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Maori Affairs Policies 1984 - 1994 and Maori Trust Boards

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ANN SULLIVAN

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Abstract

In the 1980's government moved from a highly regulated economy to a market driven economy. Major changes were made to the machinery of government, to state trading activities and to government policies and programmes. "Devolution" was the term used by the Labour government of 1984 to introduce its Maori affairs policies. Devolution was perceived as a radical policy initiative aimed at improving the socio-economic position of Maori while also complying with the fiscal initiatives of Treasury. For Maori, devolution was seen as a means to help empower the tribes, to assist their tribal development ambitions, albeit in a limited manner, in the practical implementation of the new policies.

This is a functional analysis of the effects of public policies specifically relating to Maori affairs, on Maori Trust Boards constituted under the Maori Trust Boards Act 1955. The primary (and most convenient) means of facilitating devolution was to use the framework of Maori Trust Boards that had originally been constituted to administer compensation funds on behalf of named beneficiaries. The paternalistic legislation under which Trust Boards must still operate inhibits tribal development and needs to be re-examined as does the formula under which perpetuity compensation payments are made to some Trust Boards. It is argued that Maori organisations such as Maori Trust Boards, by way of participation in policy formulation, planning and implementation, should be seen as a vehicle through which service delivery to Maori can be significantly modified and positively improved. Perhaps then we will see an improvement in the socio-economic statistics relating to Maori.

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My greatest debt is to those who have passed on but provided me with the foundations on which to build. Haere e nga tupuna, haere, haere ki te po.

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"It is never easy to know why research is being done, or whose interests in the end will be served. The accumulation of knowledge about colonial or tribal populations is often a facet of control or exploitation - even when the researchers firmly believe otherwise " (Brody 1983:xiii)

INTRODUCTION

Today, as in the past, the government expresses concern and empathy for the relatively low status of Maori in New Zealand society. Government projects a desire for an equitable solution that will create equality between Maori and non-Maori. Socio-economic statistics, however, provide stark evidence of its failure to do so because the 'solutions' to date have not achieved this. The primary objective of this thesis is to assess the impact of the government policy of devolution on Maori organisations, using the structures and administrative procedures of Maori Trust Boards as the vehicle for analysis. Devolution, it will be argued, should empower the tribe to determine the necessary social, economic and political developments for their people, not the state.

In 1988 the government embarked upon the most radical reform yet in its relationship with the indigenous people of New Zealand. The policy initiatives were called 'devolution' and in theory, the administration of government funded programmes and services were to be shifted from central government to tribal organisations. Since 1986, many Maori Trust Boards have been administering government programmes.

Maori Trust Boards were originally set up to administer compensation monies paid by the New Zealand government to various Maori tribes in settlement of unjust or illegal land confiscations, land disputes, lake ownership and similar grievances. Government insisted that Maori Trust Boards be legally constituted to administer the compensation funds, and the first payment of compensation was made to the Te Arawa Maori Trust Board in 1924. Between 1924 and 1958, eleven Maori Trust Boards were constituted, as was one other in 1981 and they now all come under the consolidating 1955 Maori Trust Boards Act (see Appendix One). Since 1987, further Trust Boards have been formed, although they are not set up to administer tribal funds but rather, to administer government programmes to their people. Appendix Two provides details of the later legislation that covers the post-1986 Trust Boards or Runanga.

Traditionally, the funds that have been administered by Trust Boards on behalf of their beneficiaries have been relatively small. Compensation funds were paid out to Trust Boards either as annual payments in perpetuity, or single lump sum payments. Those Trust Boards that accepted a lump sum payment invested their funds in various income producing investments, such as farms, buildings and so forth. The Trust Boards that accepted annual perpetuity payments however, are forced to accept compensation funds that are not inflation proofed nor indexed to the cost of living. It will be demonstrated that because government has not even retained the original value of the assets for which the perpetuity payments are made, Maori tribes are subsidising many of the nation's income producing assets. In effect the New Zealand government has a perpetual lease on the use and exploitation of Maori resources for

which it refuses to pay a market rental price - a very effective means of preventing tribal development and self-determination.

The policy of devolution meant that new legislation was required to provide government with adequate financial and accountability controls on those organisations that would implement government programmes. Several Maori Trust Boards were already delivering government programmes but their legislation did not provide appropriate safeguards for government. Instead, the Runanga Iwi Act 1989 was passed and expected to provide government with the necessary legal requirements. Even though the Runanga Iwi legislation became law, it was repealed just a few months later when the new National government took over the Treasury benches. In 1990 the direction of government policies for Maori affairs changed. The National government's policy document was entitled Ka Awatea (the new dawning), and the major policy change was to initiate a process of contracting government services rather than devolving services to the tribes. The National government is tending to use Trust Boards as contract agents and the challenge now for Maori organisations is the extent to which they can control and administer resources to determine whether the reforms lead to the devolution, decentralisation or deconcentration of political and economic power.

A discussion of the debates surrounding the ill-defined concept of decentralisation will be followed by the suggestion that traditional tribal structures are a viable and appropriate means of devolving resources to Maori, to aid the self-determining process aimed at reducing Maori economic dependence upon the state. An examination will be made of the changing functions and administrative requirements

of Maori Trust Boards as they seek to provide a vehicle for devolution. The paternalism of legislation currently determining the activities of Maori Trust Board administration inhibits a Maori self-determining process. The background to the setting up of several Maori Trust Boards is provided as a clear example of extreme breaches of the Treaty of Waitangi and to illustrate the changing expectations that Maori have of their tribal organisations. The issues surrounding the payments government make to Maori Trust Boards as compensation for government 'ownership' of Maori resources will illustrate the justice of ensuring perpetuity payments are inflation proofed or indexed to the cost of living. The implication being that the tribes are being denied fair and adequate compensation for resources that should be returning them an income that would allow tribal development independent of the state. This will be followed by an assessment of the impact upon Maori, of the 'devolution' policies of government since 1984. It will examine Maori calls for self-determination and the means for economic recovery aided by the reassessment of compensation. The conclusion will argue that devolution is an instrument that can be effectively used for Maori development but it does require a functional transfer of power from government to Maori organisations.

Research Design and Methodology

The empirical research methodology has to a large extent been culturally defined and Maori protocol observed. It would not have been possible to carry out this research if I did not have the consent of my own people (Nga Puhi). I would not have been able to gain the co-

operation of other Maori Trust Boards if members of the Tai Tokerau Maori Trust Board had not been willing to co-operate. Sir James Henare (Ngati Hine), Sir Graham Latimer (Ngati Kahu) and Robert Mahuta (Tainui) were instrumental in legitimating my research project although they cannot be held responsible for the project itself.

Six of the eleven[1] Maori Trust Boards constituted under the 1955 Maori Trust Boards Act agreed to be included in my research. They were Tai Tokerau, Tainui, Ngai Tahu, Te Arawa, Taranaki, and Tauranga Moana. Te Runanga O Ngati Porou constituted under their own legislation in 1987 also consented to my work.

