a huge cost. We lost much of our land and our lakes and rivers. Our attempts at establishing our own systems of governance... and more importantly our mana were suppressed, and in the end loyalty to the Crown left us bereft as other tribes who had fought for their lands and rights as set out in the Treaty of Waitangi.<sup>329</sup>

This observation is more poignant given that those identified as loyal to the British Crown fared no better off than those deemed rebels, as Ngāti Rangiwhewehi often was. But does this mean that Te Arawa and Ngāti Rangiwhewehi were merely victims, subjects forced to abandon their own supposed inferior systems of law and governance, always destined to accept the imposition of the colonizers superior alternative? The examples provided in this section suggest that they were not. They also demonstrate that Māori were not savage rebel’s hell bent on wanton destruction, too ignorant to recognise the blessings bestowed by ‘kind’ and ‘benevolent’ colonisers. Māori, and Ngāti Rangiwhewehi, motivations and aspirations have always been multi-layered: sophisticated beyond unhelpful binaries and oversimplified nineteenth century clichés. Moreover, Ngāti Rangiwhewehi, and Māori, assertions of tino rangatiratanga during the period always remained consistent with continued efforts towards political affirmation, resistance, and realisation today. From the nineteenth century to the present day, Ngāti Rangiwhewehi have grappled with the ways in which we might engage with Pākehā laws and governance frameworks while retaining and asserting our own sovereignty, autonomy, and self-determination, or our Rangiwhewehitanga. What is especially significant is that despite the time that has passed, and the various attempts that have either failed, or not been as effective as was hoped, in the face of what sometimes seems like impossible odds Ngāti Rangiwhewehi, much like our tupuna Rangitahi, have never given up.

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<sup>328</sup> Te Karere Māori –The Māori Messenger, 14 July 1860.

<sup>329</sup> Anaru Rangiheua *Foreword to A Beating Heart* O’Malley & Armstrong, above at n36 at viii.

## 5.2 The Unsettling Governance of Settlement

In the Ngāti Rangiwewehi Claims Settlement Act 2014 the New Zealand government acknowledge and apologise for their historical breaches of the Treaty of Waitangi concerning Ngāti Rangiwewehi:

(7) Over the generations, the Crown's breaches of the Treaty compromised your social and traditional structures, your autonomy, and your ability to exercise your customary rights and your responsibilities. With great sorrow, the Crown apologises for its actions and for the impact they had on the individuals, whānau, and hapū of Ngāti Rangiwewehi.

(8) A better future beckons. Through this apology, and this settlement, the Crown turns its face towards that future and hopes to establish a new relationship with Ngāti Rangiwewehi based on mutual trust, co-operation, and respect for Te Tiriti o Waitangi/the Treaty of Waitangi and its principles.<sup>330</sup>

While Ngāti Rangiwewehi haven't given up hope just yet, it will require more than an apology to completely clear the way for a new relationship. Indeed the Crown's focus on acknowledging and attempting to address the 'historical' breaches of the Treaty fails to appropriately acknowledge that those historical breaches continue to have a very real and negative impact on Ngāti Rangiwewehi and iwi Māori still today; and that even the attempts to address those past injustices does little to prevent the ongoing breaches the Crown continues to perpetrate today, even within the settlement process itself. As Maria Bargh has observed: "The underlying premise of the Crown settlement process (and by implication the 'post'-settlement process) is that the lodging and 'solving' of 'settlements' should one day come to an end."<sup>331</sup> Bargh points out that if the settlement process came about as a result of breaches of te Tiriti, the only way they can come to an end is if the Crown also stops breaching te Tiriti.<sup>332</sup>

Clearly, until the Crown can understand and recognise when it is in fact breaching the Treaty, and then chose to cease and desist and actually follow through on that, we must continue in our commitment to vigilantly fight for and assert our Rangiwewehitanga. This chapter then posits that whether we are discussing the early colonial period or the new post-settlement governance era, the effect of the colonizers systems of law and governance are the same: the deliberate destruction and denial of Indigenous law and governance, through the erasure of our histories and our unique ways of knowing and being. In discussing the legal discourses of colonies and commonwealths this section draws attention to the fact that this is not simply a matter of making amends for the atrocities of our colonial past. There is, as yet, no 'post' for the colonial

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<sup>330</sup> Ngāti Rangiwewehi Claims Settlement Act 2014 s10 (7) and (8).

<sup>331</sup> Maria Bargh, above at n289 at 167.

<sup>332</sup> Ibid.

to hide behind. The Empire continues its expansion even today: “the ongoing crisis of our communities is fuelled by continuing efforts to prevent us from using the power of our traditional teachings,” and failure to recognise this requires a wilful blindness “to the states persistent intent to maintain the colonial oppression of the first nations of this land.”<sup>333</sup>

The settlement process, and the models and frameworks for tribal post-settlement governance recommended within the Crown template all inevitably retain the underlying agenda of the colonizer legal system they are born from. In light of the limited options available to us, Ngāti Rangiwewehi, like all iwi Māori, have constantly fought for and attempted to negotiate a space that might enable transgressing the boundaries of the mainstream system whilst remaining within the borders of the traditional legal frameworks of the tribe. Ultimately, this section concludes that any real hope lies not in Crown apologies but within the larger Indigenous project of decolonization, which provides the only viable pathway to transformation and emancipation for all. Along this pathway there are yet so many steps to take, each opportunity to claim space and to improve is always important. Although the Te Tatau o Te Arawa is not a post-settlement governance entity, it was formed with the express purpose of strengthening the relationship between Te Arawa and the Rotorua Lakes Council increasing local tribal participation in local government decision-making.<sup>334</sup> Despite very vocal and continued opposition Te Tatau members have made every effort to make the most of their influence while they are in place, the most obvious example of asserting our tribal and cultural identity within this governance space is the recent launching of Rotorua Reorua. In partnership with the Rotorua Lakes Council and Te Puni Kokiri Ministry of Māori Development, this initiative made Rotorua the first official Bilingual city in New Zealand, a significant achievement from the Te Arawa tribal confederation.<sup>335</sup>

The Crown, through its Office of Treaty Settlements have highlighted the need for Post-settlement governance entities ‘to strike a balance between a structure that meets the needs of the particular claimant group, while at the same time also satisfying the Crowns governance principles.’<sup>336</sup> To provide further clarification about what is meant by the principles of

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<sup>333</sup> Alfred, above at n253 at 1.

<sup>334</sup> See <https://tetatau.nz>; “Council approves Te Arawa partnership agreement” 17 December 2015 5.20pm [https://www.nzherald.co.nz/rotorua-daily-post/news/article.cfm?c\\_id=1503438&objectid=11562718](https://www.nzherald.co.nz/rotorua-daily-post/news/article.cfm?c_id=1503438&objectid=11562718) ; “Rotorua Lakes Council and Te Tatu celebrate three years of partnership” 25 May 2018 7.03am [https://www.nzherald.co.nz/local-government/news/article.cfm?c\\_id=250&objectid=12057847](https://www.nzherald.co.nz/local-government/news/article.cfm?c_id=250&objectid=12057847).

<sup>335</sup> Ibid.

<sup>336</sup> Office of Treaty Settlements *Post-Settlement Governance Entities: A Guide* Wellington at 5.

representation, transparency and accountability they explain that the governance entity must demonstrate that it:

adequately represents all members of the claimant group; has transparent decision-making and dispute resolution procedures; is fully accountable to the whole claimant group; and provides that the beneficiaries of the settlement and the beneficiaries of the governance entity are identical when the settlement assets are transferred from the Crown to the Claimant group.<sup>337</sup>

At the outset this articulation of representation, transparency and accountability may seem relatively straight forward. On the surface it appears that these governance principles are entirely reasonable expectations within the context of Indigenous/State treaty negotiations or settlements. Perhaps therein lies the problem. There is something very unsettling about the multitudes of ways in which legal discourses are able to subtly entrench the foundations of the Empire without us even realizing what's really going on. "The imposition of Western governance structures and the denial of indigenous ones continue to have profoundly harmful effects on indigenous people."<sup>338</sup> For Māori, as for many indigenous communities, the intricate and complex connections between our land, our language, our cultural practices and governance systems cannot easily be separated into their discrete parts without undermining or impacting on their efficacy and integrity as a system. With this in mind, Rangiwewehitanga as a de-colonial paradigm for governance is reliant on all of these interrelated components being able to function effectively, the denial of any one of these aspects precludes the full and effective embodiment of the whole. As such when the Crown privileges the principles of representation, transparency and authority as those of central importance to any Māori post-settlement governance entity, it is an explicit and intentional privileging and imposition of Western governance values and principles.

The Crown's requirement that Māori governance be representative of the group, transparent in its dealings, and accountable to those being governed, although not 'unreasonable', smacks of a certain irony when viewed against their own history of governance in New Zealand, even in contemporary times. Even as they are assuring tribes that "the Crown will explicitly acknowledge historical injustices" the Prime Minister is rewriting our colonial past as 'peaceful settlement'<sup>339</sup> and the Minister for Treaty Negotiations, Chris Finlayson, is saying it doesn't

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<sup>337</sup> Ibid at 6.

<sup>338</sup> Alfred, above at n253 at 2.

<sup>339</sup> In November 2014, Prime Minister of New Zealand John Key, was famously quoted saying "In my view New Zealand was one of the very few countries in the world that were settled peacefully. Māori probably acknowledge that settlers had a place to play and bought with them a lot of skills and a lot of capital" See "New Zealand 'settled

matter whether the Waitangi Tribunal found that Māori never ceded sovereignty under the Treaty because the Crown currently exercise sovereignty and effectively that's all that matters.<sup>340</sup> In 2004 Trevor Mallard insisted that "New Zealanders do not want to be condemned and cursed as if they are the British imperialist white ascendancy colonialists."<sup>341</sup> While its entirely understandable that most New Zealanders don't want to feel that way, Māori equally have not enjoyed being labelled and treated as 'primitive and barbarous'<sup>342</sup> neither do we appreciate suggestions that we should be grateful to our colonizers for our continued existence.<sup>343</sup> Perhaps if New Zealanders and their representative Government no longer wish to be cast as colonizers, then they should stop behaving like colonizers.

Indeed, much of what is considered within the New Zealand legal field to be 'Treaty jurisprudence' is really just the discourses of colonies and commonwealths strengthening the foundations of their Empire, another exercise in colonial myth-making. The Crown no longer happy to be relegated to the now largely accepted role of the Colonizer as 'bad guy', is seeking now to edit the script, to introduce the Crown now as 'Partner' adapting their character to being 'reasonable' 'honourable,' and of 'good faith.'<sup>344</sup> In this re-writing of history, sovereignty was

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peacefully' – PM" 16.32pm Nov 20 2014, <https://www.stuff.co.nz/national/politics/63377474/new-zealand-settled-peacefully-pm>

<sup>340</sup> Although Ngapuhi is still in the process of negotiating their Treaty of Waitangi claims with the Crown, on the 14 November 2014 the Waitangi Tribunal release the Stage 1 report *Te Paparahi o Te Raki Stage 1 Report* Volumes 1 & 2 (WAI 1040, 2014). The release of this reported was significant as the Tribunal found that the Northern Tribes did not cede sovereignty in signing the Treaty of Waitangi. This led to several members of government, including the Minister for Treaty Settlements Chris Finlayson, making comments that the Tribunals findings were irrelevant as a result of the contemporary reality that no matter what Māori intentions were in signing the Treaty, the Government exercises sovereignty today, see 'Ngapuhi never gave up sovereignty' 18 November 2014 8.46 am [https://www.nzherald.co.nz/northland-age/news/article.cfm?c\\_id=1503402&objectid=11360308](https://www.nzherald.co.nz/northland-age/news/article.cfm?c_id=1503402&objectid=11360308) last accessed December 2014; 'Māori did not give up sovereignty: Waitangi Tribunal' 14 November 2014 16.13 pm <https://www.stuff.co.nz/national/politics/63196127/M%C4%81ori-did-not-give-up-sovereignty-Waitangi-Tribunal> last accessed December 2014.

<sup>341</sup> Trevor Mallard 'We are all New Zealanders now' Stout Research Centre for New Zealand Studies Victoria University Wellington 28 July 2004 at 6.

<sup>342</sup> Bob Jones 'Straight talking about the Race Crisis' North and South February 1988 104-112 at 108.

<sup>343</sup> On the anniversary of the signing of the Treaty of Waitangi this year Bob Jones, a high profile White New Zealand business man, wrote an opinion piece in the New Zealand Herald online explaining how he thought we should change the celebrations of Waitangi day into a 'Māori gratitude day' during which Māori would serve our Colonizers to show our gratitude for them based on his belief that if New Zealand hadn't been colonized Māori would no longer exist. See "Sir Bob Jones' NBR column on Māori pulled due to inappropriate content" [https://www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=11989940](https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11989940) last accessed 17/02/18.

<sup>344</sup> In *New Zealand Māori Council v Attorney-General* [1987] 1 NZLR 641 *Lands* (CA) the Court of Appeal unanimously held "The Treaty signified a partnership between races, and... the issue becomes what steps should have been taken by the Crown, as a partner acting towards the Māori partner with the utmost good faith which is the characteristic obligation of partnership" per Cooke P at 664. In *Te Runanga o Wharekauri Rekohu v Attorney-General* [1993] 2 NZLR 301 *Sealords* (CA) President Cooke summarises the views of the judges in the *Lands* case regarding partnership: "It was held unanimously by a Court of five judges, each delivering a separate judgement, that the Treaty created an enduring relationship of a fiduciary nature akin to a partnership, each party

ceded willingly, our forefathers envisioned the building of a bicultural society, the Indigenous population fared relatively well here and Māori are simply being ungrateful and unrealistic if they don't appreciate all of the many benefits they have received from their colonial benefactors. Ani Mikaere describes these legally constructed narratives as:

grand distractions from a simple if unpalatable truth: Te Tiriti o Waitangi clearly reaffirms the supreme authority of the Māori signatories and in so doing, reaffirms the status of tikanga Māori as supreme law in Aotearoa. Once this is accepted, it becomes apparent that all other law must be negotiated with reference to tikanga.<sup>345</sup>

Although the Crown affirms its interest in 'Healing the Past' and 'Building a future,' the way it has sought to do so within the New Zealand context appears somewhat inconsistent.<sup>346</sup> There is sufficient historical evidence to make an argument that perhaps some of the early visionaries behind the expansion of the Empire to New Zealand's shores had not intended for things to turn out exactly as they have.<sup>347</sup> However, from a Māori perspective that debate is no more than academic posturing if it doesn't have some actual or real transformative potential. While what was or was not intended might be useful in easing the Nations conscience, the fact remains that New Zealand was colonized, and Māori did not fare well in that encounter. But all is not lost as Ani Mikaere also explains:

While our experience of colonisation has been devastating, its impact should not blind us to the fact that it has occupied a mere moment in time on the continuum of our history. When viewed in this way, it is apparent that while tikanga operated as an effective system of law for our ancestors for thousands of years, the imposition of Crown law represents no more than a temporary aberration from that state of affairs.<sup>348</sup>

The question that remains for us now is how best to correct this aberration and find our way back to the position that was originally contemplated by te Tiriti.

Obviously, our realities are that we are still operating within a settler-colonial nation state. However at the United Nations Declaration on the Rights of Indigenous Peoples Conference

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accepting a positive duty to act in good faith, fairly, reasonably, and honourably towards the other" at 304. For further discussion on the Principles of the Treaty of Waitangi as expressed by the Courts and the Waitangi Tribunal see Te Puni Kokiri, *He Tirohanga* above at n115 at 73-106.

<sup>345</sup> Ani Mikaere "Are we all New Zealanders now?" above at n223 at 57.

<sup>346</sup> See Office of Treaty Settlements *Ka tika a muri* above at n21; Crown Forest Rental Trust *Aratohu mo nga ropu Kaitono Guide for Claimants Negotiating Treaty Settlements Summary Edition* (Crown Forest Rental Trust, Wellington, 2008).

<sup>347</sup> See for example Shaunnagh Dorsett "Governing Māori: Models of Governance 1835-1846" and David Williams "Colonial Office Policy 1835-1847: 1940's papers by Oxford's ET Williams and recent scholarship compared" papers presented at *Law's Empire or Empire's Law? Legal Discourses of Colonies and Commonwealths* Australia and New Zealand Law and History Society Conference, School of Law University of New England, Coffs Harbour, Australia, 10-13 December 2014.

<sup>348</sup> Ani Mikaere "Are we all New Zealanders now?" above at n223 at 56.

held at the University of Waikato in 2014 Ngāti Maniapoto legal scholar Robert Joseph alluded to the fact that Māori have always been innovative in the ways in which we have sought to interact with the law.<sup>349</sup> As an expression of our tino rangatiratanga and self-determination Māori have often forged ahead transgressing the boundaries of what is recognised in the law, and Ngāti Rangiwewehi are no exception. Notable tribal leaders Wiremu Hikairo and Wi Maihi Te Rangikāheke made various submissions and proposals on alternative systems to the Native Land Court that was having such a detrimental impact on our people.<sup>350</sup> Te Arawa were also noted for developing land retention policies in the face of the governments machinations to increase availability and access to land, tribal leaders advocated that rather than selling our land we would be willing to lease it at a time when that was not yet legally possible.<sup>351</sup> Similarly, throughout the second half of the 19<sup>th</sup> and into the early 20<sup>th</sup> century Ngāti Rangiwewehi operated their own marae kōmiti which adjudicated on all manner of disputes within the tribe.<sup>352</sup> Although there were various Crown programs for Māori councils and rūnanga, it appears that Ngāti Rangiwewehi's kōmiti marae in fact operated outside of the 'official' legal frameworks of the Crown, until the establishment of the Te Arawa Māori Trust Board in 1924 when the tribe chose to become official in order to qualify for various funding grants. Commenting on the operations of our kōmiti marae (marae committee) Harata Hahunga has noted:

This is important about how our kōmiti marae operated. They used a blended governance arrangement where both the governance and the operations roles and responsibilities were carried out by the same people. In governance texts this blended governance arrangement

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<sup>349</sup> Rob Joseph, UNDRIP: Implementation of the United Nations Declaration on the Rights of Indigenous Peoples in Aotearoa –Theory and Practice symposium (University of Waikato, Hamilton, 24-25 July 2014).

<sup>350</sup> Wiremu Hikairo was one of only a few Chiefs who were interviewed by Theodore Haultain in 1871 during his investigation into the workings of the Native Land Court and Māori attitudes towards it. In his evidence he “envisaged local rūnanga being convened under the supervision of a Crown-appointed Māori official to vet all applications for investigation of title and to report back on these for ratification by the Native Land Court... return[ing] significant powers to Māori to determine matters of customary entitlement.” O'Malley & Armstrong above at n36 at 93; See also Evidence of Wiremu Hikairo 20 April 1871 AJHR 1871 A-2A at 34.

<sup>351</sup> The Native Affairs Committee reported that “The Arawa people have from the foundation of the colony consistently refused to lease or sell their lands; and while all the other great tribes have divested themselves of the greater portion of their tribal lands, the Arawa country has remained almost untouched in the hands of the aboriginal owners. When the Native Land Court was established, the tribe refused to take advantage of it for a long time, but ultimately, upon the repeated assurances of the Government that the survey and investigation of titles to their lands would not facilitate leases or sales, they allowed one or two pieces to be surveyed and put through the Court. At once trouble and confusion arose. Men of no standing in the tribe began to lease or sell without the knowledge or consent of the acknowledged leaders of the people. The result was, that at subsequent sittings of the Court no lands were allowed to be put through. Then the tribe complained to the Government and asked that their lands should be entirely tied up, so that in future no sales or leases could take place. The Government did this, but at the same time land-buyers and surveyors were sent into the district on Government account, and commenced leasing, selling and surveying on all sides” Report of the Native Affairs Committee 25 August 1874 AJHR 1874 I-3 at 2.

<sup>352</sup> Treaty of Waitangi Claims Research Oral History Project Interview 3, 6 June 2009, Tarimano marae, Awahou.

is frowned upon. Instead, the separated functions are considered the ideal of good governance. But many Māori entities still use the blended model. Awahou is full of examples... in Kake Leonard's time, the blended arrangement was highly successful.<sup>353</sup>

In 2001 Te Maru o Ngāti Rangiwewehi Iwi Authority (Te Maru) was officially formed as an unincorporated body. Although it has a charter and a set of rules it is primarily run in accordance with the tikanga of Ngāti Rangiwewehi and provides the overarching tribal governance forum for all of the affairs of the iwi. As it has no recognised legal personality within the mainstream New Zealand system, the Rangiwewehi Charitable Trust was established, to function as the operations arm of the entity while enabling applications for funding on behalf of Te Maru. Since the passing of the settlement legislation in May 2014 we now also have Te Tāhuhu o Tawakeheimoa (TToTT) as our post-settlement governance entity. The development and maintenance of the Iwi Authority governance body outside of the mainstream legal frameworks was a deliberate choice to privilege and prioritise our own tikanga and kawa in the governance of our tribal affairs.

The unincorporated society model for Te Maru was selected because it was considered to be one of the least invasive of Pākehā entity models. In this way, it was hoped our structural arrangements within this model might have more space to privilege Rangiwewehitanga, our tikanga and kawa, our law and governance. This tribal grounding, the thesis maintains, holds potential in conjunction with the wider proposed recommendations canvassed in the following chapter, to empower the tribe in enacting our Rangiwewehitanga through these governance arrangements. The society does not have a separate existence from its members, which means they can be held liable for its debts. An unincorporated society cannot sue or be sued in court, which was pivotal in the decision-making around the establishment of Te Maru, to ensure the entity would be protected from any future or potential issues in the Courts:

Ngāti Rangiwewehi thought long and hard about this vehicle, which suggests that we were searching for a vehicle that would be the most effective for us. We were working with what we had i.e. in the law, but we were attempting to make it work for us. To me this was also an assertion of our Rangiwewehitanga and tino rangatiratanga.<sup>354</sup>

Despite this chapter's criticism of the Crown processes for settlement, the monocultural governance models and the principles of representation, transparency and accountability as yet another example of the imposition of Western frameworks on Iwi and Māori, that doesn't mean that there isn't a place for them. In fact, notions of appropriate representation, transparency and

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<sup>353</sup> Harata Hahunga above at n72.

<sup>354</sup> Harata Hahunga above at n72.



accountability are all evident in the historical minute books of the Ngāti Rangiwewehi kōmiti marae. There are numerous entries over the years where the iwi regularly discuss the need to fill various positions either on that committee or others and they discuss the need to ensure that all of the different families within the iwi are represented.<sup>355</sup> The running of our meetings with highly prescribed and set written agenda and minutes might appear at first to reflect western standards and expectations of governance meetings, our tribal minute books themselves show an intricate weaving together of process and protocol within a broader framework of tikanga, kawa and Rangiwewehitanga.<sup>356</sup> Despite first appearances, every entry provides rich examples of the tribe asserting our values and frameworks for governance, even within a wider Nation state that even now continues to struggle to recognise and accept our sovereignty, self-determination and rangatiratanga.<sup>357</sup>

These discussions highlight again the point made earlier about the inter-related nature of governance principles in Ngāti Rangiwewehi, and the different understandings our tribal lens offers mainstream perspectives. The importance of tikanga and whakapapa is evident here, in the acknowledgement in every meeting of the ancestors through karakia (prayer) and mihi (traditional greetings and acknowledgements), in the discussion of tangihanga (traditional funeral rites and arrangements) and comments on particular tikanga.<sup>358</sup> Commitment to proper

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<sup>355</sup> Koro D (Tuiti Morgan) recalled occasions when after the tribal meeting Kake (the Komiti Marae Chairperson) would stop in at the local pub to inform tribal members who were there of important decisions that had been made, any new jobs or responsibilities they may have been assigned, he would often insist on donations which were normally in aid of the new dining hall or items that were needed for the dining hall. Treaty of Waitangi Claims Research Oral History Project Interview 3 above at n352.

<sup>356</sup> The minutes from the Annual General Meeting held 14 April 1991 provide a good example of this point. After noting those present, and apologies in the minutes the meeting is opened with karakia (prayer) and mihi (traditional greetings) reflecting this blending of tikanga with more formal governance meeting protocols. The minutes then note that a tribal member wished to pass a motion of ‘no confidence’ in the marae committee and in particular the Chairperson and Secretary requesting their resignation. The chairperson “replied that the meeting had an agenda to follow and the motion could be raised at the appropriate time. Other speakers agreed that the meeting follow the correct procedure and the motion be raised in the Election of Officers.” There is no further mention of the issue, and the Chairperson and Secretary, along with the Deputy Chairperson were all re-elected.

<sup>357</sup> For example, the kaupapa (subject or project) focus of our governance which demonstrates a propensity for the tribe to rally around projects and goals, such as the desire on the part of the tribe to have Gloucester road tar sealed to reduce the dust in the village and improve the appearance of the environment. After some initial discussions with the County Council it appears that the Council were only willing to seal the public portion of the road, leaving approximately two thirds of the road unsealed. At the Annual General Meeting of the Awahou Marae Committee in 1971 the tribe unanimously carried that the: “Chairperson be authorised to negotiate with the County Council and Internal Affairs regarding tar sealing of the road. Also authority to threaten closure of private portion of road to all traffic, including fishermen & tourists other than Ngati Rangiwewehi. If the road is not tar sealed by 1/12/71 that a letter be sent to the Internal Affairs Department advising them of the above.” Each one of these examples are sites where our tribe has asserted our Rangiwewehitanga in the governance of these projects. Annual General Meeting (Minutes) Awahou Marae Committee 28 March 1971 10.30am Awahou, see also Special General Meeting (Minutes) held at Awahou 11 July 1971 to discuss the sealing of Gloucester Road

<sup>358</sup> Minutes of Meeting Awahou Marae Committee held at Awahou 22 February 1976 11.40am The Chairperson, Pakake Leonard “said how disgusted he was with some of Ngati Rangiwewehi who entered the dining room at

protocol also supports facilitation of the proper flow of information, which in turn generates wider participation, legitimates the authority of the decisions being made, and ensures that everyone is accountable. As such not only are those in a position of authority accountable to those they are governing over, but those who are being governed are similarly equally accountable to the wider collective. This is another important distinction in the ways in which Ngāti Rangiwewehi understand not only accountability but all of our governance principles. The significance of reciprocity cannot be underestimated within our traditional frameworks, as chapter three discussed, and provides a significant contrast with the Crowns framing of governance and these governance principles.

In each of these instances the Crowns understandings are premised on the view that governance of the group, is governance of a group of individuals. These historical discourses which sought to individualise Māori and remove us from our backwards native communal ways are alive and well and are further evidence of the insidious ways in which the colonial discourses of empire are still being imposed on our experience. For example, in the case of representation, as a result of the Crowns definition of Ngāti Rangiwewehi being focused around whakapapa, anyone with whakapapa is able to register as an iwi member and has exactly the same rights as everyone else, albeit with none of the responsibilities that are inherent and necessary to ensure effective functioning of a traditional Māori and Ngāti Rangiwewehi framework of governance. Within traditional Māori society although whakapapa was an integral component to create your interest, it had to be maintained by the fulfilling of your reciprocal obligations to the collective. It was not always easy to maintain your connections to all of your various iwi affiliations and as such some families would relinquish their ties to one place in order to secure their ties in another. Respected Ngāti Rangiwewehi kaumatua Henare Mohi described his father's decisions which privileged his connections to Ngāti Rangiwewehi:

I was born in Te Puke and we came back here... [to Awahou] we thought that our father was selfish in such a way that he was more Rangiwewehi than anything else, even though he had other tribes outside of this area. He never took us back to our Mum's side, or any of his other sides. It was always back here to Rangiwewehi and that's where I feel, that's where you get that bond coming into it.<sup>359</sup>

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Waiti Mohi's tangi before the visitors. He spoke of Maoridom and the correct thing to do at tangi's which is for the bereaved to enter the dining room first, then the visitors and finally the home people. He hoped that this would be remembered."

<sup>359</sup> In the Treaty Claims Research oral history project Koroua Henare Mohi discussed how he had reflected on his father's decision to prioritising his children's connection with the Ngāti Rangiwewehi side of their whakapapa to the exclusion of their other connections Wananga Recordings Saturday 9 October 2010, recording WS117003.

In other families particular family members would be sent to the different tribal affiliations in order to maintain the ahi ka or home fires burning on behalf of the remainder of the family.<sup>360</sup> It is no coincidence then, that since the completion of our treaty settlement the tribal offices have received a steady flow of phone calls from strangers enquiring about whether we have any scholarships or funding, and how much evidence of whakapapa is required.<sup>361</sup>

In this way the issue of representation became a significant bone of contention within our negotiations as many in-laws did not have the requisite whakapapa to meet the Crown's standards of who a member of the iwi was, and yet their commitment and dedication to the iwi meant that from our perspective they had potentially as much right as others who had never set foot in Awahou, and potentially didn't even know where it was. This demonstrates the importance of ensuring that the governance principles and frameworks are not simply incorporated or assimilated into the mainstream systems of law, but instead need to remain properly grounded within the appropriate cultural context to ensure their proper articulation within our governance frameworks. Choosing to interpret whakapapa, without an understanding of the way in which it connects to other cultural values and principles like ahi kā (continuous occupation) and kānohi kitea (the seen face) both phrases which allude to the need for physical presence and active participation, creates the potential to misunderstand and inappropriately apply important cultural principles and values. When viewed in connection with the concept of utu, reciprocity and balance, we are reminded that in order to receive your rights through whakapapa, you must also fulfil your reciprocal obligations.

Another example can be found in the models the Crown sought to use to ensure adequate representation across the tribal group. Based in the traditional Māori governance framework of whakapapa, the hapū model ensures representatives from each hapū are elected onto the governance group, and the koromatua model provides an option where hapū may not be an appropriate framework. In this instance the tribal group can identify significant ancestors as Koromatua and similarly, a descendant of each will be elected onto the governance entity.

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<sup>360</sup> Nanny Hukarere Mohi (nee Malcom) in an interview as part of my Masters project discussed how in her family she had been sent to spend more time with her grandparents from Ngāti Rangiwewehi, and although she maintained contact with her other tribal affiliations she commented on her parents' decisions to ensure they maintained a presence at Awahou. Dulcie Hukarere Mohi (Hukarere) 14 August 2008 Awahou Te Maru o Ngāti Rangiwewehi Iwi Archive.

<sup>361</sup> Rikihana Hancock personal communication.

Discussing the connection between whakapapa and the Koromatua model Harata Hahunga observed:

In some iwi i.e Ngāti Whakaue and Ngai Tahu, affiliation to an iwi can be accessed via key Koromatua. Once your relationship is secured and endorsed, you may access and enjoy the benefits that come with proven whakapapa. So in this sense, whakapapa provides concrete iwi structures and frameworks that can be applied to our governance arrangements.<sup>362</sup>

Again, at a superficial level these approaches seem to demonstrate a sincere effort to accommodate cultural understandings within the existing system, and yet the reality is that these models do not equate with a Māori or tribal expression of self-determination. Due to various historical divisions within the iwi, many caused as a direct result of our colonial experiences, tribal elders made the decision in the early 20<sup>th</sup> century to take certain steps to actively unify our people. As a result, the hapū model was deemed inappropriate for our particular tribal context. However, as a natural part of the democratic system, within the Koromatua model iwi members would be required to identify themselves through only one of any identified Koromatua. For many of Ngāti Rangiwewehi this was considered highly offensive as Rongo Flavell explained as he described the way both his mother and fathers' lines contributed to who he was:

Everybody has their different korero and ways of defining themselves as Rangiwewehi. Myself, you know Rangiwewehi and Awahou was my birth place. It's where I grew up, but the other side of that was my father. So I can't, I wouldn't, for anybody, separate my father from this just to be Rangiwewehi. I will always put my father beside me because that's the other part of me. It comes back to upholding tikanga.<sup>363</sup>

It is unlikely that the Office of Treaty settlements really considered how these models might be viewed by iwi as limiting or restricting their identity, but it serves as a useful illustration of the ways in which the Crown, even in 2018, continue to exercise an assumed right to define Indigenous identity and experience.

### **5.3 'The principal cause of the present darkness of the Māories'**

In traditional times the house belonging to the Chief or Rangatira, and the storehouse or pataka were located at the centre of the village, and were used to store important resources, special kai and taonga. As a result, the whare pataka has become symbolic of resources, well-being, affluence and by connection, to the mana and authority of the Chief and their people.

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<sup>362</sup> Harata Hahunga, above at n72.

<sup>363</sup> Rongo Flavell, Toku Rangiwewehitanga Wānanga, recording WS117006.

Governance entities have the potential to fulfil a similar role today as a structure that can serve the people through the protection, maintenance and development of our resources. Healthy and effective governance will lead to well-being, health, wealth, affluence and increased mana and authority for the tribe. The issue we have today is how do we achieve this while maintaining appropriate respect for the kawa and tikanga that formed the original systems of law and governance for our resources and affairs. In traditional times there were checks and balances built into the cultural frameworks that ensured the maintenance of reciprocal responsibilities and proper accountability between the leaders and the people. Similarly, the dependence of everyone on the cohesion and effective functioning of the collective facilitated the comparable responsibility and accountability of the members. When the unity of the collective remained strong the system worked to distribute resources throughout the community, and its inbuilt flexibility enabled adaptation as circumstances required. Broader groups bound by whakapapa connections could come together to support each other as the need arose, separating out again into smaller units more conducive to day to day living once the bigger jobs such as planting and harvesting, or the demands of war were complete.

As the impacts of colonisation slowly spread, it began to undermine aspects of our culture, providing alternatives to the collective and incentives to undermine it. Within this environment the community's integrity became difficult to maintain. In essence a Māori system of governance is holistic and collectivist. Within this framework the rights and needs of the whole take precedence over those of the individual. That's not to say that the needs of the individual don't matter however, as the needs of the individual and the whole at least from a traditional perspective could not easily be distinguished; they are one and the same and as such by fulfilling the needs of the whole, the needs of each and every individual within it are simultaneously maintained.

Despite the turbulent histories we have shared with our colonizers, a key argument this thesis seeks to assert is that there is always hope and all is not lost. In 1860 Wi Maihi Te Rangikāheke was requested to give his views on the origins of the Kingitanga to the Waikato Committee, a Parliamentary Select Committee appointed to inquire into the origins of the crisis in the Waikato district. Te Rangikāheke's words articulate well the desire that Ngāti Rangiwewehi still have to be able to determine our own affairs while working with the Nation in the administration of the governance of our land:

This is the principal cause of the present darkness of the Māories, they are not admitted to share in the Government administration of justice. The Pākehās say that their regulations

alone should be law for both races; the Māori chiefs say that the two should be joined, so that the bodies of the Pākehā and Māori may be joined or united, and also the thoughts of their hearts.<sup>364</sup>

The notion of being joined or united in the thoughts of our hearts still feels a way off, yet we can be inspired by our ancestors' aspirational visions. Indeed, these aspirations in many ways articulate the continued commitment to asserting and affirming Rangiwewehitanga as a framework for governance that like our people seeks to be inclusive, retains tikanga and kawa for respectful and yet culturally grounded opportunities to make space for manuhiri or visitors, without the need to give up our tribal identity or understandings.

Traditionally as now, it is essential that we can draw on our links to support us in times of need, and equally that we can offer our support to those we have affiliations with. We are each the merging of a multitude of descent lines which endow us with innumerable inherited gifts, talents, and characteristics, as well as responsibilities, duties and obligations. The carvings within our tupuna whare, the lyrics of our waiata, the names within our whakapapa and the histories of our places and people all help to remind us of these ties. This chapter has sought to provide further examples of Ngāti Rangiwewehi's continued attempts to draw on the endless lessons and wisdom our ancestors have left us to guide and direct our actions, to ensure we are able to uphold the kawa they protected during their times and pass on the tikanga that we received in kind.