Personal interviews with key informants were carried out in the six tribal areas and with various members of Manatu Maori (Ministry of Maori Affairs), and Te Puni Kokiri (Ministry of Maori Development). The type of interview style depended upon the respondent. Some respondents preferred the semi-formal structure of interviewing where the discussion was directed by the interviewer. Agreement to be tape recorded was mixed. When interviews were recorded, the tapes were transcribed and a copy sent to the interviewee. This proved to be very beneficial to me as often transcripts were returned, clarifying issues or elaborating on initial responses. Other interviews were informal and unstructured. In these instances time was irrelevant. For some, Maori formality (kawa), hospitality, and whakapapa were important and needed to be observed. Patience was also necessary because it could

1 The Aupouri Maori Trust Board is also constituted under the 1955 Maori Trust Boards Act but it was set up to administer a communal farming enterprise and income derived from lands at Te Kao. It does not administer compensation funds as do the other eleven Trust Boards.

sometimes take a day or two before a kaumatua (elder) was satisfied that appropriate preliminaries had taken place. These could include the dissemination from them to me, of tribal, local or family histories. Only then would they respond to my research enquiries.

A considerable amount of unpublished data was acquired during the course of interviews and attendance at various hui (meetings). There is not a substantive amount of published material on Maori issues relating to the research topic therefore substantial reliance was placed on personal interviews and on primary resource material.

No reira

Tena koutou tena koutou kia ora tatou katoa.

Chapter One
Theoretical Grounds for a Critique of Governments' Maori Affairs Policies

Decentralisation

The catch-phrase used by central government in the mid 1980s to implement reform programmes was that of devolution. Devolution is, however, ill-defined and it is a concept which comes under the general rubric of decentralisation. There is no comprehensive theory which adequately explains the different degrees of power encompassed in the concept of decentralisation but the differing dimensions to decentralisation have considerable impact on power, autonomy, sovereignty or self-determination, and state or community involvement in policy making.

The central principle inherent in the concept of decentralisation is that of a shift in power from the centre out to the periphery, it implies a structure of administration whose power base to some extent, includes people at the local level. It alludes to decision making being based on local knowledge instead of solely emanating from the ruling elite (Mawhood 1987), but it can also encompass tight central control over operations at a local level. A major factor in the lack of any universal theory on devolution is because power is a complex phenomenon and its distribution is difficult to measure. Nevertheless, decentralisation in its various forms of devolution, delegation and deconcentration, underlies the restructuring of central government and local government in many countries. Mackintosh (1968) for example, provides a good

outline of the devolution of power with regard to local government in the United Kingdom, whilst Bagdanor (1979) focuses more on the conceptual issues of the devolution process in the United Kingdom. In recent years there has been considerable debate on the theory of decentralisation which especially draws on the experiences of many African nations (see Bekker, 1988; Cameron, 1990; Dewar, 1985; Heymans, 1989; and Mawhood, 1987). However Rondinelli (1981 & 1986) perhaps provides the most useful classification of the various forms of decentralisation.

Rondinelli and Nellis (1986:5) define the general category of decentralisation as

> the transfer of responsibility for planning, management and the raising and allocation of resources from the central government and its agencies to field units of government agencies, subordinate units or levels of government, semi-autonomous public authorities or corporations, area-wide, regional or functional authorities, or non-governmental private or voluntary organisations.

Their categorisation overlooks the relationship between those controlled in their operations at a local level by a very centralised structure but nevertheless it provides a useful base from which to discuss the issues surrounding the concept of decentralisation.

Rondinelli and Nellis' (1986) definition implies a regional (territorial)

transfer of power to subordinate levels of government as well as a transfer of power to economic, social or cultural sectors of society (functional). But the body of literature relating to decentralisation deals extensively with the distribution of power from central government to local government authorities whilst the transfer of power to tribal organisations (non-governmental private or voluntary organisation), is less than adequately researched or documented[2]. Yet functional (as opposed to territorial) decentralisation provides for community participation in decision making. It expresses demands from the 'grass roots' and thereby can provide a balance to decision making that emanates solely from 'above'.

For indigenous minority groups, decentralisation is seen as an instrument for development which utilises the skills and experience of the local community. Demands for self determination can be partially met by granting the appropriate degree of autonomy on a tribal basis (rather than a geographic basis). The functional transfer of power is the concept under which Maori people have understood the process of devolution in New Zealand, but in order to analyse this in depth one needs to understand the processes involved in territorial decentralisation. The literature relating to the geographic transfer of power, or the decentralisation of government, particularly to subnational levels provides many of the tools for a critical analysis of functional decentralisation.

2 Some work has been done in this area regarding Native Americans (see Deloria & Lytle, 1984; Frideres, J., 1988), but it is limited.

Devolution, Delegation and Deconcentration

Decentralisation has varying degrees of autonomy and Rondinelli (1981) identifies three distinct forms - devolution, delegation, and deconcentration. The most extreme form is that of devolution which allows for the creation of a relatively independent body which has final decision making authority over policy making and its execution. It does however, operate within constraints as outlined by Bagdanor (1979:2). That is, devolution involves the dispersal of power from a superior to an inferior political body but the devolved functions or decision making that take place are limited by the constraints already operating within the established legal framework of the country. Therefore, devolution retains the supremacy of parliament and the political system within which it operates. This Bagdanor (1979) argues, differentiates devolution from federalism which actually divides supreme power between Parliament and provincial or state governments. In a federal system power is coordinated or shared between federal government and state governments and their respective areas of authority are defined by a written constitution. The division of power is constitutionally guaranteed. Therefore, devolution allows for the full responsibility of a function to be transferred from government to another body so long as it operates within the legal boundaries of the legal system itself.

Delegation involves the transfer of different degrees of discretionary powers regarding the planning and implementation of specific government policies, to organisations or agencies that have the technical and administrative ability to carry them out. Delegated

power, Cameron (1990:41) argues, is normally controlled by the attachment of conditions by the delegating authority. Policy is made by central government but its implementation and administration occurs at the local level. Generally there is very limited discretionary authority for the local staff whose functions are prescribed within central government guidelines. Cameron (1990:41) argues that the motivation for delegation and deconcentration is often to reduce the workload of the central office or to remove contentious issues from central government and thereby avoid pressure at national level. Delegated or deconcentrated power may in fact increase the workload at the local level but it does not necessarily mean a devolution of power.

Deconcentration is the least extensive type of decentralisation. It typically involves the transfer of the workload from central government to regional or local offices with no autonomy or discretion given to the local administrators. Several countries have used government officials known as prefects, governors, collectors or district commissioners to supervise local government and ensure that policies are implemented according to central government rulings. This means that the single official is symbolic of the state and the deconcentration of power ensures that autonomy remains in the hands of the state.

Further to Rondinelli's (1981) three categories within the broad theory of decentralisation, it must be recognised that there are differences among the various forms of decentralisation and that they are not mutually exclusive. Rather than existing in their 'ideal' form, most

structures are a combination of these forms of decentralised administration. It is therefore, considered appropriate to review Mawhood's (1987) analysis of a 'mixed' system of local administration. He defines this as a means for

> seeking the public's support and identification with the state, employing structures of grass roots participation but not conceding real power to the local administrators (Mawhood 1987:13).

In other words, Mawhood (1987) sees the mixed system as an attempt to pursue participatory values, but without paying the political costs. It is a variation of both deconcentrated and delegated authority. Mawhood (1983 & 1987) does not give any evidence of devolved power whereby new units of authority outside the control of central government, were created.

The African Experience

The African experience according to Mawhood (1987) has been varied. Generally there was traditional tribal autonomy in Africa prior to colonisation, which tended to be replaced by paternalistic colonial administrative structures, which in turn were replaced after independence (during the 1960's), by a centralised system of government. In modern Africa the Russian central-planning model was influential amongst most African leaders in the period after national independence while the former French colonies were influenced by Rousseauist ideas of an indivisible national power (Mawhood 1983:6),

French administration also has a centralist tradition. Central decision-making was viewed as the key to rapid socio-economic change. Unfortunately this never occurred, projected increases in gross national production never eventuated, rural areas did not prosper and urban growth increased rapidly. It was quickly recognised that administrative practices were ineffective and nepotism commonplace (Mawhood, 1983:6). Demands for participation from the grassroots grew and the centralised practices of the 1960's were replaced in many African countries by a mixed system of deconcentrated and delegated administration. In Kenya and the Sudan, this operated parallel to a system that also had elected local officials who had little influence over decision making. Ultimate power or authority still rested with 'deconcentrated' officials.

Mawhood (1987) provides an interesting account of the Tanzanian situation to illustrate this cycle of administrative procedures since it used the mixed system for a short period in the 1960's, tried centralism and then moved to the more typical model[3] of local government shortly afterward. In the 1980's it revived once again the 'mixed' system of local administration. Mawhood (1987) contends that

3 There are five points which make up the ideal model of local government. 1) A local body should exist which is constitutionally separate from government and responsible for a significant range of services. 2) It should have its own Treasury, a separate budget and accounts and its own taxes to produce a substantial part of its revenue. 3) It should have its own qualified staff, with hire and fire power over them. 4) Decision making on policy and internal procedure should be in the hands of a majority elected council. 5) The central government administrators should be external advisors and inspectors with no role within the local authority (Mawhood, 1987:12).

the 1960's attempts at participatory government were perhaps ahead of their times in Africa since it involved an element of power sharing which the newly installed governments were reluctant to relinquish. The newly independent African regimes perceived de-participation of the people, or centralisation, as necessary to establish political control (as well as being influenced by the centralising policies of Marxism and socialism). But the increasing socialisation of the people to modern systems of government means that it may be difficult for the African nations to resist increased demands for local participation. If this line of reasoning is pursued then it will be inevitable that there will be new pressures for participation and decentralisation in many African countries. Whilst Tanzania has now embarked on a mixed system of administration, it is severely threatened by a general shortage of resources, and this can exacerbate centralised tendencies to deny local authorities essential operating funds. Mawhood (1987) is cautious in speculating on how successful the new local bodies will be.

It is Mawhood's (1987:14) contention that the reason some African states went into a mixed administration system was because they wanted to attempt to pursue participatory values without paying the political costs. In most developing nations devolution of power means that local representatives must have influence over decision making; coordination between officials on a horizontal level must be recognised, otherwise local bodies end up battling one another for resources rather than central government; devolution requires open discussion rather than a 'directive' style; inadequate resourcing leads to almost total dependency on the central body; and the system fails if

there is nobody to take responsibility for decisions that have been made when problems occur. In Western nations Rondinelli (1981) argues that the characteristics of devolution tend to be more stringent. With particular reference to local government, it is Rondinelli's contention that autonomy and independence of the regional unit must be clearly perceived and central authorities must exercise little or no direct control. He argues that there must be clearly defined geographic boundaries and that the authorities require corporate status and the power to raise sufficient resources to perform specified functions. He also argues that the local authority needs to be perceived by the local people, as being able to satisfy their needs. These characteristics highlight several issues that are relevant to many countries implementing decentralising programs, not only those of the Third World. The African experience highlights the differing degrees of power sharing in the decentralising process. In a New Zealand context many of these issues have arisen with regard to the devolution of Maori affairs. At the same time however, it should be noted that African tribal issues differ significantly from tribal issues in New Zealand because of the difference in tribal population ratios.

Chapter Two
Tribalism

Decentralisation, it has been stated, is a shift in power from the centre to the periphery. The functional application of this through tribalism and its concepts of communality and collectivism provides a framework for Maori to further their self-determining goals. The functional control of processes facilitated by communal or tribal level participation is the empirical application of devolution. The purpose here is to examine the strength of the tribe in New Zealand by discussing the concepts of communality and tribalism, and then to examine the strategies used by governments since the signing of the Treaty of Waitangi in 1840, to maximise the pursuit of individual wealth and power. It will be argued that only by acknowledging the tribal social organisation of Maori society can devolution be an effective tool for facilitating Maori development.

Collectivism

In his work, The Social Contract, Rousseau says the fundamental problem of the social order is

> to find a form of association which will defend and protect with the common force the person and goods of each associate, and in which each, while uniting himself with all, may still obey himself alone, and remain free as before (Rousseau, 1973:174).

According to Rousseau (1973), a democratic society is a collective entity which has its own properties and values which overarch the purposes and wills of its members.

> Each of us puts his person and all his power in common under the supreme direction of the general will, and, in our corporate capacity, we receive each member as an indivisible part of the whole (Rousseau, 1973:175).

In other words, people entering into this kind of social contract still retain their individuality, they remain as free as before because they are participating in the process (Friedrich, 1967:173). The State claims the individual completely, but this is not an act of coercion, rather the individual is put under an obligation which is recognised as valid and necessary (Gay, 1956:54). For Rousseau the general will is always right, but is not to be confused with the notion that the majority is always right, because simple majority rule, he believed, was very undemocratic (Sabine 1959:499). The New Zealand electoral process which allows a political party to govern with a simple majority does not ensure that there is fair or adequate Maori representation nor that Maori tribes have been consulted, their opinions given reasonable expression or incorporated into the general will. When government policies continue to maintain Maori people in a depressed state and as an underclass (Ritchie, 1990:5), then clearly those powers that are delegated to government should be withdrawn. Rousseau's argument is that a democratic community is one which is small enough to allow everyone to consult with everyone else, hence the general will can be found by consulting with all (Friedrich, 1967:174).