In his welcome speech to Governor Gore-Browne, Te Rangikāheke dared to imagine a future in which the 'Governors' of the land 'will elevate the words and the wishes of the natives, that they may be as law: that there may be one system; that we may together exercise our authority.'<sup>365</sup> This vision reflects a significant theme of this study, the potential of Rangiwewehitanga to be enacted and empowered as a de-colonial governance paradigm with the power to liberate Ngāti Rangiwewehi and our colonizers. This chapter has endeavoured to contribute to this overarching aspiration by demonstrating historical and contemporary efforts to assert and maintain our tribal authority, whilst arguing for the higher standards of accountability, transparency and representation that Ngāti Rangiwewehi kawa and tikanga as governance values, principles and practices assume. Although within the Treaty settlement

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<sup>364</sup> Report of the Waikato Committee, Minutes of Evidence AJHR 1860 F-3 at 24; See also O'Malley & Armstrong above at n36 at 51.

<sup>365</sup> In his welcome speech to Governor Gore-Browne, Te Rangikaheke dared to imagine a future in which the 'Governors' of the land 'will elevate the words and the wishes of the natives, that they may be as law: that there may be one system; that we may together exercise our authority' G 30/25 Arch-NZ; see also O' Malley & Armstrong above at n36 at 34.

processes the Crown have made some efforts to incorporate or accommodate Māori and Ngāti Rangiwewehi governance concepts and understandings, this chapter has illustrated that these adaptations fail to give appropriate mana to the traditional frameworks for governance embodied within Rangiwewehitanga. Until our tribal governance structures are supported to direct and guide our tribal affairs in line with our Rangiwewehitanga, our collective aspirations for self-determination will be impaired. The following chapter seeks now to explore potential pathways to enable Ngāti Rangiwewehi to move toward our collective aspirations, arguing that we need not feel dependant on the Crown to begin the journey to transformation that we desire.

## 6. “Anō, ko te whare whawhao ō Te Aokapurangi”: Creating space for Rangiwewehitanga in our Governance

In 1818 Te Aokapurangi was captured by a Ngāpuhi raiding party that had ventured into the Te Arawa region in search of revenge, slaves and resources.<sup>366</sup> She was taken prisoner, and returned North with her captors. As a result of her status as a high-born woman Te Aokapurangi was then married to a Ngāpuhi rangatira (leader) named Hauraki Te Wera. As a result of her own mana and her strength of character she was well liked by Hauraki’s people and came to have some influence amongst them.<sup>367</sup> In 1822 an incident occurred at Motutawa where, encouraged by the Ngāti Toa chief Te Rauparaha<sup>368</sup>, a group of Ngāpuhi led by Te Pae-o-te-Rangi were killed by members of the Te Arawa tribe, Tūhourangi. When news spread of these events, a war party which included Hauraki Te Wera and Te Aokapurangi was assembled to travel to Rotorua to avenge the deaths. Ngāpuhi had gathered together a large number of muskets, the first tribal group to do so, while Te Arawa at that time had very few and were consequently vulnerable.<sup>369</sup> Te Aokapurangi, concerned for her relations and aware of the potential disaster that might befall her people implored the Ngāpuhi chiefs to spare her own iwi, Ngāti Rangiwewehi, because they were not involved in the attack and therefore should not be punished. One of the primary rangatira of the group Te Koki, agreed that his issue was with those directly responsible for the death of his nephew Te Pae-o-te-Rangi and on that basis Te Aokapurangi was given leave to go and speak with her cousin, well respected Ngāti Rangiwewehi leader Hikairo so that they could retreat to somewhere more safe when the invading forces arrived.<sup>370</sup> Hikairo, although pleased to see Te Aokapurangi and grateful for the consideration could not agree to abandon his relations, Ngāti Whakaue, who were directly implicated. This close whakapapa connection required Ngāti Rangiwewehi to fulfil kin

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<sup>366</sup> Nineteenth century Ngā Puhi is a large tribal grouping made up of smaller sub-tribal peoples. Ngā Puhi have long occupied the northern most regions, above what is now Auckland in the North Island. This narrative is recounted by Angela Ballara ‘Te Ao-kapurangi’ *Dictionary of New Zealand Biography* (1990) Te Ara –the Encyclopedia of New Zealand <https://teara.govt.nz/en/biographies/1t25/te-ao-kapurangi> (accessed July 2017).

<sup>367</sup> ‘How Aokapurangi saved her people’ *Te Ao Hou* 41 (December 1962) 13-14 at 13.

<sup>368</sup> Te Rauparaha was a significant Ngāti Toa chief who had stopped at Motutawa coming from Maungatautari on his way to Taranaki. He had encouraged the attack on the Ngāpuhi party to avenge a group of his own Ngāti Maru relations who had been killed by members of Ngāpuhi, see Steven Oliver ‘Te Rauparaha’ *Dictionary of New Zealand Biography* (1990) *Te Ara the Encyclopedia of New Zealand* <https://teara.govt.nz/en/biographies/1t74/te-rauparaha> (accessed 2 July 2017). Hongi Hika of Ngāpuhi led an attack on Te Totara near Thames in December 1821 where Ngāti Maru were initially successful in defence of their stronghold. Hongi Hika negotiated peace with Ngāti Maru but instead of leaving as agreed return to take the undefended pa killing all those present, see ‘Fall of Totara Pa 1821’ *Māori Wars of the Nineteenth Century* 191-204 at 192 and 195, <http://nzetc.victoria.ac.nz/tm/scholarly/tei-SmiMaor-t1-body-d31.html> (accessed at 2 July 2017).

<sup>369</sup> R D Crosby *The Musket Wars: A history of inter-iwi conflict, 1806-45* (Reed, Auckland, 1999).

<sup>370</sup> Ballara, above at n194.



relationship and whakapapa responsibilities. Te Aokapurangi then returned to Ngāpuhi seeking a new solution to how she might save her people from certain death. Hongi Hika is reported to have then agreed to specific terms: that only those who passed between Te Aokapurangi's thighs would be spared. These unusual requirements could be interpreted as a measure on Hongi's part to potentially reduce the number of people who arguably may have been saved by Te Aokapurangi's act. In addition to this, requiring any who wish to be saved to pass between a woman's legs could be seen by some as a breaching tapu (sacred laws) influencing the mana of those men involved and demeaning their status.<sup>371</sup>

When Ngāpuhi finally attacked most of Te Arawa had retreated to their stronghold on Mokoia Island, and although they had numerous traditional weapons like patu (clubs) and taiaha (spear) they had only one musket and very little ammunition. Ngāpuhi were led into battle by their illustrious leader Hongi Hika, who wore a steel helmet gifted to him by King George IV. According to one account:

Just as his canoe touched the shore, the Arawa warrior who possessed the musket crept behind a flax bush and fired at Hongi. He was hit on the head, and fell down into the canoe – a great cry arose from Te Arawa, but Hongi stood upright again in a moment; he had only been stunned, for his steel helmet had saved him. But for a short time this happening caused a panic among Ngā Puhi, and this panic gave Aokapurangi her opportunity. She had been in Hongi's canoe with her husband, and now she jumped on to the shore. She remembered Hongi's promise that all who passed between her legs should be saved, and she ran to the great carved meeting-house in the village. She stood on the carving over the door, her legs over the entrance – and she called out to her people, 'It is Aokapurangi, come back from the north! Come inside your house, you will be saved!'<sup>372</sup>

Te Arawa is said to have fought valiantly against the obvious advantage held by Ngāpuhi but were effectively defenceless against the number of muskets carried by their enemies. While some managed to escape by swimming to the shores of the Lake Rotorua, if it were not for the quick thinking and courage of Te Aokapurangi, the ranks of Te Arawa would have been decimated. Of the incident it is said that she remained standing above the doorway continuously calling to her people for the entire day as the battle raged around them.<sup>373</sup> The Ngāpuhi warriors stayed true to the commitment that was made, that anyone who passed between Te

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<sup>371</sup> The passing of a man through or beneath the thighs of a woman was a ritual practice used to bring about proper balance and harmony in relation to tapu and noa. This was a ceremony performed after war in order to remove the tapu of battle and enable a warrior to return to normal life with the energies of tapu brought into proper balance. The implication of requiring this to occur for those who had not been through some experience making them excessively tapu would effectively result in a reduction of their personal tapu or sacredness and therefore also a potential reduction in their mana. For a more general description of Tapu see Ministry of Justice *He Hinātore* above at n6 at 59-65.

<sup>372</sup> 'How Aokapurangi saved her people' above at n334 at 14.

<sup>373</sup> Ibid.

Aokapurangi's thighs would be saved. This event, and particularly the number of people who huddled into the wharehau (meeting house) that day gave rise to the tribal saying from which this chapter takes its name: 'Anō, ko te whare whawhao ō Te Aokapurangi' which means 'This is like the crowded house of Te Aokapurangi.'<sup>374</sup> Within the context of this study, this reference is a reminder of the importance of creating appropriate space for Rangiwewehitanga within our contemporary tribal governance arrangements. Moreover, this act, as a moment of definitive and creative decision making literally saved the future of our tribe. Likewise, today similar courageous and innovative decisions are needed to inform and enable an approach to post-settlement governance that steers and bolsters our people in the face of a new and powerful invading enemy.

This story demonstrates the lengths that we might go to in order to adapt, circumventing tikanga and kawa when absolutely necessary, to secure the survival and future well-being of the tribe. This thesis argues that although the immediacy of our situation may not seem as obvious or dire as the circumstances faced by Te Aokapurangi and her contemporaries, the reality of our circumstances continues to pose a colonial threat to our survival as indigenous and tribal peoples. If we do not take steps to ensure our long-term well-being, through the retention and protection of those aspects that make us unique as tribal peoples, then the continued effects of colonisation will assimilate all of the unique features that speak to Rangiwewehi indigeneity. In this post-settlement governance era, the potential assimilation of our tribal governance into settler mainstream governing systems requires us to consider what we are prepared to do to ensure that our culture, practices, and identity remain fully entrenched, in place, alive and active in our governance. This is a core motivation of this study: to develop pathways to ensure the maintenance of our ways of knowing and being remain central as we adapt our governing practices in what can now be considered the post-settlement governance era.

### **6.1 Rangiwewehitanga Wānanga as Tribal Governance Induction.**

As a part of the settlement processes the New Zealand Government has invested considerable amounts of money into evaluations and reviews relevant to what they determine are appropriate governance training for tribes in preparation for the establishment of what they call post-settlement governance entities or PSGEs. The formation of PSGE's are required as part of the government settlement negotiation process, and no tribe is able to complete their claims until the proposed PGSE is devised, presented to and voted on by iwi.

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<sup>374</sup> Ibid.

But the preferred existing governance training programs have been highly problematic. First, they are expensive, and although the government assists in paying on behalf of tribes, this money could certainly be far more effectively and efficiently used for a wide range of tribal projects including the development of more appropriate governance training within the community.<sup>375</sup> The programs have been woefully ignorant of the tribal specific governance needs that Māori and iwi communities face. They presume a mono-cultural Western and corporate understanding of what governance is, and in doing so are simply inadequate and culturally inappropriate models to use with Māori and tribal organisations.<sup>376</sup> The following excerpt is a description of one of the governance training programs offered through Te Puni Kokiri in conjunction with the Institute of Directors (IOD) where they explicitly acknowledge the corporate bias in their training:

The governance training trial design content is based on the principles of good governance practice. The design is underpinned by a framework based on recognised principles of successful corporate governance –accountability, fairness, transparency, assurance, leadership, and stakeholder management. These are critical in the successful running of a board and forming solid professional relationships with stakeholders.<sup>377</sup>

Although these principles aren't entirely incompatible with Māori values and principles, our interpretation and expectations around what those principles look like in practice, and how they function in relation to the wider cultural frameworks are likely very different from the expectations of the Crown and its agencies.<sup>378</sup> Too often this emphasis in design and delivery on the Western legal requirements and responsibilities, also has a tendency to quickly bore, intimidate, or alienate tribal members and potential trustees, many of whom are already reluctant participants. Together, this all has the unfortunate effect of limiting an already shallow

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<sup>375</sup> Since its inception Te Puni Kokiri (TPK) has invested more than \$4 million in the programme. “On average, each assessment costs approximately \$20,000” Te Puni Kokiri (TPK) *Evaluation of Investments in Strengthening Management and Governance Programme* (Te Puni Kokiri, Wellington, 2009) at 9.

<sup>376</sup> In Table 2 TPK identifies a list of governance areas participants were asked if the programme had assisted in improving within their organisations. The list includes “an appropriately structured governance board”, “a high performing governance board” with no further qualifiers as to how high performing might be defined in this context, “a governance board with a clear understanding of its roles, responsibilities and legal obligations”, “a governance board comprising members with relevant skills.” Although there isn't anything inherently wrong with these areas as focus points for improvement, the fact that there is no mention, consideration or thought for the relevance of cultural factors within or in relation to this particular framing of governance highlights the monocultural assumptions and bias inherent in government sponsored governance training. TPK *Evaluation of Investments* above at n375 at 17.

<sup>377</sup> Elisabeth Poppelwell Rachael Tuwhangai and Jo Smith *Evaluation of the Governance Training Trial Final Report* (Prepared for Te Puni Kokiri, Wellington, 2017) at vii.

<sup>378</sup> In the Evaluation report observations were made around the need in the future only one Iwi group will participate in a session as it increases likelihood of sharing and the need for more time to allow facilitators and participants to get to know each other and build relationships of trust. Although not exclusively Ngati Rangiwehewhi characteristics, these observations will come as no surprise to anyone who works closely with iwi groups. Ibid at ix.

pool of governance leadership within iwi, and often leads to a particular type of tribal person involved in governance, who although not inherently unsuitable creates a context wherein our tribal governing bodies lack the important iwi diversity and balance that are necessary for strong governance.

One of the recommendations this study makes, then, is that in order to better support Ngāti Rangiwewehi in achieving our long-term goal to realise our self-determination and ensure the growth and expansion of our tino Rangiwewehitanga we must develop and institute our own governance induction and training programs. Such an initiative will enable the tribe to address the short-comings in the existing training programs, while embedding a regular tribally grounded review process for our governance frameworks as well as implementing and developing a succession plan which inherently operates to enhance and empower our Rangiwewehitanga. While the models themselves are important, it became evident throughout the research undertaken for this thesis that the nature of the model itself was infinitely less important than the way in which that PGSE would be run. In this regard, being grounded in our Rangiwewehitanga is significant, as Uncle Arthur Warren stressed in his interview:

if we have a good value document and that comes up every year to re-align with our values I think that things will happen a lot clearer and also in those values it will be about the people that come on, they'll know what's expected, they'll know what's being upheld, then you don't get that fuzzy brain when they're coming to make business decisions... if we have a difficult situation we can go back here and align it with our values and that makes it easier to make our decision right... it's got to come alive, if it's just stuck in a piece of paper like this and put on a desk it doesn't do anything.<sup>379</sup>

It is not enough to have values and principles written in the governance documents. They have to be used, applied, lived and experienced, to ensure they guide and influence our governance and decision-making. If our governance is first and foremost driven by the tikanga lived by our people, then it is even more crucial that this practice becomes part of our long-term succession planning and mentoring and is passed on to not only those who are actively participating as tribal trustees but to the wider iwi as a whole. In this sense, governance in Ngāti Rangiwewehi is not a top down education where only those at the highest committee levels are prepared and considered official governing figures. The better educated we are at all levels about our governance arrangements, the more confident we can be in our future. The more clarity we have around what we might contribute, the better we can understand how we might work to expand those long-term visions and aspirations held individually and collectively. If Ngāti

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<sup>379</sup> Arthur Warren Interview 1 July 2015 Whakarewarewa Rotorua.

Rangiwewehi governance is truly a collective enterprise and exists in multiple roles across generations, gendered boundaries and various spaces (which has been argued in previous chapters), then our training programs must reflect the diversity and nuance of these lived governance realities and not a purse-strings driven economic and Western-legal centric framing.

Whatever our long-term aspirations for self-determination, this study is also aware of the reality of Ngāti Rangiwewehi's current circumstances where we are required to operate within the existing hegemonic systems of colonizer law and governance. As earlier chapters have illustrated, Ngāti Rangiwewehi have always had our own understandings of, and frameworks for, law and governance. In Chapter Five, for instance, this study discussed how even in our continued engagements with the Crown, Ngāti Rangiwewehi have always sought to maintain our own governing protocols and have negotiated these aspirations whilst ever seeking to minimise the imposition of coloniser frameworks. This determination and persistence is necessary, and as Robert Joseph has pointed out, indigenous peoples need not be limited by the law simply because the law is currently imposed on Western terms.<sup>380</sup>

When we prioritise and privilege our own systems, we can be enriched and empowered by our own understandings, while still meeting the expectations of the hegemonic coloniser legal system. Māori have a long history of negotiating these exact circumstances, yet in devising our own governing systems, Rangiwewehi need to be aware of the traps that come along with the process of connecting traditional knowledge and aspirations to present contemporary worlds. This can be a challenging and difficult task, which Alice Te Punga Somerville warns may lead us to ask:

How do we talk about the experience of colonisation without falling into the trap of lamenting that we're 'too colonised', that it's all over, lost, gone? How do we talk about our past, our ancestors, our cultural heritage and concepts, without falling into the trap of over-romanticising, creating a (newly) 'authentic' 'Māoriness' that excludes much of the Māori community?<sup>381</sup>

Privileging our knowledge system - Rangiwewehitanga - in the creation of tribally appropriate governance systems requires careful and honest planning and discussion: a brutal honesty about what our traditional practices actually are and which elements we are prepared to retain, discard, and/or re-create for the future. One way that we can do this is to re-establish regular tribal

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<sup>380</sup> Robert Joseph comments as Host/Organiser at the United Nations Declaration on the Rights of Indigenous Peoples symposium above at n321.

<sup>381</sup> Alice Te Punga Somerville "If I close my mouth I will die": Writing, Resisting, Centering" In Maria Bargh (ed) *Resistance An Indigenous Response to Neoliberalism* (Huia Publishers, Wellington, 2007) at 89.

wānanga. By the same token, we neither need to have the perfect models, or all the answers, immediately. This is, as it has always been, an evolving process.