Rousseau's ideas were not communistic because he saw physical inequality as unavoidable and not to be deplored (Gay, 1956:60). He also recognised the inequality of property or unequal distribution of property since

> inequality of property is an adiaphoran (a matter of no moral significance), a fact which man can accept as much as he must put up with the unequal distribution of bodily strength, skills and mental gifts (Gay, 1956:60).

Gay (1956) argues that Rousseau did not conceive the state to be a welfare state guaranteeing individuals an equal share of possessions. The State, for Rousseau, was exclusively concerned with an equal measure of rights for the individuals.

> The state is therefore entitled and qualified to interfere with property insofar as the inequality of property endangers the moral equality of the subjects of the law - for instance, when such inequality condemns specific classes of citizens to complete economic dependence and threatens to make them a plaything in the hands of the wealthy and the powerful. In such a situation, the state may, and must interfere (Gay, 1956:60).

Several similarities between Rousseau's idea of the general will and of society can be drawn with the social and political organisation as well as cultural attitudes of Maori society.

Firstly, Rousseau believed that true democracy could only operate in small communities. Maori tribes operate in such a manner and are of a size that ensures the tribe as a whole consults, discusses and debates in a collective forum - on the marae. In traditional Maori society decision making came from a collective decision making process that resulted in a consensus of all, both men and women. While this often occurred at the hapu (sub-tribal) level because of the wider geographic location of members of the tribe, it also took place tribally and it is a feature of Maori politics that has been adapted to contemporary times. It is within the four walls of the wharenui (meeting house) that issues, proposals and concerns are debated and everybody is given the opportunity to state their views. There is no time limit, no decision making behind closed doors. Debate and discussion takes as long as is necessary. Maori people are often accused of taking an inordinate amount of time to reach a decision but the tribal decision making process is truly democratic in that everyone who wishes to participate in the debate is given the opportunity to do so. Democracy and the subordination of the individual to the collective or general will inevitably occurs since everyone is consulted. In such a general debate, people are gradually brought around to considering the needs of all, and in Rousseau's terms, they end up considering the needs of the community rather than the needs of the individual (Friedrich, 1967:174).

This is a reflection of the traditional manner in which effective Maori leaders were successful in maintaining the support and confidence of their people. In Maori society leadership is often a combination of

ascribed and achieved factors but the tribe is only willing to have someone 'front' for them in public if that person has proved her or his worth to the tribe. Inherited factors play a part in determining who are the spokes people of a tribe but the mana or status of a leader is totally dependent upon the individual's contribution to the tribe. Leadership is only in terms of passing on the general will of the people or ensuring that the general will is carried out. "Chiefs had to be adept at sensing and expressing a consensus" (Sorrenson, 1981:176). By consulting with other kaumatua (elders) and providing the opportunity for debate, decisions were then made. This is not democracy in the sense that every person registers a vote but democratic participation (or consensus by exhaustion).

The decision making process of Maori society must not be confused with the public ceremonies that take place on the marae. Many confuse the public korero (speech making) by selected male Maori kaumatua (elder), with paternalism. This is not the case. It is ceremony, and of great tribal and social significance but it is not the place where decisions and tribal policies are made. That occurs, as has already been stated, within the wharenui.

Rousseau believed that large nations could not be democratic, that they had to be governed by an autocrat and in medium sized countries, aristocracy was the correct form. The reason being the difficulty of discovering the general will if the number of people becomes so large that they cannot consult with each other and can no longer debate and argue and reach a consensus on what the general will might be (Friedrich, 1967:174-176). Colonial government of New Zealand was

legitimised with the (so called) democratic majority principle which conveniently and immediately disempowered the democratic tribal collective.

Secondly, from 1867 until 1993, Maori parliamentary representation was arbitrarily fixed at four regardless of the fact that the Maori population made up 12.5% of the total population in 1990 (Department of Statistics, 1992:97). This was hardly democratic when non-Maori parliamentary representation was reviewed every five years and adjustments were made to ensure that the population of each non-Maori constituency did not vary by more or less than five per cent of a set quota (ss. 16, 17, 18, 19, 23, 24 of the Electoral Act 1956). It is also difficult to argue that Maori had an equal measure of rights when the four Maori seats were not guaranteed and only required a simple majority to repeal them whilst the legislation regarding the general population required a seventy five per cent majority.

The 1993 Electoral Act now provides for elections to be determined by Mixed Member Proportional (MMP) representation rather than the previous plurality system of "First Past the Post". Under the new electoral laws Maori representation is still not guaranteed, rather, the number of Maori seats is dependent on the number of Maori who are registered on the Maori roll. In 1994 a claim was made to the Waitangi Tribunal that the Crown had an obligation under the Treaty of Waitangi to protect the right of Maori to be represented in Parliament and that there were special needs in promoting Maori enrolment (Waitangi Tribunal, 1994:1). The tribunal found that the measures required to inform and educate Maori on their option of enrolling on either the

Maori or General electoral roll had been

> substantially less than is reasonably required to meet the Crown's Treaty obligation to protect Maori citizenship rights and in particular the effective exercise of the Maori Electoral Option, and is in breach of Treaty principles which require the Crown actively to protect Maori rights to political representation conferred under the Electoral Act 1993 and as a consequence the effective exercise of the Electoral Option by Maori will be seriously prejudicially affected by such a breach (Waitangi Tribunal, 1994:37-38).

It was reported in the Dominion (5 October 1994) the High Court had ruled (4 October, 1994) that the government's decision not to further promote the Maori option nor to increase funding for a programme aimed at facilitating Maori enrolment, was not illegal but nevertheless was wrong. As a result of those decisions "Maoris have been disadvantaged to an extent not precisely measurable, but of some significance" (Dominion, 5 October 1994).

If it is assumed that one of the functions of representative democracy is to have a parliament representative of the constituency in its social composition so that it can be sensitive to their needs and goals then a more equitable system and sharing of political representation needs to take place.

Individualism

The ideological assumptions inherent in the Westminster system of government in New Zealand are those of nineteenth century liberal democracy. The essential characteristics of liberalism according to Gray (1986) are individualism, egalitarianism, universalism and meliorism. Liberalism is

> individualist, in that it asserts the moral primacy of the person against the claims of any social collective; egalitarian inasmuch as it confers on all men the same moral status and denies the relevance to legal or political order of differences in moral worth among human beings; universalist, affirming the moral unity of the human species and according a secondary importance to specific historic associations and cultural forms; and melorist in its affirmation of the corrigibility and improvability of all social institutions and political arrangements. It is this conception of man and society which gives liberalism a definite identity which transcends its vast internal variety and complexity (Gray, 1986:x)

In liberal theory it is argued that individuals are equal under the law. Liberal theory rejects any idea of individuals holding privileged status on account of accident of birth. Hence there is no recognition of the fact that collectively some indigenous groups such as the Maori, are not receiving equitable treatment. Yet if the indigenous people of New

Zealand are considered to hold a 'privileged' position in society because of their low socio-economic status, and because they are asking for reforms to counteract their high levels of imprisonment and unemployment, bad health, extremely poor educational levels and lack of political representation as well as lack of financial resources or wealth, then the argument only reinforces what the indigenous people have always known. Capitalism and liberalism use the rhetoric of individual equality to maintain a Pakeha position of dominance, control and paternalism over the less powerful indigenous minority.

Liberal thinkers are sceptical about the idea of collective self determination. They argue that in society, individuals should relate to one another as individuals rather than as persons bound by the (often conflicting) demands of group membership and group loyalty (Kukathas, 1991:20). Those schooled in liberal democratic theory argue that the creation of structures specifically to empower a particular group whether it is indigenous or not, will lead to injustices and social division, that special treatment is inherently divisive and results in favour seeking and resentment. In his work *On Liberty*, J. S. Mill argues for a society that is genuinely tolerant (fearing a majority that is intolerant of the unconventional), that values the differences in points of views, that welcomes new ideas and limits the amount of agreement it demands (Sabine, 1959:595). Proponents of liberal theory argue that in a society where all people are equal before the law, policies or programmes which emphasize separateness and alienate various sectors of the population, result in diversity and legal equality being compromised. Preferential treatment and affirmative action policies are unacceptable to liberal theorists because they emphasize the

collective rather than the individual. No recognition is given that political or social equality has been circumvented by economic inequality and that material dependence on the state actually belies the doctrine of equality (Roy, 1982). It follows then, according to liberal theorists, any notion of collectivism or tribalism must be subsumed to an individual level. They argue that

> the social and political institutions of a liberal society are less likely to foster the growth of tyranny since the right to hold private property works to disperse economic power and so supply the basis for opposition to any potential tyrant (Kukathas, May 1991).

To claim rights or land for the tribe therefore, runs counter to the capitalist or individualist tradition and accordingly the protection of individual rights is, in liberal thinking, the most effective way to secure such interests. It denies the tribal concept which sees the individual and individual self interests inextricably intertwined with tribal interests. Liberalism does not acknowledge that which is appropriate or good for the individual must also be good for the tribe.

Reconciling tribal ideology and liberalism

Tribal government was operating in New Zealand before the Pakeha (European) arrived, before Columbus supposedly discovered America in 1492 and before the great 'British Empire' colonised much of Africa, Asia and the Pacific. The term tribe has a plurality of meanings which are often contradictory. It means many things to many individuals, not

necessarily the same thing to everyone nor the same thing to people at different times. At times it is a term that is denied existence and at other times it has been used as a facile explanation of very complex social, political or economic issues (Gulliver, 1969:5).

For many, the term 'tribe' has the connotation of a backward and primitive group of people, whose customs are often regarded as barbaric and savage. Those who deny the existence of tribalism in New Zealand and who argue that Maori demands for legal and political recognition of the tribal collective, can only be exercised in the precise manner of pre-colonial times are puerile and insulting. That Maori must still live in mud huts and wear piupius (grass skirts) would also deny Pakeha the right to move from wood burning fires to microwaves. There is no justification for such prejudice. It has been pointed out by the Waitangi Tribunal (1988:224) that there is nothing in either tradition, custom, the Treaty of Waitangi, or nature to justify the view that Maori development must remain frozen while non-Maori development is an ongoing process. In 1840 Muriwhenua Maori (of the far north) did not exploit the deep sea fish, orange roughy, because there was no need, and neither did the non-Maori. The commercial potential of the fish was not apparent until the 1980s but the traditional fishing rights guaranteed under Article Two of the Treaty allow Maori to exploit 'new' species because of over exploitation of traditional fishing grounds by non-Maori. The technological skills possessed by the modern industry do not indicate that Maori too might not have acquired them (Waitangi Tribunal, 1988:237).

One of the virtues of tribalism is that it has an intrinsic structure and strength to it. It draws upon the traditions and lessons of the past, which protect the living force of contemporary culture and spiritual values. For tribal peoples, the tribe determines who is and who is not a member of the group, recognising simply that the tribe exists. The tribal ethic works on the principle that what is good for the tribe is also good for the individual. Tribalism serves to unite people within the tribe and ensures that individuals act collectively in pursuit of a common end.

Prior to colonisation a united nation did not emerge because the tribes fought, traded, built alliances, possessed their own leaders and governed their own geographic areas to maintain and sustain their individual economic, political and social organisations. Whereas tribal government did not parallel the legal, rational bureaucratic model of Europe, distinct tribal governments did exist. Like other indigenous peoples, Maori had developed a highly sophisticated governing system that emphasised the collective good by subjecting individual freedoms to social constraints that were enforced through a kinship system. However the colonising powers were able to use effectively the conflict between the tribes to dominate and gain economic and political control of the country. No attempt was made to reconcile communal or tribal ideology with that of liberalism and capitalism.

Land alienation

When the Treaty of Waitangi was signed in 1840 between Maori and the British Crown it laid the foundation for constitutional government in

contemporary New Zealand society. At the same time, it recognised the tribal nature of Maori society. Article Two of the Treaty of Waitangi (Maori version) recognises "tino rangatiratanga", that is, self-management, chiefly control - it is recognition that Maori society was, and is, tribally controlled and regulated (see Waitangi Tribunal, 1988:187).

People descended from a common ancestor make up the tribe in New Zealand, although Ritchie (1992:113) defines it more narrowly as an association of people who have regular and face-to-face contact. Whakapapa or genealogical links determine who belongs to the tribe and form the basis of communal rights, obligations, cooperation and loyalties.[4] Each tribe has its own history, territorial base, dialect and mythology.[5] In contemporary times these are still the cornerstones of Maori life in New Zealand even though social, political and economic structures differ with each tribe.

Tribal identity, whanaungatanga (kinship: collective development and loyalty), has enabled Maori to survive as a distinct and separate people

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4 This is not necessarily the case with all tribal societies, in Africa for example, this would effectively exclude many groups which have a residential basis such as the Luo, Lugbara or Gusii (Gulliver, 1969:10).