Integrating our post settlement governance entity is a process we can figure out along the way, and our understanding of what is possible and how to achieve it will expand over time to accommodate the bigger picture we have for ourselves and the future of Ngāti Rangiwhewehi. In this way, Ngāti Rangiwhewehi governance is both a living reality and a work in progress, similar to what Chickasaw and Cheyenne legal scholar James Youngblood Henderson calls a “shared vision” and “actuality”. He writes that:

Creating and rethinking a postcolonial legal order is our shared vision; getting past existing colonial thought is our actuality. I see our efforts as stirring up a vortex of commitments to end our oppression and suffering by creating a new vision of an equitable society. As our teachings reveal, we are not able to use our vision of a post-colonial legal order or society until after we have mapped and articulated the vision for people to see and visualise.<sup>382</sup>

The same is true for Ngāti Rangiwhewehi in this “post-settlement” governance era. We too are working to get past the existing colonial confines of our governing “actualities”, with the intention of first envisioning, and then realising, in time, a new shared conceptualisation for the governance we aspire to utilise and pass on to future generations. This study then is an initial articulation, the beginning of this mapping exercise, identifying some preliminary parameters or potential starting points for the iwi to begin to more actively explore and co-create the future understandings and experience of tribal law and governance. As has been reiterated many times earlier in the thesis, however we choose to evolve the teachings of our ancestors are always available for guidance and inspiration as we contemplate a governance plan and program suitable for this changing world.

## **6.2 Tangata ako ana i te whare, turanga ki te marae tau ana<sup>383</sup> (Module 1)**

Popular in Māori language revitalisation today, the saying that forms the heading for this section stresses that those who are educated in the home are best prepared to stand with ease and conviction on the marae. It is a lesson in the idea that true knowledge is nurtured and embedded deep within as the normative day to day truth and practice of a person and not as something fleetingly adhered to when it suits. In regard to tribal governance, the sentiment is most apt in its advocating of a governing practice driven from within the individual that is

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<sup>382</sup> James Youngblood Henderson, above at n17 at 13.

<sup>383</sup> This translates as “A person who is taught at home will stand collected on the marae.”

manifest when they serve the people. In other words, Ngāti Rangiwewehi governance should not be adhered to in a written code that is signed on and off as tribal members enter and leave political leadership roles and positions at the so-called governing level. Rangiwewehi governance must instead be a living practice and not simply a set of codes with relevance only in tribal committee meetings, saved for the marae, or practiced to appease Western legal requirements and contexts. This is a crucial aspect of Ngāti Rangiwewehi governance: that we privilege our concepts of the meaning of governance as a living aspect of our culture in order to displace and reclaim the powerfully normative assumptions we have inherited in our time under the duress of colonial cultural governing norms. Thus, we must decolonise the embedded and inherited cultural assumptions evident in New Zealand notions of governance by ensuring that our conceptions of governance begin initially in the home and reverberate throughout our experience as tribal peoples.

The importance of this kind of cultural reclamation has been considered by Moana Jackson.<sup>384</sup> He critiqued the grotesque history of torture and murder of indigenous peoples in the Americas by Christopher Columbus. Jackson notes that Columbus used fear to induce obedience to and acceptance of what was considered his own cultural superiority. Jackson argues then that “cultures are a site of learning about how to view the world, and the evolution of a colonising culture was also colonising the way that indigenous peoples were meant to think.”<sup>385</sup> Thus it is not enough to merely envision and introduce a post-settlement governance entity based as it is beneath an un-disturbed coloniser legal framework. We must seek always to disrupt and decolonise that overarching framework as we envision and enact our own tribal governing entity or risk creating merely a sub-division of what is always in broader perspective a Pākehā-centric colonial governing body.

Driven by the wānanga and discussions held specifically as part of this doctoral study, it is, then, proposed that a Rangiwewehitanga wananga would also serve to provide our own governance induction program. The wananga as initially proposed will have three modules to address the concerns outlined above. The first of these modules would be focused on traditional Rangiwewehi understandings of governance, providing the background context of where we started from in terms of our conceptions, beliefs and practises relevant to governance. This module would provide space to engage with the cultural foundations of our governance

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<sup>384</sup> Moana Jackson ‘Globalisation and the Colonising State of Mind’ in *Resistance: An Indigenous Response to Neoliberalism* (Huia, Wellington, 2007).

<sup>385</sup> Ibid at 170.

framework, most notably the kōrero tuku iho contained within our whakapapa, waiata, whakatauki and pēpeha that are foundational to our tribal traditions and explanations of governance. Participation in this wānanga would also provide the opportunity for tribal members to connect with the whenua (land) and the mātauranga essential for our physical, mental, emotional, spiritual and political well-being. Connecting with each other, as well as the specific places inherently connected to our Rangiwehita is necessary for strengthening and empowering the cultural identity of tribal members and the wider collective. Learning the stories, songs, and genealogical connections that ground our sense of who we are similarly provides an important framework for exploring the traditional values, principles and practices of Ngāti Rangiwehi law and governance. Perhaps more importantly, in the process of wānanga and the learning and teaching of our songs, stories, our genealogies, what are in effect the precedents and cases for our tribal jurisprudence, we also further hone and refine our ability to practice our law through our lives. As highlighted in “Ngā kete rokiroki a Whakaotirangi” (Chapter Four), Rangiwehita is the fundamental curricula necessary for grounding our tribal understandings of governance within our contemporary governance frameworks. This is critical in our attempts to articulate and assert self-determination through our governance structures and frameworks as we move into and beyond a post-settlement governance era. The examples highlighted throughout this dissertation are just a few of those drawn from the wider tribal knowledge base that the author is aware of, and remain to be discussed, unpacked and affirmed by the iwi collectively.

Governance in Ngāti Rangiwehi, as this thesis has emphasised is inextricably connected to our tribal identity, but identity politics for indigenous peoples in ongoing colonial contexts are always contested constructs. The opening module of our induction programme accentuates the belonging of governance that is culturally and ethically specific to our collective relationship and identity as a tribal people. In this way, the module is as much about consciousness raising, decolonization, as it is a reflection on the history of our governance in traditional times. Consciousness raising, as Cherie Spiller argues, is key to relational experience that provides pathways to facilitate not only belonging, but to strengthen the individual and the collective together. Spiller observes that “self-actualization occurs in and through relationships”<sup>386</sup>, but in this study it is also particularly relevant to the importance of our relationships bound in the connections of whānaungatanga, manaakitanga, and aroha that are long standing traditional

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<sup>386</sup> Cherie Spiller & Monica Stockdale “Managing and leading from a Māori Perspective: Bringing new life and energy to organisations” in *Handbook of Faith and Spirituality in the Workplace* Springer (2012) 149-173 at 224.



values necessary for identity politics and a belonging built in an awareness of who we have been before, during, and after colonial contact. In other words, our consciousness or self-actualisation arises out of these culturally informed relationships that are pivotal to how we see and enact our governance over time.

We govern ourselves, then, as a collective and not as merely individuals because it is part of a self and collective actualisation embedded in the decolonial transformative consciousness raising explained in the desire to retain ongoing traditional tikanga and knowledge of whānaungatanga (relationships), whakapapa (genealogy) and manaakitanga (caring for one another). These foundational governance lessons are the building blocks of individual conduct that are derived from collective historical and contemporary scripts of tribal behaviour and law. They are governing principles not just because they are lifted from traditional worlds, but because they are part of the consciousness and actualisation praxis that is an important part of the process to decolonise our identities and governing mentalities. They are thus more than relevant today. Indeed, as Patricia Monture-Angus has argued “[t]o be traditional does not mean to live in the past. This is another well-kept myth. The values and ways of Aboriginal cultures are as viable today as they were centuries ago.”<sup>387</sup> Not only are Rangiwehi traditional governance values, examples, and core beliefs relevant today, they are crucial to a decolonial process. This process assists in connecting the self and collective in a way that is much needed in a world where many of our people have become lost and unaware of who they are and how being Rangiwehi, or indigenous, is part of an entirely different conception of community and self-governance. These underlying issues must be addressed early to set the proper basis for training in Ngāti Rangiwehi governance.

### **6.3 Me Mate Ururoa, Kaua Mate Wheke (Module 2)**

The second module proposed in this wananga series should, then, focus more specifically on the historical events and colonial processes that impacted the “journey” of Ngāti Rangiwehi from a strong, healthy, independent self-determining sovereign people to our relative position today where we are now required to live within and operate under an imposed settler-colonial system of law and governance. For most tribal members the contrast between our traditional position of power and post-invasion times is a source of trauma that influences our day to day lives as indigenous peoples. Yet living with historical trauma does not automatically come with a consciousness of how this reality came to be. A particularly insidious feature of colonisation

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<sup>387</sup> Patricia Monture-Angus, above at n16 at 29.

is its uncanny ability to embed within its victims an internalisation of the colonisers' misguided belief in Eurocentric superiority and even deep seated self-hatred.<sup>388</sup> The importance and significance of this module lies in ensuring that Ngāti Rangiwewehi people are well educated in our perspectives of history as it relates to the evolution, negotiation, resistance, and subordination of our governance. In understanding what is Rangiwewehi governance and legal history we are then empowered to recognise the myths we have been sold as part of the colonising narrative: that Māori were uncivilised savages, deficient, and inherently inferior to our colonial counterparts, had no legitimate legal system and no definition credible or acceptable as a conception of governance viable in today's modern world.<sup>389</sup>

Knowledge is power, and it is imperative that our people understand our colonisation, its systems and processes, and how these have been intentionally and explicitly employed to make way for empire and the assertion of the sovereign authority today's colonial government purport to hold. The truth of our history clearly demonstrates the illegitimacy of the current governments claim, but we must strive to teach and attain a level of consciousness around how this happened if we are to create possibilities to rectify, heal, and restore our governing practices. A Rangiwewehi governance program must then teach our people to recognise the difference between our traditional and contemporary negotiations, and the ongoing discourse and definitions of coloniser governance that are sometimes applied to us. This awareness is, as James Youngblood Henderson points out, important in recognising the ongoing power and pretence of colonial legal supremacy. He writes that:

[J]udicial systems and law schools have operated as little more than a façade for white supremacy and Eurocentrism. The rule of law has operated as a mere word game, behind which lay total manipulation of Aboriginal and treaty promises, human rights and state obligations. It seems to make sense that the law cannot be the doctor it is the disease.<sup>390</sup>

The second proposed module advocated for this tribal wananga series will necessarily unravel these 'word games' in order to make space for Rangiwewehi terminology and definitions of

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<sup>388</sup> The internalization of self-hatred has been seen as "an outcome of oppression and the danger of direct expression of anger toward the dominant culture" See Maria Yellow Horse Brave Heart and Lemyra M DeBruyn "The American Indian Holocaust: Healing Historical Unresolved Grief" *American Indian and Alaska Native Mental Health Research: Journal of the National Center* 8:2 (February 1998) at 70.

<sup>389</sup> As has been noted in this thesis, Māori not only had a sophisticated pre-European legal framework, but adapted that system as they negotiated coloniser legal ideologies and structures. Richard Boast notes that 'it is hardly contentious these days to argue that Māori society was governed by law.' He writes that Moana Jackson had complained that "Pākehā scholars have been unwilling to treat this law seriously" and admits that "this claim... sadly has a great deal of truth, probably explained by the narrow positivism that has characterised not only the practice but the teaching of law in this country until recently." Richard Boast in Peter Spiller Jeremy Finn Richard Boast above at n300 at 125.

<sup>390</sup> Henderson, above at n17 at 27.

governance.<sup>391</sup> In many ways, this is a Kaupapa Māori approach intent on creating ‘space’ to privilege iwi and Māori knowledge.<sup>392</sup> Similar to module one, this wānanga likewise asserts a decolonial consciousness raising approach that both disrupts long standing colonial-centric assumptions about the demise of Māori legal systems and governance practices, and highlights how they have been ongoing, evolving, and are, still very much relevant for iwi today.

An important component of module two is its emphasis on critical reflection, where the settlement journey undertaken by our people highlights their disempowerment under the existing settler-colonial legal system and simultaneously stresses the persistence and innovation needed to survive and adapt. In this module, the settlement pathway that has deliberately been constructed by the Crown to privilege their position and create division and difficulties for any tribal group is closely examined to garner whatever we can learn from this contested history. In reflecting on both the historical and contemporary experiences relevant to our tribal governance this module highlights the need for our people to remember that colonisation is on-going and not simply an historical phenomenon: and that a twenty first century post-settlement governance entity is not a post-colonial construction.<sup>393</sup> In this approach, the inherent racism and bias of the coloniser system of law and governance is identified as incapable of supporting tribes to realise their aspirations for self-determination. Consequently, if Ngāti Rangiwewehi are to realise our aspirations we must draw on the only systems of law and governance that will empower and sustain our cultural well-being which are derived from our own cultural foundations.

At the heart of these modules sits a governance curriculum that asserts and centres Rangiwewehi definitions and perspectives of governance. This educative module is explicitly

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<sup>391</sup> The notion of word games or language games is illusory to the power that language and words occupy in asserting power and knowledge as discursive constructions used to control collectives. Francois Lyotard employs a method of analysis in his discussion of the postmodern condition based on the notion of ‘language games’ drawn from the work of Austrian philosopher Ludwig Wittgenstein. ‘Language games’ according to Lyotard, have rules that are open to change and influence, and are “the object of a contract, explicit or not, between the players” Francois Lyotard *The Postmodern Condition: A Report on Knowledge*, trans. by Geoff Bennington and Brian Massumi, Foreword by Frederic Jameson (University of Minnesota Press, Minneapolis [1979] 1984) at xxiv.

<sup>392</sup> Graham Hingangaroa Smith writes that Kaupapa Māori seeks the “capacity to make ‘space’ for itself to be sustained in a context of unequal power relationships with the colonizer.” See G H Smith “Kaupapa Māori Theory: Theorizing Indigenous Transformation of Education and Schooling” Paper presented at the *Joint AARE/NZARE Conference* Auckland 2003 at 5.

<sup>393</sup> The contention that we are still in an ongoing colonial era has been well addressed by indigenous scholars. Moana Jackson write some time ago now that ‘we [Māori] are not in a post-colonial or neo-colonial period. Instead we are in a new version of the same old song of the dispossession and denial of the rights of the indigenous peoples’ Moana Jackson “Research and Colonisation of Māori Knowledge” *He Pukenga Kōrero* 4:1 (1998) at 71.

decolonial and necessary because, as Young Blood Henderson observes, “Eurocentric contexts are supported and sustained by educational curricula, which in turn defines practicality and ‘reality’. When most professors describe the ‘world’, they are describing the artificial Eurocentric contexts and traditional as universals, thereby dismissing and ignoring Indigenous worldviews, knowledge, humanities and thought.”<sup>394</sup> This wānanga module is not a mere counter-curricula to simply contrast Eurocentric norms but highlights the pervasive power that exists in coloniser-centric legal discourses. A robust Rangiwewehi governance module, then, must necessarily inform our people about how existing legal systems are not neutral nor objective, and are consistently at odds with the underlying values of an Indigenous system. Youngblood Henderson notes, for instance, the individualisation evident in Anglo-centric legal culture and writes that “common law rules were organized around a principle of individual autonomy and consent” and extolled “the virtues of individualized justice in a two-party lawsuit on a case by case basis. These are the values that represented the Anglocentric legal culture.”<sup>395</sup> Not only is this system not neutral, it is embedded within the cultural ‘individual’ biases that are at odds with the underlying ‘collective’ community values of Indigenous systems. This critical analysis is an important aspect of understanding Rangiwewehi conceptions of governance and the law. In a post-contact frame of reference, module two inevitably focuses on these comparative differences noting how governance is a contested historical subject in which the coloniser system has been promoted, protected, and normalised in Aotearoa.<sup>396</sup>

One of the themes in this module is the ongoing power exerted via the ‘violent’ dispossession of indigenous knowledge, where, as Moana Jackson’s suggests, “[d]estroying the world-view and culture of indigenous peoples has always been as important as taking their lives” and has occurred “at the spiritual and psychic level as well as the physical and political.”<sup>397</sup> This depth of colonial violence is part of the narrative of Ngāti Rangiwewehi law and governance since the arrival of colonisers in Aotearoa: and it is an important story that all Rangiwewehi people should know. This module works on the need to ensure our people understanding how power operates at all levels of governance, and particularly where one group assumes they have the right and ability to define what is ‘worthy’ and ‘real’ and then “impose that upon someone

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<sup>394</sup> Henderson, above at n17 at 5.

<sup>395</sup> He argues that “Property law sought to find the rules that governance the individual acquisition of rights in external things. Torts sought the rules governing protection of private individuals. Contracts sought the rules to govern the transfer of acquired and protected rights between individuals and groups” Ibid at 11.

<sup>396</sup> Henderson points out that “[e]nfolded in these legal decisions are the normative visions that protect the colonizers’ prosperity, their system of rights, and their institutions of government and adjudication” Ibid at 12.

<sup>397</sup> Moana Jackson, above at n348 at 178.

else.”<sup>398</sup> To know this history and narrative is important to consciousness raising, decolonising, and the goal of self-determination. This is crucial for indigenous communities, as Quechuan scholar Sandy Grande emphasises:

Aboriginal Peoples must articulate their understanding of what the status quo is before anything new can be constructed. Until we clearly understand what has been forced on Aboriginal Peoples (or what we need reject) we cannot understand what exactly required renewing.<sup>399</sup>

This same argument goes for all Indigenous legal matters, including governance. Rangiwewehi cannot establish and realise our own governance system and programme unless we understand the differences, history, and power dynamics already at play in the way our governance has been shaped over time. Module two welcomes an interrogation of the history and process of colonisation.<sup>400</sup> Within the content of this module, Rangiwewehi people need to also understand that indigenous cultures continue to stand strong and voice their concerns and oppositions, providing the only really viable alternatives to the continued destruction of our planet and its peoples. In other words – our governance approaches are not only viable, but necessary and ethical in today’s world. Ngāti Rangiwewehi governance, then, in this module is elevated and legitimised, and reveals that Indigenous peoples hold the answers not because of any mystical magical powers, but because our governance is one of the only viable alternatives to individualistic and consumption driven capitalist approaches that dominate our world as it is today. This module is thus transformative and seeks out a praxis in its educative potential. It speaks to what Cherryl Smith observes in both colonisation and globalisation, which she writes:

[P]ropose the idea that the way to solve the world’s current problems will be through more of the same –individualistic achievement, exploitation of more resources and quick-fix, techno-fix solutions such as genetic engineering, opening more borders and easier access to others’ territories through the mobility of cheap labour forces and a sticking-plaster approach to poverty and environmental degradation. What currently defines the epitome of civilisation on the timeline of development is not our ability to live on the earth as beings that are able to respect the natural world, but, apparently, our ability to devastate and destroy it.<sup>401</sup>

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<sup>398</sup> Ibid.

<sup>399</sup> Patricia Monture-Angus, above at n16 at 55.

<sup>400</sup> Sandy Grande calls for the need to question, and writes that “[c]olonisation, like globalisation, has inscribed various behaviours and ways of perceiving that go largely unquestioned in the world.” Sandy Grande, *Red Pedagogy* above at n283 at 73.

<sup>401</sup> Cherryl Smith “Cultures of Collecting” in Maria Bargh (ed) *Resistance An Indigenous Response to Neoliberalism* (Huia, Wellington, 2007) at 74.

Ngāti Rangiwewehi governance education in this module seeks to speak to our governing relationships back to the whenua (land) our awa (rivers) and moana (ocean). This module is critical, anti-colonial, deliberately provocative and ambitiously transformative. It seeks to understand and break our people out of ‘our ideological prisons’ to enable us to talk about strategies and tactics for empowerment and emancipation. This, as Teanau Tuiono has argued, is “especially important to Indigenous lawyers since we seek to practice law, law reform, and empower our communities and peoples within the toxic parameters of our cognitive prison of our legal consciousness.”<sup>402</sup> As much as indigenous lawyers must free themselves from the prisons they inhabit, so too should Rangiwewehi seek to unshackle ourselves from the confines of the legal myths promulgated about us and for us. In many ways this is a collective independence, initially intellectual, but in time seeks out an economic and eventual governing autonomy, which is the long game in Rangiwewehi aspirations.<sup>403</sup>

Understanding how governance has been contested and how our ancestors have navigated colonial power is a key point of module two. Indigenous scholars note that our understandings of this power have grown slowly over time, we now know that we “cannot win at a game where the rules are rigged and likely to change as soon as we discover how they work.”<sup>404</sup> The story of our governing journey in module two is filled with lessons about the nature of our governance and then strategies employed on both sides. This is crucial in an understanding of Rangiwewehi governance in regard to the Treaty of Waitangi and its national historical prominence. Module two will discuss the ‘impotence’ of the Waitangi tribunal process, which Annette Sykes reminds us “becomes ineffective as a result of Crown manipulation” and is “controlled in its effectiveness by Crown funding.” The truth of that process, she argues, is that it is “doing enormous violence” because tribal hopes are regularly “shattered” not by the

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<sup>402</sup> Henderson, above at n17 at 14.

<sup>403</sup> Tuiono suggests that “[m]ost Māori that want to do something positive for our people rely to some extent on money from the government... people literally cannot afford to bite the hand that feeds them. As an activist you need to be as economically independent as possible which of course is not easy.” The ambition for freedom is there, but the pathway is complex and needs to be carefully mapped out. “We are Everywhere” Maria Bargh Interview with Teanau Tuiono” *Resistance An Indigenous Response to Neoliberalism* Edited by Maria Bargh (Huia: Wellington, 2007) at 129.

<sup>404</sup> Henderson, above at n17 at 17.

Tribunal itself, but by the Crown's "contempt of the Tribunal's decisions."<sup>405</sup> In effect, as this module will show, the Waitangi tribunal is a "toothless tiger."<sup>406</sup>

The Ngāti Rangiwewehi wānanga governance modules one and two proposed in this thesis do much more than simply inform our people about the core elements, definitions and history of what governance is in our tribe. They are far more expansive and ambitious in their outlook and seek to embed specific critical decolonial and transformative understandings of what governance is, in and beyond our iwi. Ngāti Rangiwewehi governance, then, is far reaching and interconnected with, and not merely oppositional to, colonising models. They lead up to the creative and innovate expectations that are part of the third and final module.

#### **6.4 Whaia te iti kahurangi ki te tuoho koe me he maunga teitei<sup>407</sup> (Module 3)**

Finally, module three provides the space for the tribe to contemplate and consider the most effective pathway forward. While acknowledging the need for tribal entities to operate within particular Western legal realities at this point in time, this module considers the specific legal requirements, provisions and contexts for our governance entities and the rules that define these relationships. This concession is made from the perspective that once we understand the rules and boundaries, we are then better equipped to find ways to push or challenge those boundaries, work around the rules and find gaps within these spaces to reassert our intentions to govern on our terms. As we gain a better understanding of the system we are working within, we can also recognise where it might be most important to advocate for changes, and what changes might be most essential to better support our aspirations and intentions.

In addition to building our knowledge and understanding of the settler-colonial system and the constraints it continues to impose upon our governance at this present time (discussed in module two), the final module focuses the collective attention on how we might seek to prioritise our values, principles and approaches, as unpacked and explored within module one, within the entities and governance frameworks we are currently utilising. This third wānanga, also provides space to both recognise the importance of, and continue to contribute to, the long-

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<sup>405</sup> Maria Bargh interview with Annette Sykes "Blunting the System: The Personal is Political" in Maria Bargh (ed) *Resistance An Indigenous Response to Neoliberalism* (Huia: Wellington, 2007) at 119.

<sup>406</sup> These are Sykes words, of the "toothless" Tribunal she says that "We as lawyers and advocates for our people can identify and can prove injustice but what for? To uncover our history, to educate ourselves as much as anything, but also to seek justice from a system that, of itself, can't deliver justice because it is actually perpetuating injustices while we proceed with valid claims." Ibid at 120.

<sup>407</sup> One possible translation for this Māori proverb is "Seek the treasure you value most dearly: if you bow your head, let it be to a lofty mountain" It encourages us to be persistent and not allowing obstacles stop us from at least attempting to reach our goals.

term vision we hold as a collective for Ngāti Rangiwewehi tribal governance. In building and expanding the pathways available for our people beyond settlement, we must never lose sight of the dreams that drove our forebears on or the ambitions we hold for the future generations of Ngāti Rangiwewehi. To do this, the colonized, as Youngblood Henderson contends “must end their silence and struggle to retake possession of their humanities, languages, and identities.” He suggests that we “learn to create models” to heal and close the gaps between systems of knowledge and peoples.<sup>408</sup> This is also a challenge faced by Māori who struggle to connect with our traditions and hold on to colonial perspectives that dismiss our cultural icons as ‘primitive relics.’ Too often, our people as a result of colonisation, begin to embrace and favour the colonisers’ interpretations and systems of law and governance, seeing them as part of an inevitable progression. For some indigenous peoples, as Henderson points out, indigenous knowledge is viewed as an attempt to “turn backward into memory rather than move toward the future.”<sup>409</sup>

This is true for too many of our people who have accepted the colonial system and our marginal place within it as an inescapable fact of life and elect to do what they can to make the best of it. As such, with this assimilation “we have been complicitous with some of these forces and we have helped to perpetuate them. We are all responsible for the operation of colonialism. While each of us is its victim, we are also, at various levels, its participants”<sup>410</sup> This requires us to reflect on how we choose to frame these issues, the unhelpful binaries of simply Indigenous vs colonizer, or Māori vs Crown, although helpful to establish context, over time are becoming increasingly problematic and no longer constructive ways to formulate strategies if we are serious about resolving our current predicament. Youngblood Henderson is right when he says that “[e]ach of us has a duty today to dream of a better society. This is part of our legacy, the purpose of our suffering and our responsibility for the future seven generations.”<sup>411</sup> This desire to dream and take hold of our future is a key theme in the final module advocated here. Rangiwewehi governance must be seen as fluidly evolving, dynamic and innovative if it hopes to survive the ongoing contests of assimilation and colonialism. Module three, then, asserts a need to construct a robust governing framework that is able to not just withstand future colonial advancement, but disrupt, alter, and transform it.

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<sup>408</sup> Henderson, above at n17 at 18.

<sup>409</sup> Henderson, above at n17 at 19.

<sup>410</sup> Ibid.

<sup>411</sup> Ibid.



In addition, module three seeks to ensure that within our governance frameworks, Ngāti Rangiwewehi retain the things that make us unique: that we maintain the things that give us the mana and the mauri to enable Rangiwewehi people to uphold the responsibilities left to us by our ancestors. These are the key aspects that form our identity as Rangiwewehi. Throughout the thesis I have argued that Rangiwewehitanga in and of itself is an archive of knowledge and all of that knowledge makes us who we are. It frames how we see the world, how we understand our place within it and how we seek to engage with it. That knowledge base is a decolonial paradigm for considering our governance and is a crucial framework that needs to be privileged in everything we do, not just governance. Rangiwewehitanga, as it has been advocated in this thesis, holds the necessary values, principles, processes and understandings necessary to accelerate transformational decolonial change for our iwi. It contains the original instructions for what it means to be healthy and well as an indigenous collective, physically, mentally, emotionally, and spiritually. As such it informs local education, law, and economic well-being, and the only native articulation of the connection and relationship with the environment. The main recommendation that this study advocates is that the tribe needs to develop our own Rangiwewehitanga wananga program via these proposed modules in order to assert an indigenous governing framework for all those in our region who aspire to see themselves as part of, or connected to, a Rangiwewehi governing authority.

In order for us to bring about the changes that are necessary to support the goals and aspirations of Ngāti Rangiwewehi to be native and healthy, we must envision a governance model in which conception of a ‘post’ colonisation outcome is truly possible. Subsequently, Ngāti Rangiwewehi governance, must at some point account for our relationship with Pākehā colonisers, not because our aim is to free them from their role as oppressors, but because the ultimate expression of our governance is to be inclusive, not exclusive, and to free ourselves.<sup>412</sup> Governance in our whenua and territory, then, includes all peoples and not simply Rangiwewehi descendants. We must then, in module three, endeavour to transform and change existing Euro-centric conceptions of governance as they have been imposed in our mana whenua boundaries.<sup>413</sup> This transformation and challenge must take place in a step by step

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<sup>412</sup> Paulo Freire writes that “[w]ho are better prepared than the oppressed to understand the terrible significance of an oppressive society? Who suffer the effects of oppression more than the oppressed? Who can better understand the necessity of liberation? They will not gain this liberation by chance, but through the praxis of their quest for it, through their recognition of the necessity to fight for it.” Paulo Freire *Pedagogy of the Oppressed* (Penguin, London, 1993) at 27.

<sup>413</sup> Youngblood Henderson also advocate this change for indigenous peoples, and writes that “[t]he essence of these questions is how Indigenous peoples can change existing Eurocentric thought and analysis to create a better

process over time.<sup>414</sup> Thus module three proposes a wānanga based in discussions about the creative and innovative potential for the future of Ngāti Rangiwewehi governance for us, and for those who reside in our territories. The question, then, is: how can a Rangiwewehi governance model at some stage include and find space for those outside of the iwi who live within Rangiwewehi boundaries?

New Zealand conceptions of governance need urgent and significant reforms to accommodate the very many iwi-centric perspectives of governance that should be part of the legal system in this country. A Ngāti Rangiwewehi induction series of modules – wānanga – would provide a much needed curricula to unpack, consider and advocate for an inclusive, equality centred democratic ‘post’ colonial society that Henderson envisions above. It is important that we know what changes would be most useful for us, and we can only begin to know this by understanding the traditions, history and systems of governance that have relevance to, and have been applied by our people. These proposed modules highlight the importance of becoming more conscious about where we have been, where we are now, how we came to be here and where we would ideally like to go in the future. They are deliberately and evocatively decolonial, critical, creative, and inclusive – and in each iteration reflect the dynamic and fluid nature of Ngāti Rangiwewehi governance.

### **6.5 ‘Homai au para kia whiria ai tōkū taura’ ‘Give me your scraps and I will weave them into a rope’**

This saying comes from a weaving context and plays on the idea of the para or scraps can still prove to be useful if one is creative and expansive in their perspective. Within the more specific context established in this study, despite the limited utility of the Crown’s post-settlement governance models to date, Ngāti Rangiwewehi embraces the lessons we’ve learnt from our past colonial engagements. We intend to galvanise our people, and together convert those lessons into, amongst other things, a living and useful governance system. This chapter has advocated a module wānanga series that we hope will lead our people toward a new future in the same way that our ancestress Te Aokapurangi did in the early nineteenth century. These modules speak to our courage and determination both historically and now, moving into the

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life for Indigenous peoples and a post-colonial society” thus “transform[ing] Eurocentric legal analysis so that law may fulfil its primary avocation of creating, sustaining, and protecting an enlightened and democratic society that respects Indigenous peoples and their rights.” Henderson, above at n17 at 3.

<sup>414</sup> Henderson suggest this slow process of change. He argues that “[l]egal changes do not occur at random but proceed by a rational or purposeful reinterpretation of the past law to meet present and future needs.” Ibid at 32.

future. In this three-tiered wānanga series, Ngāti Rangiwewehi governance is articulated initially through the foundational values, principles, stories and knowledge that connects us together in our collective identity. Knowing this origin point, and the meaning of our legal tikanga systems is crucial to setting the foundations for later adaption and change. In module two, this governance induction aims to awaken and produce a conscientisation among our people that allows our people to see with greater clarity how our governance was pliable, resistant, and negotiated through a domineering and destructive colonial onslaught. The depth of critical analysis here is important to show how our governance is uniquely ours but has responded and navigated the many complexities of colonial governing discourses and myths. Knowing the various aspects and sides of governance debates and issues in our country is an important outcome in this module. These include better understandings of the flawed Treaty process, and the reality that post-settlement governance remains inevitably controlled by the overarching normative power assumed by our supposed colonial partners. The third module promotes a creative and forward-thinking discussion of Rangiwewehi governance, where the modules one and two are used to drive potential ideas about where our governance is heading in the next generation. Thus, Rangiwewehi governance is, and has always been fluid, never static or backward.

Finally, these modules require open and sometimes confronting communication, where clarity and transparency is crucial. The buy-in and involvement of everyone in all roles and positions of tribal governance, not simply those who are getting paid to be involved, or who are seen to occupy the top of the food chain is important. Rangiwewehi governance is after all, as this thesis has been consistently asserting – a collective enterprise and not a divided array of individual governors and leaders. In these wananga, we, then, need to find ways to develop that collective and communal ethic to ensure we move away from the individualization that is incongruent with our tribal tikanga and values. As was mentioned earlier in this chapter, mentoring is then crucially important to assist and encourage rangatahi (younger people) to take up the responsibilities that are their birth right. Rangiwewehitanga must be what governs what we do, and how we do it, in our day to day lives. The most important aspect of these wananga emphasises this point: that we need to live our culture and in doing so ensure that its values and meanings serve as the foundations and frameworks for our current and future governance arrangements.

## 7. Unuhia Unuhia: Conclusion

Unuhia, unuhia, unuhia rawatia ki te Pae Tapu.  
Unuhia ki te Pou-mata-a-Rongomaiwhiti.  
Te whakarongo atu ai a koe, ka toro, ka hika ki te topai nui.  
Ko te Pouroa, ko te Pou-te-whararua, he aturangi ka mamao.  
No roto ra, hapainga, hoatu, ki te Wānanga i houhia ki te rongo.  
Ko te Rongo na wai? Ko te rongo na Tu, ko te rongo na Rurangi.  
Mai i runga. Turuturua ko te Ihu kia utaina te mata a Rakau.  
Kia ahu atu i te ara u wai ki te ara o Ngatoroirangi.  
Karia te Po-nui, te Po-roa, te Po-matawhaiariki.  
Ko te ara a Ngahue-nihopopoia i te Parata.  
Kia eke Tangaroa, kia eke panuku,  
Haumi e, Hui e, Taiki e.<sup>415</sup>

It is common place within Ngāti Rangiwewehi that every tribal hui (meeting) is started and ended with incantation or karakia. The karakia used above to open the concluding chapter of the study commemorates the actions of the Tohunga (expert/priest of esoteric arts) Ngatoroirangi at Te korokoro o te Parata<sup>416</sup> which saved our people from imminent death. From that point on our people have been known as Te Arawa in remembrance of that event and because of the appearance of the waka (canoe or boat) as it emerged from the whirlpool. It is used in this context to symbolise the reality of the situation we now face, where we are now forced to decide whether we will draw on our cultural traditions, like this karakia, to realign our journey with the values and principles necessary to guide us through these turbulent times or whether we will instead acquiesce to the forces that currently threaten our Rangiwewehitanga and allow ourselves to be swallowed up and assimilated into the mainstream colonial-capitalist system. This is not overactive imagining, fear mongering, or over exaggeration, because we must recognise and understand the significance of where we are currently positioned as a people. At the opening quarter of this twentieth century we are again at the precipice, poised to determine the future of our people. We have a choice to allow our continued assimilation towards a sanitised and colonial subordinate cultural and legal reality or we must call on our ancestors and use traditional knowledge to guide us towards new self-determined paradigms of governance, leadership and business that do not require us to sacrifice our native souls on the altars of global and local imperialism. This thesis has posed this very question: *how might Ngāti Rangiwewehi ‘articulate’ and assert our self-determination and*

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<sup>415</sup> J B W Flavell “Na Tarimano i whakaari” above at n216 at i.

<sup>416</sup> “Te korokoro o te parata” (in the very throat of the beast/monster/leviathan) has become a tribal saying used to refer to something being on a path to destruction or on the brink of disaster in memory of the original event which occurred on the migratory journey from Hawaiiki to Aotearoa. As a result of an indiscretion on the part of Tamatekapua, captain of the waka (canoe), the canoe itself was threatened with destruction. The oral accounts vary in their explanation.