5 Buck's (1977:435) experience in translating a Maori orator to a mixed audience is enlightening. 'The speaker insisted on reciting each of the ten Po in spite of my whispered suggestion that he avoid monotony ... What appeared monotonous to the European part of the audience gave pleasure to the Maori present and above all, no matter what errors might be revealed by a comparative study, the tribal version was the correct rendering for that tribe'.

in spite of the assimilation practices of previous governments[6] and in spite of the loss of their land which is the very essence of Maori identity. The land may be lost (temporarily) but regardless of colonisation and all deprivations caused by the introduction of capitalism, each tribe has its own regions which ancestrally and in terms of the Treaty, they still feel is their turangawaewae - that is, land with which they strongly identify. Considerable historical evidence has shown that Maori social organisation is centred on the whanau (family), hapu (extended family) and iwi (tribe) with the hapu being the predominant social unit, the tribe a coalition of hapu. Cleave (1983), argues that any consideration of the traditional Maori polity must begin with the tribe, Belich (1986) documents the defence of tribal territories and Walker (1990) provides a political commentary on the erosion and resilience of tribal identity. Testimony given to the Waitangi Tribunal[7] (1988:xiv) demonstrates that in pre-European times, the economic base of a tribe was frequently based on inter-tribal trading practices with coastal tribes taking the produce of their fisheries to distant inland tribes for barter and trade. By the 1820's various tribes were involved in the provisioning of whaling ships and by the 1830's were exporting their goods overseas to Sydney (Waitangi Tribunal, 1988:xv). Tribally the means of production was based on

6 See the Royal Commission on Social Policy 1988 which 'recognises that policies in the past have been restricted by narrow perspectives and department isolation' (1988:75)

7 The Waitangi Tribunal was set up by government in 1975 to consider claims from any Maori who considers he or she or any group of Maori of which he or she is a member, is prejudiced by any legislation, policy or practice by or on behalf of the Crown which is inconsistent with the principles of the Treaty of Waitangi (Department of Statistics, 1990:195).

kinship and the major means of subsistence was communally held land (Firth, 1972).

Prior to the signing of the Treaty of Waitangi the British attitude to the Maori people, whilst somewhat paternalistic, was relatively humanitarian. Furthermore, the relations between Maori and the British before the claim to sovereignty in 1840, had been relatively cordial and certainly mutually advantageous as Maori traded goods and the British obtained services and provisions (Orange, 1987:6-13).

Colonial administrators assumed that tribalism would disappear or at the least be rendered ineffective. This assimilation or civilisation of Maori underlies 19th century 'native policy', continued until the 'integration' policies of the 1960s but was not really questioned until the 1970s and 1980s. Article One of the Treaty of Waitangi granted the British Crown the right to make laws in order to govern (kawanatanga) with the implication that the Maori could not expect to retain the full range of powers they had exercised before contact with the colonisers. Article One did not relinquish Maori sovereignty, although in practice that has occurred. Maori argue that in exchange for governing (kawanatanga) rights, under Article Two, tino rangatiratanga (Maori sovereignty) was guaranteed and the Crown was obliged actively to protect 'their Lands and Estates Forests Fisheries and other properties'. Instead, since 1840 a systematic effort has been made to remove land and resources from the Maori and, as a matter of course, eradicate the power and strength of the tribes.

> The Treaty inaugurated an era of systematic colonisation. Colonisation brought an immediate demand for Maori land for settlement, and administrative structures and political policies were required to bring about satisfaction - predominantly for the Pakeha settler (Kawharu, 1977:296).

Colonial demands for land meant that government institutions dealing with Maori affairs have been in existence since the Treaty of Waitangi was signed in 1840. There is still no acknowledgement in law of the existence of a collective identity such as a tribe even though the Crown has sporadically recognised the tribal nature of Maori social organisation in various limited forms.

Limited decentralisation giving recognition to the influence of tribalism did take place between the years 1840 and 1846 when a department with the title of Protectorate was created by the British Crown to concentrate on Treaty and land issues. The under-secretary of the department believed that recognition should be made of Maori custom to strengthen relations between Maori and the Crown and that British legal principles and practices needed to be modified to accord with Maori custom and practice. Acknowledging tribal practices was considered to be a means of fulfilling the directives from the Secretary of State (in Britain) that required the Crown to watch over Maori interests and promote Maori religious, intellectual and social advancement (Butterworth, 1974:5-8). Since the majority of Maori did not have access to the Government and the Crown was limited in its ability to purchase the available Maori land (even though land sales

could only be made through the Crown and not directly with the settlers), it made sense to the Protector of Aborigine Affairs to promote a decentralised system of administration whereby the tribes could be involved. Hence the Native Exemption Ordinance (1844) prevented the police from arresting Maori outside Pakeha (European) towns and in disputes involving Maori alone no magistrate could serve a summons until two chiefs of the injured party's tribe laid a complaint. Furthermore, no Maori could be imprisoned for a minor offence and compensation could be demanded rather than imprisonment for crimes of theft (Butterworth, 1974:8-9).

This was rather pragmatic acceptance by the colonial government of its inability to deal with tribalism but it was replaced in 1846 by a Residents Magistrates Courts Ordinance which allowed Magistrates to disregard the tribal chiefs (Sorrenson,1981:176). In 1846, when George Grey was appointed as governor, centralised policies were quickly implemented, not only as an attempt to break the power and influence of the missionaries over the Maori (see Orange, 1987:58), but because

> Grey believed that the best solution to native problems was to amalgamate the indigenous population into British society as quickly as possible (Butterworth, 1974:9).

According to Butterworth (1989), Grey abolished the Protectorate Department because he did not accept that there was any need for separate laws or a judicial system pertaining solely to Maori. By centralising control of Maori affairs and denying Maori much formal involvement in the political system, Grey was able to pursue settler

demands for more and more Maori land.

Interestingly, section 71 of the 1852 Constitution Act recognised tribal government and stated that Maori could

> govern themselves according to their own laws customs and usages, provided they were not repugnant to general principles of humanity for the government of themselves in all their relations to and dealings with each other.

The Act also provided for Maori districts so that Maori custom and laws would prevail, but no districts were ever proclaimed (Sorrenson, 1981:168), and the provisions were never implemented even though they were not repealed until 1986. Attempts to form regional councils (runanga) by several tribes under the 1852 Constitution Act proved to be impossible. Tribes such as those in the Waikato, the heart of Kingitanga[8], rejected the runanga (council) proposals and the scheme only achieved limited success at the local level (Butterworth, 1989:8-10) due no doubt to tribal loyalties taking precedence over regional considerations.

Following on from this, the 1858 Native District Regulation Act ostensibly allowed for regional Maori councils or runanga to be given some influence in the making of local bylaws. It was a token gesture, however, as they were under the direct control of a Pakeha (European)

8 The Kingitanga or King movement was an attempt to halt colonisation by uniting tribes into an anti-land selling confederation (Sorrenson, 1981:180).

governor and section 6 of the Act stated that while regulations were to be made with the general assent of the 'Native' population, this was to be 'ascertained in such manner as the Governor may deem fitting'. Section 2 (7) allowed the governor to make regulations

> for the observance and enforcement of the rights duties and liabilities among themselves, of tribes communities or individuals of the native race, in relation to the use occupation and receipt of the profits of lands and hereditaments.

Maori were therefore greatly restricted in what they were allowed to do. Maori were given the illusion of limited decentralisation but were in fact tightly controlled by the central administration which regulated the policies allowing local runanga (councils) to deal with minor and civil disputes between Maori.