*tino Rangiwehitanga in a post-settlement governance era?* The answer has been addressed in this study as an assertion of our traditional knowledge systems, through wānanga, tikanga, and understandings of how our pre-European protocols and practices continue to have relevance to the way we operate as a collective governing entity. This thesis has outlined what Ngāti Rangiwehitanga is, and how it is both a foundation for the building of a tribal governance approach, and simultaneously the frame and components for the governing edifice itself. Ngāti Rangiwehi governance is found in the many articulations of ourselves, remembered and passed on in our historical accounts, songs, genealogical stories, proverbs, idioms and practices. Rangiwehitanga contains our tikanga and law, it therefore informs our governing patterns, positions, structures, and aspirations. Moreover, Ngāti Rangiwehi governance is inextricably a collective exercise, based in our traditional systems, it does not operate neatly in a singular top-down autocratic model or within a Western democratic elective system. Most importantly, Ngāti Rangiwehi governance has never been, is not, and can never be, appropriately manifest beneath or within a Western colonial governance framework.

This thesis illustrated early on that there is a significant and growing body of literature discussing the new paradigms of business and leadership which aligns more easily and comfortably with our cultural ways of knowing and being.<sup>417</sup> These examples demonstrate that traditional Western models for business and leadership are not always the most effective, and moreover, there are viable alternative conceptions of governance, leadership, and business that do not require us to sell out our native heritage or traditional ways of knowing and being. Chellie Spiller, Edwina Pio, Lijiana Erakovic and Manuka Henare have developed “an ethic of kaitiakitanga model premised on Māori values which holds the potential to enrich and further humanize our understanding of business.”<sup>418</sup> Their framing of organisational management to reflect the cultural importance of relationship is just one example of culturally derived models, values, understandings and insights or “[f]eatures that make the Māori economy especially distinctive, and give it its competitive ‘edge’... its relational approach to business, which has been shown to work especially well with forging long-term supplier arrangements and joint venture partnerships with other global firms.”<sup>419</sup> Much of this literature has a tendency to focus on mainstream western approaches to business leadership and governance as overtly masculine in nature, defining the new paradigm as a more feminine approach. There is much in the

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<sup>417</sup> See for example Spiller et al. “Wise up” above at n113; Joanna Overall Paul Tapsell & Christine Woods “Governance and Indigenous Social Entrepreneurship: When context counts” *Social Enterprise Journal* 6:2 2010 146-161.

<sup>418</sup> Spiller et al. “Wise up” above at n113.

<sup>419</sup> Ibid at 224.

articulation of this apparently ‘feminine’ approach that would equally resonate with traditional Indigenous/Māori ideals of governance and leadership and were manifested in the corporate organisational structures utilised through our early efforts at entrepreneurship. William Rees comments cited earlier in the thesis regarding Māori as having perfected corporation provides but one example. What allowed these structures such strength were the inherent cultural values embedded within the ‘governance’ structure - the primacy of the collective, our notions of manaaki, aroha, tapu - the inherent mana of each person and the need for all to be accommodated and provided for. Although we can see the ways in which these values have been broken down through the relentless onslaught of colonisation (which is ongoing even today) the seed for this revitalisation remains within us. Ultimately, all that remains is for us to determine whether this is in fact what we want.

From the interviews, wānanga and plethora of iwi materials presented and reviewed within the context of the treaty settlement process and the research for this project, the thesis argues that Ngāti Rangiwewehi aspire to create a governance structure, leadership framework and business initiatives that privilege our practices and ways of knowing, grounded firmly within our own cultural values and utilising whatever resources align with or build upon our traditional approaches and further our aspirations. It is similarly apparent, that many of our people are unsure how this might be achieved outside of the hegemonic colonial structures that dominate the playing fields on which we are forced to engage. With a history of colonial subjugation in which our cultural frameworks were displaced, belittled, ignored or regarded as inferior, the concerns and reservations our people have today are understandable. As the thesis has shown the settler-colonial government that operates within New Zealand and its existing legal system continue to undermine our attempts to engage in governance on our terms. The Treaty claims processes and settlements are no more than colonial control designed to fully and ‘finally’ extinguish Māori grievances, and lure Māori governance once more within the reigns of an over-arching colonial master. The Crown sets all the rules for these negotiations, forces iwi to design governance frameworks that meet their approval and are inevitably assimilated beneath a legal governing structure that immediately places the coloniser government on top and Māori and iwi beneath. There is no partnership, autonomy, or self-governance in this model that escapes the power and control of the colonial governing system. So, for Ngāti Rangiwewehi, there is no doubt the pathway forward and toward a governing body that meets our cultural needs has been, and will be, difficult and compromised by our colonial invaders and sometimes apologists. Perhaps the most difficult challenge we face is in becoming truly conscious of the

ways in which our colonisation has infected our thinking on governance, leadership, democracy, elections, and business. The challenge, then, will include the constant vigilance necessary to correct these misconceptions and ‘normative’ assumptions. If we look closely at our own history, we can see that our ancestors have fought to maintain our Rangiwewehitanga since the beginning of this conceptual and real-life contest for knowledge and our right to govern ourselves according to our law and customs. They have provided us with tools to utilise and revive, and if their attempts are not motivation enough to renew and maintain our journey forward, perhaps like them we can look to our descendants yet to come for even greater inspiration and purpose!

The study began by clearly positioning my space within the project (Chapter One), primarily because Māori and Indigenous, and therefore Ngāti Rangiwewehi research requires a deeper connection to the kaupapa to create natural connections between the research, researched, and the researcher. This was noted in various sections of the thesis, but also as an important aspect of Rangiwewehitanga, tikanga, and Kaupapa Māori practice and theory (Chapters One and Two). Subjectivities that naturally arise out of our tribal and genealogical networks and relations create shared understandings which enable other indigenous researchers from the same community as you to connect in ways that ‘objective’ outsiders, who you do not know personally and have no way to connect with, are able to elicit. Through my own life experience and with my Koro Sam, who was a significant tribal leader for Ngāti Rangiwewehi throughout my lifetime, the most valuable things I have learnt about Māori governance have been acquired through lived experience. The values, principles and experience necessary to understand and work within it are passed on intergenerationally and are inherently culturally bound.

While in many ways this thesis articulated my own interpretation and articulation of Ngāti Rangiwewehi governance, the prologue also sought to emphasise the importance of the wider collective within the framing, understanding and enacting of Māori and Ngāti Rangiwewehi governance. This shared lived experience and understanding is what traditionally functioned to make Māori cooperative bodies so efficient and effective, the unifying vision and power of the collective is what has ensured our survival until now and this study argues, holds the secret to our future ability to thrive in a post-settlement governance era. Thus, as this thesis has continually asserted, Ngāti Rangiwewehi is a collective enterprise and never a singular top down or autocratic system. Governance exists in our tribe as a multi-faceted reality within which our people occupy specific positions that work together in unison to take care of, govern, and facilitate our tribal activities and decisions at micro and macro levels. Our tikanga and

protocols reflect these understandings and are woven deep into the fabric of how we make collective decisions and the expectations to abide by them. Ngāti Rangiwewehi governance as a pulsating and living collective practice is driven by an accountability and responsibility that is articulated in our cultural frameworks. Thus, to know Rangiwewehi governance is entirely dependent on knowing our cultural worldviews, our tikanga, history and the way these practices have been shaped and passed on over time. Every office of governance, therefore, is articulated with specific cultural ideas that relate to genealogical positioning, gender, the right to speak, the history of leadership and the various roles designated essentially in tradition and ongoing tribal practice.

This thesis has attempted to provide examples and ideas to begin our journey forward. The opening chapter unpacked the overarching thesis question, noting how it had evolved through the negotiation of the settlement journey. The Chapter noted how models advocated by the Crown at that time were not appropriate for the way Ngāti Rangiwewehi people aspired to define ourselves or the way we operate. Our people objected, for instance, to the potential requirement to identify themselves by only one hapū or through only one line of descent. When the initial project for this thesis was conceived - by and with the iwi - a series of wānanga were mooted to provide a forum for in depth tribal discussion. It was anticipated that information gathered in this process would support the iwi to identify and construct the most appropriate governance model for our needs. Chapter One reveals how the Crown decided to fast track our direct negotiations, radically shifting our timeframes. One of the key issues here is that Rangiwewehi governance has long been dictated by, inconvenienced, and controlled, by a colonial force that has no understanding of our needs and little concern for our timeframes, systems, processes or aspirations. Their negotiation system was, and is, adversarial and seeks ultimately for their well-being, our assimilation (more commonly referred to as ‘settlement’), and therefore is fundamentally ethically inappropriate and yet unavoidable from an indigenous positioning. As Chapter One asserted, then, the Crown’s standards are not our standards, and their unethical mismanagement of the process contributed a number of issues, not only for Rangiwewehi, but for almost every iwi engaged in the settlement process. Chapter One suggests that if we had been able to follow our own processes, then many problematic issues could have been avoided or managed in ways that might not have led to internal conflicts or splits. It also pointed out that as the timeframe changed the thesis approach and question also altered and eventually came to ask: How could an entity, constructed within and subject to the colonisers legal system, support Ngāti Rangiwewehi in the realisation of our self-determination



and tino Rangiwhewhitanga? This opening chapter highlighted that the end that the Crown had in mind was, and is, vastly different from the end that the iwi have in mind. Indeed, the post settlement governance model/entity was not our end game, but more of a means to an end. This issue of governance is then important, because it shows us that indigenous governance is constantly meddled with, appropriated, and sought to be drawn within and beneath overarching colonial systems, timeframes, and legal jurisdictions. What should indigenous peoples' response to this unethical 'negotiation' and imposition be? Should indigenous peoples merely operate as if the establishment and creation of our indigenous governance models is a fait accompli and overlook the obvious power-imbalances that are imposed on us during this process? This thesis could not ignore the problematic positioning of the Crown: its goals are not only different, its processes are unethical, with governing ideologies and legal frameworks that have long been detrimental to our people. As Chapter One highlighted our perspective, approach, and end game is significantly different, wherein the Crown sought assimilation within their overarching governance model, we have always aspired to achieve actual governance partnership under our Treaty arrangements. Thus, in Chapter One, one of the main issues showed that because of the Crown's power and control, the dissertation became more of an exploration of what governance means to Ngāti Rangiwhewehi, considering how we might assert our Rangiwhewhitanga in and through our post-settlement governance arrangements.

Chapter Two focused on the guiding frameworks that informed the research and articulation of the main concepts and arguments in this thesis. At the heart of this, 'Te Riu o Tane Mahuta' or 'the hollow trunk of Tane Mahuta' was introduced as a way of describing Rangiwhewhitanga, highlighting it as a tribal archive that holds key knowledge about the core values and concepts relevant to the traditional governance of ourselves. The use of proverb and tribal language, terminology, and metaphor were presented in this chapter as crucial to framing, naming, and presenting the various information in this study. If the thesis aimed to articulate a Ngāti Rangiwhewehi understanding of governance, then, as Chapter Two argued, this could only be done appropriately through Rangiwhewehi proverbs, ideas, histories, and ways of discussing and explaining our world taking precedence and centre stage. In achieving this, Chapter Two accentuated the term Rangiwhewhitanga as *the* framework that oversees the governance of the research and methodology of this thesis. It made specific reference to Kaupapa Māori approaches, accentuating how the use and privileging of Ngāti Rangiwhewehi proverbs, pēpeha, principles, values and language that names and drives this thesis has also been indebted to the deep literature in Kaupapa Māori theory that advocates for the centring of indigenous

knowledge. Chapter Two showed how a re-centring Kaupapa Māori approach has also been used by other Māori legal scholars, for instance, by Carwyn Jones who sought to enable a Māori ‘epistemological framework’ as part of the ‘conceptualization’ of his project as a whole. The Chapter argued that Kaupapa Māori is not explicitly or widely discussed in Māori legal scholarship, but that many of its underlying ideas are still evident in the work of Māori legal commentators.

Focused on the theoretical and methodological underpinnings that drove this study, Chapter Two also highlighted how the thesis’ outcomes are driven by the needs and desires of the community. In asserting this Ngāti Rangiwewehi centric approach, the Chapter introduced the ‘papakōhatu’, Tarimano which it argued stands as the geographical and epistemological basis on which much of the narrative and knowledge of Rangiwewehi governance is found and situated. It argued that authority to preside and govern over these lands and people is, then, an inherited right passed on in mana tangata (status from personal actions), mauri (life force energy), and mana motuhake (autonomy). On this basis, Ngāti Rangiwewehi governance was seen to be specifically situated within a geographical space that gives us mana whenua (status from the land). In addition, Chapter Two also showed how Ngāti Rangiwewehi principles of governance are delicately woven through our language, history and our traditions, and existed long before the ‘Crown’ or the word ‘kawanatanga’ arrived on these shores. The chapter also revealed how ‘tikanga’ and the ‘law’ are not simplistic parallel concepts, and that Māori legal and governance frameworks focus on the regulatory aspects of tikanga without any need, or desire, to separate them out from the broader spiritual and cultural aspects that shape and inform them. It showed how in our tribe, governance is a personal relationship to tūpuna enacted as part of that collective relationship both past and present and is a birth-right. Whakapapa is, then, accentuated as another important principle that is used in this thesis to discuss Ngāti Rangiwewehi ideas of governance. Whakapapa embodies a recognised and understood system of governing that operated effectively to regulate societal behaviour and our engagement with the environment. It is also relevant to the way we govern our relational connections in and through our research practice. Thus, in whakapapa gendered mana wāhine positionality is a welcomed subjectivity encouraged to show nuance and the complexity of our indigenous world. Finally, as Chapter Two points out, whakapapa connections create a ‘binding’ within which accountability and responsibility in a Ngāti Rangiwewehi governing process is normative and culturally ethical.

Alongside whakapapa, Chapter Two also highlighted the importance of wānanga to the thesis methodology. Wānanga interviews and the practice of wānanga more broadly were utilised in this thesis, providing Māori and Rangiwewehi specific examples of how governance works in practice. The Chapter showed how wānanga creates the necessary and appropriate cultural space for Ngāti Rangiwewehi to explore and experiment with providing a de-colonial and dialogical process and experience that fits comfortably in its ability to accommodate our tikanga and kawa. Wānanga served as a key method of recording, retaining and reviving our oral histories and traditions, and in many ways are microcosms of Rangiwewehi governance in practice. They operate within our traditional legal traditions and structures, providing forums within which important tribal decisions are debated and agreed upon. They are binding and provide spaces where all voices can be heard in correlation with other tribal voices, both past and present.

The final section of Chapter Two reiterated the changing and evolving research focus of this study. It argued that Rangiwewehitanga in praxis is a process of evolution and change as our people have negotiated settler colonial intrusions and invasions. Governance in Ngāti Rangiwewehi, then, is not simply a traditional concept, but one that has been practiced over time as our people have adapted and resisted. But as Chapter Two revealed, this change has not meant a complete loss of traditional practices, but an evolution. Thus, the wharenui is still the place to voice dissent, challenge and debate tribal issues, and to give people an opportunity to respond. This aspect of our governance has remained constant, even as the wharenui has changed and the idea of the meeting space has grown and shifted over time. One of the central aims of this research, reiterated in the focus on Rangiwewehi praxis in Chapter Two, was to encourage the search for ways to work within and beyond the limitations of our existing colonial governing systems. This section noted that the iwi maintained regular governance meetings during the settlement phase and that the thesis was produced in a time where our people were undergoing significant praxis, action, resistance, and change. Chapter Two, with its emphasis on the methodology of this study and the underlying interpretive theoretical foundations serves an important function in the thesis as a whole. It shows that while this is a law thesis, its theoretical and methodological frames do not, and should not, be confined within a Western conceptualisation of legal theory and method. Indeed, to understand indigenous legal worlds and governing narratives and articulations it is crucial to set these discussions within the tribal paradigms, theories and methods that most appropriately capture and disseminate that knowledge.

Chapter Three situated this study within the intersecting bodies of literature on governance and the law, and also sought to ground that discussion within the historical and contemporary positionality of Ngāti Rangiwewehi. This chapter showed that establishment of the post-settlement governance entity in 2014 occurred at the end of a traumatic and long history of negotiation, and the attendant contests to assert our specifically tribal understandings of governance. Chapter Three reveals that historically, Te Arawa made a conscious decision not to sign the Treaty of Waitangi, and yet the Treaty of Waitangi settlements that we have been connected with, as have other iwi, inevitably and ironically continue to seek recourse for greater recognition of our own governance structures. Chapter Three highlighted how the existing literature relating to Māori and iwi governance also insists on framing the issues within the dominant hegemonic legal perspectives of the ‘West.’ Here, the notion of ‘Governance’ is a broadly defined term that can be found in various fields and is not singularly identifiable through any particular or cohesive body of ‘governance’ literature. Rather governance perspectives have a tendency to be incorporated into the specific disciplinary contexts that then in turn influence the way that field interprets and considers issues of governance. For instance, there is an educational focus with literature considering ‘governance within the classroom’; political scientists explore the evolution of national governing bodies while political studies at one stage focused on the reforming of the public sector as a type of ‘governance without government’ or a times ‘entrepreneurial governance.’ In addition, environmental scholarship described ‘governance’ in various ways, and with perhaps most relevance to this study the new and evolving areas of ‘water governance’ and the indigenous influences in New Zealand that have seen both a river and a mountain and bush reserve given legal personality as acknowledged ancestors with a special relationship to the local tribal groups. Chapter Three showed how governance is a very fluid and expansive area of scholarly literature and research, inclusive of ‘corporate governance’, ‘educational governance’, the structural nature of governance on local and global scales, within international law, indigenous understandings of law, and local and national, legal and political, structures. And yet, all of these aspects of governance remain in multiple ways relative to indigenous governance and Ngāti Rangiwewehi ideas of governance.

Chapter Three also accentuated the number of comparative studies, case studies, and documents that provide important analyses on indigenous governance issues within the wider international context. Included here were earlier works such as Paul Havemann’s *Indigenous Peoples Rights in Australia, Canada and New Zealand* (1999), Robert Joseph’s ‘The

Government of Themselves' (2006) on Waikato-Tainui, Ngai Tahu and Nisga'a governing case studies. More recently, Kirsty Gover's *Tribal Constitutionalism: States, Tribes, and the Governance of Membership* also serves as an in-depth comparative analysis of tribal membership governance in Australia, Canada, New Zealand, and the United States. The literature on indigenous case studies, is not large but is rapidly growing. Alongside these studies is the work completed as part of the Harvard Project on American Indian Economic Development (The Harvard Project); the Te Puni Kōkiri Māori governance case studies that highlighted areas for improvement and minimum standards for effective governance; and the *Waka Umanga Report* with its comprehensive review of the governance models available to iwi. This body of literature introduced in Chapter Three sets the existing foundation of legal scholarship in the area of indigenous governance within the international scene. This tribally focused study, while attentive to that literature and its findings, presents a specifically iwi-centric articulation of governance that sits within this body of writing.

In Chapter Three, the tribal focused nature of this approach is also noted in relation to the literature. Traditional concepts of governance, for instance, were discussed in this chapter noting the colonial constructed-ness of definitions of Māori 'governance' confined to the terms *kawanatanga* and *tino rangatiratanga*. These are not new discussions in the literature. Indeed, Robert Josephs entire thesis highlights this defining and terminology, where he draws on Section 71 of the New Zealand Constitution Act in 1852 to find his title "The Government of Themselves." Chapter three points out that a specific literature focused on 'governance' in a reflective and critical sense does not appear until the mid-late 20th century, and that the term 'settlement' had been, and is still being, used to describe the government dictated process tribes must follow. The chapter notes that the settlement process and its inherent corporate governance focus has sought to redefine iwi and *tikanga*, and largely seeks to assimilate and eliminate indigenous claims to self-governance beneath a controlling coloniser schema. Although Ngāti Rangiwewehi have demonstrated an ongoing willingness to assert our agency this was increasingly constrained over time as colonisation took over and the jurispathic nature of the Eurocentric traditions spread its influence across the breadth of Aotearoa New Zealand and the unique and diverse tribal legal traditions, frameworks and insights that each Iwi Māori then possessed.

Chapter four examined the potential of Rangiwewehitanga as a de-colonial governance paradigm. The chapter introduced the concept of Rangiwewehitanga as a decolonial paradigm for governance and indeed all things Rangiwewehi, using 'ngā kete rokiroki a Whakaotirangi'

as a metaphor for the values, principles and teachings of our ancestors that embody and ground our tribal governance frameworks within our collective self-determination. Chapter Four endeavoured to introduce a selection of Ngāti Rangiwewehi traditional concepts to enable the reader sufficient cultural context to begin to understand and appreciate an expanded consideration of what governance is, its purpose and function, and the proper processes to carry it all out. Using story and reference to our Atua (Gods) and revered ancestors as exemplars, chapter four showed how tikanga was the first law, adapted over time to meet new contexts and needs. Similarly, whakapapa was emphasised as a core concept within our values-based system of law, regulating the behaviour of individuals through allegiance to and dependence on the safety of the collective. In addition, tikanga as the first law also accompanied the first wānanga – articulated in the story of Ranginui and Papatūānuku. Chapter four, then, builds on the earlier introduction of wānanga as a governing method and practice, highlighting how this practice arose from a deep tradition of wānanga held since the beginning of our times.

Chapter four also noted the importance of roles in Ngāti Rangiwewehi governance. In this, a leader must have the most appropriate skills and expertise and was discussed in relation to our ancestor Māui. The collective nature of tribal governance also accentuated the various roles held within Ngāti Rangiwewehi life and history, where female forebears in our tribe were said to have occupied specific governing roles in the transmission of knowledge across generations. Ngāti Rangiwewehi governance, then, as this chapter illustrated is exerted in multiple spaces: in front and back; on the paepae (speaking bench); and in the kitchen, where the provision of food and hospitality is viewed as crucial to upholding and enhancing the reputation and mana of the tribe. Governance and leadership were further emphasised in the story of Kahawai, who made the ultimate sacrifice for his people. Chapter four points out how in this example Ngāti Rangiwewehi governance requires a commitment beyond the individuality of the person, and that our governing must be properly grounded in our tikanga in order to command the authority to defend it with that level of commitment. Governance in Ngāti Rangiwewehi, as this chapter showed, is never simply about individual roles or responsibilities, but is a collective undertaking that encourages and supports individuals to contribute what they can to better iwi governance. So, while Tohunga (expert) provide spiritual and practical roles within our traditional tribal governance, they are always founded in traditional values and systems for law.

Having discussed traditional Ngāti Rangiwewehi frameworks for governance in chapter four, chapter five then moved on to consider our engagement with the colonisers over a long period

of disenfranchisement, land loss, and the erosion of Māori and Ngāti Rangiwewehi mana tangata and mana whenua. This chapter showed how the Crown assumed and imposed a position of cultural superiority replete with an inherent racism that denied and marginalised Rangiwewehi aspirations and self-governing practices. Nevertheless, Ngāti Rangiwewehi remained responsive and resilient. This is noted in chapter five in reference to the saying ‘Upoko Tu-takitahi’ that asserts the head-strong and determined nature of the tribe as stubborn, committed and persistent. The chapter discussed the government’s desire to reconcile with Māori as a reflection of colonial guilt and aspirations to continue assimilation rather than a sincere effort to provide iwi and Māori with any real self-governing opportunities. Within this colonial context, Ngāti Rangiwewehi along with many of our Indigenous relatives have no desire to reconcile ourselves with colonialism, but instead seek restitution of a just and moral society. Thus, as this chapter asserts, Pākehā law is not objective or just, and therefore in our negotiations and determination to self-govern since coloniser invasions we have consistently had to adjust and strategically negotiate Pākehā governing power. There is no discussion of Ngāti Rangiwewehi evolutionary governance thinking without this contemporary and ongoing historical truth. This chapter, then, proposed that the most adequate way to summarise and articulate Rangiwewehi governance in this period is to express it in the saying, ‘Ko Rangitihī upoko whakahirahira, ko te upoko i takaia ki te akatea’ where our governance is stubborn, determined, and inextricably connected to the well-being of our people, cultural world, and language. In supporting this assertion, chapter five provided various examples of Rangiwewehi governance, with reference to our nineteenth century leader Wiremu Maihi Te Rangikāheke who consistently issued challenges to the New Zealand Government. He, for instance, issued a fiery response following the failure of local settler officials to appropriately resolve the inter-tribal dispute. Te Rangikāheke also led the way in asserting our own governing rights, illustrated in his handling of the murder of a Ngāti Whakaue woman, Kerara, who was viciously killed by an American sailor, Charles Marsden, in Auckland late in 1855. He was also supported by other leaders like Te Arawa kaumatua, Anaru Rangihēua. Ngāti Rangiwewehi’s negotiation and assertion of our own governing authority came at a cost. Rangihēua, as is noted in this chapter, lamented the fact that “our attempts at establishing our own systems of governance... and more importantly our mana was suppressed, and in the end loyalty to the Crown left us bereft.” Thus, while Te Arawa and Rangiwewehi experimented with coloniser laws and practices, chapter five shows that we were adopting and incorporating elements of European institutions into our own traditional systems. The goal was not to adapt our system to theirs, but to use coloniser governance ideas to enhance our own traditional systems.

Chapter five, then, shows how leading figures like Wiremu Hikairo and Wi Maihi Te Rangikāheke made various submissions and proposals on alternative systems to the Native Land Court, and how not only our people, but Te Arawa more broadly (and other iwi) were operating within our own Rūnanga systems with the intention of enforcing and practicing our own law on our own terms. The chapter argues that these intentions and aspirations remained ongoing even into the twentieth century, when in 1996 Te Maru o Ngāti Rangiwewehi (Te Maru) was officially formed but had no legal personality within the New Zealand legal system, and thus led to the establishment of the Rangiwewehi Charitable Trust soon after to function as the operational arm able to apply for funding on behalf of Te Maru. With completion of the settlement now we also have Te Tāhuhu o Tawakeheimoa (TToTT) the newly formed post-settlement governance entity which functions as another component of the Ngāti Rangiwewehi governance structure. While the issue of coloniser controlled governing systems and assumptions had been well addressed in earlier chapters, chapter five notes how the notion of appropriate representation is something that comes through very clearly in the historical minute books of the Ngāti Rangiwewehi kōmiti marae. In conjunction with this issue, the chapter stressed that the Crowns understandings are premised on the view that governance of the group, is governance of a group of individuals. This individualisation had been part of a wider colonial discourse that sought to undermine Māori land ownership and ways of governing since the nineteenth century. With this historical issue at the forefront of contemporary Rangiwewehi engagements with, and evolving ideas of, governance, the various hapū representative models and elected governance structures offered through the settlement process were not appropriate or equitable models consistent with Ngāti Rangiwewehi expressions of self-determining governance. The chapter argued that Māori and Rangiwewehi systems of governance are holistic and collectivist, and that while Te Rangikāheke dared to imagine a future in which the ‘Governors’ of the land ‘will elevate the words and the wishes of the natives, that they may be as law: that there may be one system; that we may together exercise our authority’, our insistence and desires for governance remain connected to these aspirations. In this way, the chapter closes with an historical and contemporary statement of tribal authority in “Upoko Takitahi” that stubbornly yet ethically reaches for the higher standards of accountability, transparency and representation in a Ngāti Rangiwewehi articulation of governance.

Both chapter five and chapter six advocate one of the main arguments of the study: that despite the odds being stacked against the tribe’s assertion of our Rangiwewehitanga and self-determination, there is always space for us to insist and prioritise our own ways of knowing



and being. Chapter six, looking more at recent governing experiences in Ngāti Rangiwewehi lays out a pathway forward to ground our governance entities and practices in our traditional knowledge and values in order to form a strong foundation for self-determination Rangiwewehitanga in and beyond the post-settlement governance era. Drawing on the history of Te Aokapurangi, chapter six discusses the lengths that we are able, and must, go to, in adapting and circumventing tikanga and kawa when necessary to secure the survival and well-being of the tribe. It begins with an admonition that in this post-settlement governance era, we are required to consider what we are prepared to do to ensure that those elements of our culture are more fully entrenched in our governance. This chapter returns again to the importance of wānanga as a necessary, traditional, and crucial form of Tribal Governance Induction, most appropriate to facilitate any induction to Rangiwewehitanga as a decolonial tribal paradigm for governance. It notes how current governance programs are woefully ignorant of the tribal context and specific governance needs the communities face and posit a heavy emphasis on the legal requirements and responsibilities that often serve only to intimidate and alienate tribal members. These impacts, as chapter six points out have the effect of limiting an already shallow pool of potential candidates. Thus, some of the recommendations this study makes is that we must:

- A. develop and institute our own Rangiwewehitanga wananga -which within this expanded tribal perspective of governance will function as a form of governance induction, training and succession program;
- B. conduct regular tribally grounded reviews of our processes and practices to ensure they continue to best serve our needs;
- C. develop effective succession plans which inherently operate to enhance and empower Ngāti Rangiwewehi.

In addition to these recommendations, one of the most important points discovered in the process of this research has been that the nature of the model or structure that the tribe elected to choose for its various governance entities was infinitely less important than the way in which that entity would be run. Chapter six argued that it is not enough to have values and principles written in the governance documents, they have to be used, applied, lived and experienced, to ensure they are guiding and influencing our governance and decision-making effectively. This study argues that this living of Rangiwewehi tikanga has to be strong and asserted as requisite of our governance practice if we are to operate with any autonomy in today's colonising

hegemonic systems of law and governance. This study, and chapter six especially, asserts that Rangiwehi have always had our own understandings of and frameworks for law and governance that empowered us in our own ways of knowing and being. Rangiwehi have always sought to do our best to maintain our own protocols within or around the requirements of the colonizer frameworks (discussed in chapter five). In building a Rangiwehi governance model, wānanga are vital components that will assist our people in refining our governance structure over time. Thus, this study, highlighted in chapter six, proposed a Ngāti Rangiwehi governance induction program that is divided into three modules:

**Module One**, focuses on traditional Rangiwehi understandings of governance, providing the background context of where we started from (whakapapa, waiata, whakatauki and pepeha);

**Module Two**, focuses more specifically on the historical events and colonial processes that facilitated the journey of Ngāti Rangiwehi through colonization to date. This module deals with historical trauma and a reframing of coloniser discourses in order to show how our people have sought to adapt and retain our own governing principles and practices since European arrival;

**Module Three**, provides a space for the tribe to contemplate and consider the most effective future governance pathways. This module focuses on how we might seek to prioritise our values, principles that were unpacked and explored within module one. It looks at various entities and governance frameworks today with the intention to retain the tikanga and values that retain our mana and mauri, and ultimately enable us to uphold the responsibilities left to us by our ancestors.

In addition to, and inherent in, these modules, is also a need to develop and devise culturally competent strategies for better communication, greater clarity, and transparency through all of our governing processes. This study has found that there is a need for Ngāti Rangiwehi to develop more buy-in, wider engagement and more collective accountability where a larger portion of the iwi is more actively involved in the varied governance and supporting roles discussed in earlier chapters. Governance in Ngāti Rangiwehi is not best determined as a professionally paid occupation (least we find ourselves defining governance from a Pākehā perspective). Governance is, as this thesis has argued a birth-right, an inheritance, a cultural identity framework, and is part of the act of being and living as Ngāti Rangiwehi. This collective community emphasis on governance is crucial to ensure commitment to the kaupapa

and one another. Rangiwewehi governance, then, as chapter six argues requires special mentoring, and an induction program for new trustees and regular refresher courses for those already part of our governing tribal committees.

### **Ko Rangiwewehi e ngunguru nei**

This thesis has endeavoured to present a Ngāti Rangiwewehi perspective on governance that works to enable and empower our tribe to operate effectively in a post-settlement governance era. It began with an assertion of myself as part of a Rangiwewehi whakapapa and collective, entrusted with an obligation to my ancestors and my people today to articulate our historical and contemporary expressions of governance on our terms (and not simply my own). I am Rangiwewehi. It flows through my veins, like the water that flows up through from our puna (spring) and gives life to our awa (river). I am my tikanga, and all the ways they order my world and my life. I am intimately connected to the source of their origin, and to the processes and experiences that have caused their evolution. If I am Rangiwewehi, in both a collective and an individual sense, and I am my tikanga, when I say that tikanga is governance I am also saying that I am a living embodiment of Rangiwewehi governance, fulfilling the role left to me by my forebears, my Koro Sam, to my aunties, uncles, cousins and to our children and mokopuna to come. Governance in our tribe is a conduit of experience, and I am part of the link and connection.

This thesis has noted how the ongoing colonisation of our knowledge and governance has left us now with the unenviable task of reclaiming the power to define and enact our governance from beneath the overarching shadow and power of our colonial invaders. This thesis, and our forebears have shown us that we can address it and equip our future generations to be stronger than ever, if that is what we as a collective choose. Our investment and the strength of our desires for this to work out, when combined with the colonial trauma we are still working through makes this a difficult path to walk, as I have experienced throughout this project. It feels like more is at risk, but we can take comfort in the teachings of our ancestors and the knowledge that they are with us still, guiding and encouraging us onward.

In our attempts to create viable pathways for the tribe to enact our self-determination and tino rangatiratanga, this study closes with a declaration that it is essential for us to realise how Rangiwewehitanga holds the potential to function as a decolonial governance paradigm. Such an understanding is central to the aim and aspiration of this project: if we understand what Rangiwewehitanga is and how it functions as an embodiment of our tribal knowledge and the

practices that maintain our identity, our culture and also our governance, it also offers an inherently decolonial or anti-colonial way of reconnecting our tribal governance entities and processes to the only framework that can guarantee the well-being of the collective and the achievement of our cultural aspirations. Although this study has been undertaken within the Faculty of Law, it is in truth a multidisciplinary project, not because it is necessarily striving to be, but because in its desire to adhere to and advocate on behalf of Indigenous and Ngāti Rangiwewehi ways of knowing and being it must argue against the limitations imposed by the western academy's insistence on separating out our 'law' from our 'culture', or our 'spirituality'. These elements are each inherently a part of our traditional governance frameworks, and not coincidentally also the educational processes that ensured appropriate transmission across generations. To attempt to compartmentalise them into discrete parts is not only antithetical to how we originally functioned as a people but undermines the intrinsic efficiency and effectiveness of Rangiwewehitanga as a way of being. In her doctoral thesis, Linda Tuhiwai Smith once argued that "reclaiming our own language and writing our own literature is a way of decolonising the mind and is a critical part of recreating, restructuring a national and cultural consciousness."<sup>420</sup> Ngāti Rangiwewehi governance requires a decolonising of the mind, an unravelling of our past, and a reworking and reweaving of the way we hope to govern for the future. We have a tribal archive of governing rules, traditions, practices, proverbs, songs, histories, genealogical connections and reference that tie us into the governing of our lands, water ways, people, and all aspects of our tribal identities. When we utilise and bring this knowledge not to the forefront of codes and reports, but into living practices that serve as the founding principles and conduct of tribal governance, we can begin to express governance on our terms. Our language and culture are at the heart of the process, but it is the people who will give it action, voice, and expression. We are the ultimate expression of our governance and carry with us the instructions and experiences of our tūpuna to convey and explain what is necessary in our time as it was in theirs. We should take heed of these lessons, and the words of ancestors such as Wiremu Maihi Te Rangikāheke, who left us with these sentiments:

‘Kaore he mea i waiho noa e ōku tūpuna te tini raupeka kia waimarie ai.’

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<sup>420</sup> Linda Tuhiwai Mead, "Ngā Aho Matua o te Kakahu Mātauranga: The Multiple Layers of Struggle by Māori in Education" (Unpublished PhD thesis, University of Auckland, 1996) at 11.