For example, a number of minor positions were created for Maori assessors, Maori police and Maori mail carriers but, again, these positions just carried out policies on behalf of government in limited areas of delegated responsibility rather than embodying any significant devolution of power. When Native schools were put under the auspices of the Education Department, when a government sub-department was assigned to handle land purchases and when Native reserves were transferred to the Public Trust and the Defence Department (Butterworth, 1974:11), then it seems apparent that central control of Maori was a primary concern of Grey since his policies quickly removed any limited autonomy Maori had on matters of crucial importance to

them.

Government policies, rather than decentralising control to Maori, were designed to undermine Maori resistance to land sales, resistance which was evident with the formation of several land resistance movements such as the Kingitanga and Kotahitanga.[9] The culmination of Maori dissatisfaction and discontent at the rapid loss of land was the 1860's land wars era, when government was forced to acknowledge the tension between Maori and Pakeha.

Liberal-democratic philosophy was used to justify the transferring of tribally owned land to named individuals hence providing the vehicle for land alienation - the purchasing or leasing of Maori land. The Native Land Act of 1862, as amended in 1867, allowed for certificates of title to Maori land to be issued in the names of ten of the owners. It was an obvious strategy to undermine the whole concept of tribalism and to control Maori by undermining their very strength - collectivity! Sutch (1969:81) quotes Henry Sewell's 1870 parliamentary debate (NZPD, Vol. 9, 1870:361) on the Native Lands Act, who said that

> the object of the Native Land Act was ... to bring the great bulk of the lands of the North Island which belonged to the natives within the reach of colonisation. The other great objective was, the detribalisation of the natives ... to destroy if it were

9 Kotahitanga (unity) like the Kingitanga movement sought to unite the tribes to prevent further losses of Maori land and it also attempted to establish a separate Maori parliament

> possible the principle 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 that by individualisation of titles of land, giving them the same individual ownership we ourselves possessed ... their social status would become assimilated in our own.

The idea that land can be owned by individuals and exploited for profit is a fundamental assumption of capitalism that has pervaded the economic philosophies of New Zealand governments' since the signing of the Treaty. It is from this, that Pakeha political and legal systems have been developed to reflect the private ownership concept of land.

The monopolistic rights of the Crown over the sale of Maori land, which the settlers resented because of the length of time it took to acquire land through the bureaucracy of government, coupled with Maori dissatisfaction with their right to sell and the consequences of selling, eventually led to the establishment of the Native Land Court (which has survived through to today). According to Kawharu (1977:296), Maori perceived the Court as initially serving to stabilise and reinforce the traditional social structure of Maori society because it confirmed and recorded 'collective' land rights. The first certificates of title can thus be regarded as proof of the existence and entitlement of such rights. However, the awarding of title and the listing of individual names on the title deeds facilitated land sales for the settlers. Only the consent of those listed on the deeds had to be

acquired and sales occurred frequently without regard for the tribal rights to the land as a whole. "The Native Land Court was an effective instrument in breaking communal resistance to land sales" (Sorrenson, 1981:186). Furthermore, The Native Land Act of 1865 consolidated government or central control over Maori affairs and Maori land but, more importantly it abolished pre-emption and allowed settlers to purchase Maori land direct (Sorrenson, 1981:177). It provided a particularly effective means of alienating Maori land, one of its worst consequences being that it began the individualisation of land. The net effect of this legislation on tribal communities has been that

> (i) succession to titles has separated those who have the right to determine the occupier and the terms of his occupation, from the occupier and, to an increasing extent, from the community itself; (ii) pastoral production by occupiers has dismantled the co-operative economic structure of family and community (Kawharu, 1977:301).

The Land Wars of the 1860's, coupled with the individualisation of Maori land title, resulted in substantial economic deprivation, but it did not expunge the spiritual and cultural attachment Maori have to the land although Reeves, writing in 1898, would have us believe otherwise.

> Partial civilization has been a blight to their national life. It has ruined the efficacy of their tribal system without replacing it with any equal moral force and industrial stimulus. It has deprived them of the main

> excitement of their lives - their tribal wars - and given them no spur to exertion by way of substitute. It has fatally wounded their pride and self-respect, and has not given them objects of ambition or preserved their ancient habits of labour and self-restraint. A hundred years ago the tribes were organized and disciplined communities. No family or able-bodied unit need starve or lack shelter; the humblest could count on the most open-handed hospitality from his fellows. The tribal territory was the property of all ... The chief was not a despot, but the president of a council, and in war would not be given the command unless he were the most capable captain (Reeves, 1987:61).

Reeves correctly captured the essence of tribalism but his observations on the effects the development of a capitalist market for land had on the efficacy of tribal government coupled with the belief that tribalism would disappear was incorrect. Certainly a concerted effort was made to assimilate Maori into a capitalist culture. For example, Ward (1983:187) describes some of the justifications used. He quotes a government official of the day stating that the settler desire for land could not be considered greed but rather an anxiety to extend settlement. Settlers were not seeking individual wealth but the spread of civilisation. Others according to Ward (1983), argued that the free trade in land that the Maori were exposed to was a 'healthy play of individual competition'. The very ruthlessness of capitalist competition and the grab for land was thrust upon Maori society without any moral or ethical concern. However, tribalism did not

disappear nor was the tribal nature of Maori society destroyed; rather, it accommodated itself in complex and varying ways for the new economic and social relations of the time.

By the late nineteenth century, the extent of land alienation, including millions of acres confiscated or illegally purchased (AJHR, 1908,1921,1928), resulted in an indigenous population barely able to make a living through subsistence farming. Consequently many provided contract or casual labour to Pakeha farmers (Sutch, 1969:84). But while this loss of land may have disrupted tribal society the fact that Maori labour was organised on the tribal notion of communalism means that these new economic realities were adapted to distinctive tribal ways.

> In the North, small migrant groups found work away from the village, returning regularly to sustain traditional kinship based relationships. The Kingites ... mobilize(d) a large labour force on tribal lands ... On the East Coast ... as in Northland, migrants continued to identify with their home communities and take part in traditional exchanges there. In the Wairarapa, ... most economic activity was directed towards sustaining traditional economic relationships (Andrews, 1975:81).

In the Waikato, communal plantations had to meet the daily household needs as well as sustain the gatherings of the King Movement (Kawharu, 1977:84). Many of the economically unsustainable blocks of land resulted in a Maori workforce that had to become relatively mobile and

this, of course, did disrupt the traditional tribal way of life. In the North, most of the migration was to the gum fields, although some found work in transport services, resulting on occasions in entire settlements being deserted by all but the very old and very young. While worker movement tended to be outside the traditional kin-based groups, relationships within and between families, according to Andrews (1975:82) were little disturbed since, for many participation in a money economy was simply a new means of fulfilling traditional obligations in giving bigger feasts or making gifts to a wider range of kin.