‘My ancestors left nothing undone to make sure that the very many things of uncertain or doubtful outcome should turn out favourably.’<sup>421</sup>

Our people need healing, and this includes healing our definitions of how we govern ourselves, as individuals and collectively. I have truly loved and appreciated all of the stories and insights that were shared with me during the research undertaken for this thesis. I have written these things not because I believe I know better, or to criticise or undermine our past or present governing structure, leader, people, or bodies. This thesis is written as a representation of a deep love for my people, and a desire to see our wounds healed, our governing practices critiqued improved and elevated, so that we might leave a more unified future for our tamariki and mokopuna, in which they will inherit their governing birth-right in stronger condition than when it arrived in our hands – because this is again one of the key principles of our collective iwi governance as Wi Maihi reminds us above, “to leave nothing undone” so that whatever doubts or uncertainty we have endured or continue to face, we will even in our descendants find a favourable outcome.

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<sup>421</sup> Te Rangikāheke. Kōrero tuku iho (oral communication).

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## Appendix 1: Glossary of Selected Māori words and terms

ahi kā	burning fires, a concept which refers to continuous occupation of land
akiaki	to urge, encourage, incite, exhort
Aotearoa	original Indigenous name for New Zealand
aroha	to love, to feel pity, concern, compassion, affection, sympathy, empathy
awa	river
Awahou	Ngāti Rangiwewehi settlement, refers to village, surrounding area and river
haka	to dance, perform, performance of a particular type of ceremonial dance
hapū	kinship group, tribe, subtribe, also to be pregnant
Hawaiiki	Traditional ancestral homelands
hui	to gather, congregate, assemble, a meeting, seminar or conference
ihi	essential psychic force as opposed to spiritual power (mana), power, charm,
iwi	extended kinship group, tribe, nation also means strength or bone
iwitanga	tribalism, tribal identity
kaihautū	leader, captain, person who gives time for the paddlers in a canoe
kaitiaki	trustee, custodian, caregiver, steward, kaitieki is Ngāti Porou dialect version
karakia	to recite chants, prayer, incantations, ritual chants or charms
karanga	to call, call out, ceremonial call welcoming visitors onto a marae in pōhiri
kaumātua	elder or person of status within the whānau
kaupapa	topic, matter for discussion, plan, purpose, subject, theme, issue, initiative
kawa	in Te Arawa the cultural values and principles which frame our protocol
kāwanatanga	government, governance, authority, dominion, rule
Kīngitanga	a political movement, developed in 1850s based in Tainui tribes
koha	gift, present, offering, cultural practice of reciprocity and relationship building
kōhanga reo	language nest, Māori cultural early childhood education providers
kōrero	to tell, speak, discuss, conversation, discourse, information
kōrero tuku iho	history, ancestral teachings, traditions, oral tradition, stories of the past
Koro/Koroua	an elderly man, grandfather
Koromatua	Chief, leader, significant ancestor
koru	to be folded, looped, coiled, a spiral motif reflective of a fern frond
Kuia	an elderly woman, grandmother
kūmara	sweet potato
mana	prestige, authority, control, spiritual power, supernatural force
-mana motuhake	autonomy, separate identity, self-government, independence, sovereignty
-mana tangata	power and status accrued through one's leadership talents, mana of people
-mana wāhine	power and status that derives from being a woman and the ability to give birth
-mana whenua	territorial rights, power from land, authority over land or territory, jurisdiction
manaakitanga	hospitality, kindness, generosity, support, process of showing respect and care
Māori	normal, common, native, indigenous, the Indigenous people of New Zealand
manuhiri	visitor or guest
marae	courtyard in front of wharenui, tribal gathering place central to community
mātauranga	knowledge, wisdom, understanding, skill, education
maunga	mountain
mauri	life principle, life force, vital essence, essential quality and vitality of being
mokopuna	grandchild or descendant
murū	process to take ritual compensation, confiscation, restorative justice
Ngā Puhi	Northland tribe
Ngāti	prefix for a tribal group indicating descent from common ancestor

Ngāti Whakaue	Significant Te Arawa tribe, descendants of Whakaue, father of Tawakeheimoa
Pākehā	English, foreign, European, New Zealander of European descent
papakōhatu	foundation stone, Te Arawa had three at Tarimano, Papaïouru and Pakira
pātaka	storehouse raised upon posts, pantry, food storage
Parihaka	town established in Taranaki by Te Whiti and Tohu
pepeha	tribal saying, proverb, ancestral saying, figure of speech
pōhiri	to welcome, invite, ritual of encounter, formal welcoming ceremony
poutokomanawa	centre ridge pole of a meeting house
puna	spring of water, well, pool
pūrākau	ancestral teachings based in stories
rangatira	to be of high rank, chief, leader, esteemed, revered
Rātana	Māori religious and political movement formed by Wiremu Tahupōtiki Rātana
Ringatū	Māori Christian faith founded by Te Kooti in the 1860's
Rotorua	abbreviation of Rotorua-nui-a-Kahumatamomoe, name of lake and the city
tāhuhu	ridge pole of a house, direct line of ancestry
tamariki	children
tāngata whenua	local people, hosts, indigenous people, those born of the land
tangihana	ritual process of mourning, ceremonial funeral rites
taniwha	water spirit, powerful creature, often regarded as guardians of the local people
taonga	treasure, anything prized and valued, property, goods, possession
Te Kotahitanga	means unity, political movement intended to unify Māori pan-tribally
Te Ohu Kaimoana	Māori Fisheries Trust
Te Puni Kōkiri	Ministry of Māori Development
te reo	the language, used in this context to refer specifically to the Māori language
Te tiriti o Waitangi	The treaty of Waitangi, signed between the British Crown and a few Māori
tikanga	in Te Arawa, correct procedure, custom, law, the rules that enact our kawa
tino rangatiratanga	self-determination, sovereignty, autonomy, self-government, power
tohunga	expert, priest, healer, skilled person, to be proficient, experts in sacred law
tupuna	ancestor, grandparent, note tūpuna is the plural of tupuna
tupuna whare	ancestral house
utu	to repay, respond, concept of reciprocity, balance, reply, answer, retribution
waiata	to sing or a song
wairua	spirit, soul, non-physical spirit, distinct from the body and mauri
wānanga	physical space, process and content of learning, discussion, tribal knowledge
whaikōrero	formal speeches
whakatauākī	ancestral sayings, proverb, to utter a significant saying
whānau	extended family, primary economic unit of traditional Māori society
whanaungatanga	relationship, kinship, develops as a result of reciprocal rights and obligations
whare	house or building
wharehenui	term commonly used for the main ancestral meeting house on the marae
whare tupuna	ancestral meeting house
whakapapa	genealogy, lineage, to recite in proper order, to place in layers
whenua	land, ground, territory, domain, placenta

## Appendix 2: Selected Ngāti Rangiwewehi Waiata

### i. From Chapter 2: E noho ana au

E noho ana au i runga i tōku taumata i Tiheia, Mau rawa te whakaaro he aha tēnei e patuki ake nei, tēra koa ko ngā niho tēte o Pekehāua e aru kōrikoriko ana, i waho o te kōhanga wai o Awahou	I am sitting on the summit of my mountain Tiheia, deep in thought pondering as to what gnaws within me, like the serrated teeth of Pekehāua flashing hungrily at me, from its watery lair in the Awahou (river)
Ko ngā tāpui kākahu waero hoki e maka noa te piri ki te taha komako o Puhirua E ai ra te titito ki waho i Tarimano Ki ngā wai karekare i ariki ai a Kahu	Over yonder towards Puhirua A mist is forming like a white dog-skin cloak blanketing my vision And looking towards Tarimano I see the rippling waters of lake Rotorua
Ki te ūira o te tāngata E mau mai ra i te motu tapu a Tinirau	And beyond to Mokoia I still hear the resounding footsteps of the warriors of old
I totope ai te kawakawa Hei ngaki kau mō taku tupuna Mō Tawakeheimoa, e tū makona e ara e	Visualising still the sacred kawakawa, once used ceremoniously by my illustrious ancestor Tawakeheimoa, from whence I descend
Kātahi ka titiro atu au ki Pukeroa-Oruawhata Ki taku mana tāngata E noho mai ra i Muruika, i Pukeroa E tū mai ana Ko te pou mua, ko Tuhourangi Ko te pou roto, ko Uenukukopako Ko te poutokomanawa ko Whakaue-kaipapa I puta te rongō o Tawakeheimoa O Ngāranui, o Tuteaiti O te Aitanga-a-Tutanekai	I then gaze towards Pukeroa-Oruawhata To the seat of my mundane powers That rests upon Muruika and Pukeroa Where stands The front pole of Tuhourangi The inner pole of Uenukukopako The central pole of Whakaue-kaipapa From whence comes the glory of Tawakeheimoa, Ngararanui, Tuteaiti and Tutanekai

### ii. From Chapter 2: Ko te whiu

Ko te whiu o te kōrero i whiua ki Tarimano Ko Te Aongāhoru ko te ruahine A Tawakeheimoa Kia rere ki mua Ko Rangiwewehi e	Tis said Tarimano is the foundation Te Aongāhoru the revered spouse Of Tawakeheimoa Whose first-born son was Rangiwewehi
E huri ki te hautonga ki runga Weriweri E mihi atu ana kia Ngāranui E tae koe ki Parawai Titiro whakarunga ki te maunga Kei Te Raho o te Rangipiere Ko te Puna Waioa a Tuhoe e	Turn Southwards towards Weriweri And greet Ngararanui Continue on to Parawai to Whatumairangi Gaze upon the maunga Ngongotaha Directly below lies Te Raho o te Rangipiere And the fairy springs of Tuhoe
Takahia atu rā ki te Papaiōuru Ki runga Pukeroa Matakitaki iho ki Ōhinemutu, ko Muruika Ko taku tupuna Tamatekapua Nāna i moe a Whakaotirangi Ko Ngāti Whakaue e	Proceed to Te Papaiōuru Above is Pukeroa Oruawhata Gaze down upon Ōhinemutu and Muruika Tamatekapua who married Whakaotirangi Where resides Ngāti Whakaue
Tuhourangi i te Pākira	Remain Tuhourangi on your stronghold pa As we continue around Lake Rotorua



<p>Ka huri i te Rotorua-nui-a-Kahu Ko Uenukukōpako Ko Hinemoa nāna i kau ki Mokoia Ki a Tutanekai e</p> <p>Ka tae ra ki te taumata o āku tini whanaunga A Kawatapuārangi Kia tata atu ra kia piri atu ra Ki te paepae poto a Houmaitāwhiti</p> <p>Ka hoki ngā mahara ki Waitaha Ki āku tūpuna e moe mai ra I Otaraninia, i te take i o Rangiuru</p> <p>Ka huri te aroaro ki te uunga o te waka ki Maketū Ko Tamatekapua nāna i whakakau Te Moana-a-Kiwa I whakarere atu te kāinga tuku mai Na Houmaitāwhiti te kupu ki ōna uri, e tae koe ki tae ki tū he mate mōu me mate taraawhare Kia hiwa rā Te Arawa E!</p>	<p>To Uenukukōpako Hinemoa who swam to Mokoia to her lover Tutanekai</p> <p>We will proceed to the summit Of my many relatives of Kawatapuārangi To be embraced and inspired Within the threshold of Houmaitāwhiti</p> <p>My thoughts return to the coast to Waitaha Where my ancestors rest peacefully At Otaraninia, at the base of Rangiuru</p> <p>I face towards Maketū To the landing place of the Te Arawa canoe It was Tamatekapua whom traversed The great sea of Kiwa Leaving behind his homeland Houmaitāwhiti's farewell message to his descendants Live in peace hereafter Be strong Te Arawa E!</p>
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iii. From Chapter 3: E kimi noa ana

<p>E kimi noa ana i te tīmatatanga Te ihi, te wehi, te mana O aku tūpuna whākina mai Kei Ōrangikahui</p> <p>Kei raro iho ko te ana i Hauraki Ka hoki whakamua ki Puhirua Te moengaroa o te tini te mano O aku tūpuna o Te Waharoa</p> <p>Ka whakatika ahau ki te hiwi i Puketi Mātakitaki iho ki Mokoia Ki taku moana Ki te Rotorua-nui-a-Kahu</p> <p>Kahore au e whakaroaroa Ka hikoi au ki te Pūtahi Ko Rakei Kohunga tēnā Whakawhiti atu i ngā wai o te Awahou</p> <p>E tare mai ra te hiwi i Pukeroa Ka heke iho ko te ana o te taniwha Ko te hāhaenga o Pekahāua</p> <p>E huri te kanohi ki te hautonga Ko te Papaiōuru Ko te Pakira Ko ngā papakōhatu ēnei o Te Arawa</p> <p>Titiro kore ki te whitinga mai o te ra</p>	<p>Seeking and wondering where is the beginning of our ancestral powers and genealogy Ōrangikahui wherein lies our forebears of many generations</p> <p>Directly below there is a cave at Hauraki, go forth to Puhirua Where sleeps hundreds and thousands of our ancestors and Te Waharoa</p> <p>I will go direct to the hill at Puketi Where I may look upon Mokoia Island and lake Rotorua</p> <p>I will not delay but walk on to the Putahi, to Rakei kohunga and cross over the Awahou stream</p> <p>Above me towers Pukeroa hill Down below the Taniwha springs Where Pekehāua the taniwha was killed and hacked into three portions</p> <p>I turn my face in a southerly direction To Papaiōuru, To Pakira The foundation stones of Te Arawa</p> <p>Look to where the sun rises</p>
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Ko te Ngāmahorehore Ko Whakāmanu Ko Mātaimarino Ka tae au ki te Wērenga	To Ngāmahorehore To Whakāmanu To Mātaimarino I am now at Te Wērenga
E hoki ana ra ki tōku iwi Ki a Rangiwewehi Ki tōku papakōhatu ki Tarimano Ka tae au ki tōku tupuna Tawakeheimoa, e ko kōia e Koro e	I am returning to my tribe to Rangiwewehi To my foundation stone Tarimano I reach my ancestor Tawakeheimoa To whom I pay tribute

iv. From Chapter 4: He tangi mō Kahawai

Tangi tu mai, tangi rere mai Tangi tīwarawara I te ata o Tū-kā-riri, e i!	Stand there are weep, weep copiously Weep without restraint Because of the shadow of Tū the angry one
Tangihia kia nui te tangi ki te matua Ka pā ia nei he mate i te marama He mate e hoki mai ki a tāua, nā i	Lament loudly the lament for a father Would it be were the death of the moon A death which returns to life for you and me
Moe rawa iho nei kit e pō, rū ana te whenua Ka horo mai kōa te tihi ki Puhirua Ka whati ra, e te Rau-o-te-Huia Ko te tohu o te mate, nā i	The nights repose is broken by a quaking world The peak of Puhirua has fallen hitherwards Broken off is Te Rau-o-te-huia The sign of death, ah me
Nau kōa ra kai kaiapo i te riri Tē whakaaro koe he tangata takitahi Ka hoki whakamuri ki te tohu whakarewa Te whana tukutahi, te whana kai tāngata	Indeed, you hungered for the fight You saw not the folly of one against many And did not retreat betimes to the alerted warriors Ready for the charge the man-killing charge They were the many of 'Ati Rangi ah me!
I te nui 'Ati Rangi, nā i Hare ra, e te hoa, te wehi o te whenua! Hare atu ra koe, te mata kai kutu! Te ingoa ka raka ki tawhiti ra, i!	Fare thee well comrade the feared one of the land Depart with your vermin-destroying spirit Your name will resound afar off
Koa noa mai ra e te Riu-pāwhara i te tonga Kauaka e koaia, he tikoki waka nui Whakarewaia ra Te Arawa i te wharau Ka papa ngā hoe ki runga te taumanu Hiko ana te uira, rapa ana i te rangi Kia āta whakaputa, kai peehia koe He hau ranga whenua, kia tū i te waru, Mōwai rokiroki e i	Gleeful you are O Riupāwhara in the south Do not gloat because the big canoe floats unevenly Come now launch Te Arawa from its shelter Make the paddles resound along the hull Whilst lightening flashes and the heavens are alight
E tama e! Kia tau ki raro ra Kia āta whakaaro ko Whakatau anake Nāna i tiki atu i te ngakinga mate Mō Tū-whakararo, ka wera i reira Te Tini o Mana-hua, e i	But emerge with care lest you be submerged There are lashing winds now the eight month has come Which will desolate (the land)
Waiho nei te iwi, hūhē noa nei Ko wai ra e he utu ki muri nei? Kimikimi noa ana rangahau noa ana	O son alas, Rest there below Let us recall it was only Whakatau Who went to avenge the death Of Tuwhakararo and burnt by fire

<p>Ka ngaro hoki ra e ko te Manu a Tiki Te whetū tātai o tea ta ko Hika-reia, nā i</p> <p>Patua i te whenua inumia i te wai To tūranga kaupuke ko Waikōrire ra i</p> <p>Hai mahinga kai Tū-aro-paki Hai aha Taharangi he rākau ka popoa Na wai ra? e i whiti ki muri nei? Waiho ki tatau ana ngā pō o te rangi Kia tu Tāwhirimātea rāwhiti tu ki Tauranga Kia kari te tonga kai whare a Tauī i kari ki Waikato ra Kia kūmea mai he taniwha moerua Ko te Kanawa-o-tū, ko Pohepohe ra i Ka ea ko te mate i te hoa nā i</p>	<p>The multitudes of Mana-hua</p> <p>The people are left bowed down with sorrow Who is it now who will make good (this loss)? We search in vain we seek forever For lost now is the Bird of Tiki Only the star to herald the dawn remains tis Hikareia, alas</p> <p>Destroy that land, drink its waters Make your ships anchorage at Waikorire yonder</p> <p>Make a plantation at Tu-aro-paki Ignore Taharangi a rotting staff Whose sun will it be that will shine hereafter? Leave him to count each fall of night And the dreaded assault of Tāwhirimātea from the east upon Tauranga Which did uproot in the south the house undermined by Tauī in Waikato yonder Te Kanawa-o-tū and Pohepohe Thus was the death of my comrade avenged ah me!</p>
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