By the early twentieth century the Maori population was largely dispossessed of its lands (Firth, 1972, Metge, 1976, Kawharu, 1977).[10] The centralised administrative system of government permitted the excessive alienation of Maori land and didn't change even in 1899 when James Carroll became the first Maori to gain a seat in Cabinet. Holding the portfolio of Minister of Native Affairs from 1899-1912, Carroll attempted to have the tribal nature of Maori society legally recognised and was instrumental in having two pieces of legislation passed which did delegate some powers to the tribes - but only on a social level and certainly not with regard to Maori land alienation. For example, the Maori Councils Act of 1900 set up district or community councils to promote Maori welfare, and the Maori Lands Administration Act of 1900 was a system of Maori-dominated land councils that encouraged land leasing. Paternalistically, it was considered to be in Maori interests

10 In 1990 the total of Maori freehold land, which is subject to the jurisdiction of the Maori Land Court, totalled only 1,305,698 hectares out of 26,900,000. This is only 4.85% of the total land mass of New Zealand (Department of Statistics, 1990:415,416).

to lease land since it would slow down the rate of Maori land sales, but land leasing is still a form of alienation. (Today, Maori are still trying to gain redress over leased land where nominal, non-inflation nor cost-of-living adjusted, rents are received by the Maori owners. Many early leases included a provision that owners had to pay back to the lessee the cost of improvements on the land and most Maori owners could not afford to do so. This land was either leased again or sold to pay for the improvements).

The Maori Councils Act 1900 appeared to recognise that Maori organisation took place at a local or community level since Maori councils were formed in nineteen tribal districts essentially to operate as a form of local self-government with the objective of promoting welfare programmes. According to King (1984:290) the covert plan of government - and hence the support for the legislation - was to undermine support for Maori movements such as Kotahitanga and Kingitanga which were providing tribal unity, leadership, and also resisting further land alienation in its various forms. However the councils tended to be underfinanced, were generally ineffective and within ten years were basically impotent. Many of the tribes perceived the government idea of Maori councils as impinging on their tribal independence and so refused to co-operate with the Act.

Due to pressure from the settlers for more land, the Land Councils were transformed into Land Boards in 1905 and membership became dominated by Pakeha rather than Maori. The consequent effect was that Land Boards tended to serve Pakeha (to facilitate the sale of land from Maori to Pakeha) rather than Maori interests, and they removed the

tribal nature from which the Councils had originally operated (King, 1984:285). Pakeha land purchases continued unabated. It wasn't until the 1940's that any further recognition was given to communal Maori social organisation.

The Post-War Era

Until 1945, three-quarters of the Maori population remained rural while the Pakeha population congregated in the main urban areas (Pool, 1991:123, 105). Butterworth (1974) describes the 1920-1950 period as a rural Maori renaissance even though there was insufficient land to support the people, and in spite of the fact that most of the land retained was only economically marginal at best (Dalziel, 1990). Maori disaffection with the Pakeha resulted in a self-imposed isolation which helped to retain and consolidate the community or tribally based organisation of Maori life.

Relative isolation was not to last, however. Maori were soon called up to actively participate in World War Two and Maori tribal structures were utilised for the war effort very effectively. Those Maori who volunteered for overseas service were allotted to different companies according to their tribal areas. 'A' company was Tai Tokerau, 'B' Company was Te Arawa, 'C' company Tai Rawhiti. Collectively the Maori battalion could be called pan-tribal, but its internal structures were very definitely tribal. The cohesiveness and solidarity of the Maori Battalion worked because it was based on an authentic Maori model rather than being centred on some Western egalitarian model which individualises social and political relations, generally in terms

of individual freedom and individual rights.

The post World War Two period was a time of accelerated social change in New Zealand and industrialisation, and gaining employment opportunities meant that a rapid urbanisation of Maori took place. The post war era threatened the strength of the tribal base, mainly because of migration from tribal to urban areas (see Pool, 1990:153). Even then, government policy recognised Maori geographically rather than tribally. A substantive piece of legislation that Metge (1976:207) argues was 'to give Maoris a degree of self-government' was the Maori Social and Economic Advancement Act of 1945. The Act was designed to

> make provision for the social and economic advancement and the promotion and maintenance of the health and general well-being of the Maori community (s1).

In other words, the objective was to improve the socio-economic status of Maori people. The Act provided for 'tribal' committees that operated both at a flax-roots (local level) as well as at the regional level with functions regulated so as to be involved with social welfare and marae (local community) administration. Unfortunately there was very little political autonomy, let alone self-government. The Crown delegated the implementation of the welfare policies, under the direction of the Department of Maori Affairs, to the Maori committees which, according to King (1984:295), numbered 381 by 1949. The reality of the operations of the committees was that most did not

function on a tribal basis. Membership was open to any Maori who resided in a particular area; kinship and tribal links were not a required requisite. Geographic rather than tribal rights were the basis of the 'tribal' committees and their membership, and while the term 'tribal committee' was in common usage for many years it was less than satisfactory (Metge, 1976;208). Ostensibly this Act was to promote development at a tribal level but the small allocation of funds hardly allowed for any tribal initiatives and, anyway virtually all sections of the Act were 'subject to the approval of the Minister'. Recognition of tribal or community organisations was tightly controlled by the Crown.

Maori committees, when first set up under the 1945 Maori Social and Economic Advancement Act, were called 'tribal' committees. The 1962 Maori Welfare Act, however, omitted the word 'tribal', which conformed to the explicit 'integration' message of the government in 1960.[11] The renamed Act of 1962 still allowed for people from different tribes to come together and in 1978 there were a total of 367 elected Maori committees (Stokes, 1978:36). The non-tribal intent of the legislation is evident when one looks at the substantial number of committees in relation to the existence of approximately twenty three[12] major tribes (Ritchie, 1990:5). Additionally, the 1962 Act added two further hierarchical tiers to the structure of the local councils, establishing district Maori councils and a national New Zealand Maori Council.

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11 see the 24 August 1960 *Report on Department of Maori Affairs* by J. K. Hunn. Government Printer, New Zealand.

12 The 1991 census identified 82 iwi, Nga Puhi being the largest with 92,976 members and a group with only 3 members.

Given that there were only nine district Maori Councils, each of which provided three members on the New Zealand Maori Council, the district Councils and the national Council cannot be seen to be truly representative of Maori tribes. Their structure is based on regionalism and does not necessarily have a membership structure which is representative of the local tribes people. Indeed, according to Metge (1967:209) some of the councils, such as those in Auckland and Wellington, represented over 30,000 Maori whilst others represented districts of only 500 or so people. Furthermore, because each district Maori Council is subject to the control of the New Zealand Maori Council and is required to act in accordance with all directions, general or special, given to it by that Council (Maori Welfare Act, 1962, (s)16), it seems reasonable to conclude that autonomy and limited sovereignty would be difficult to exercise under these conditions. It is the very nature of tribalism which has prevented Councils from acting on behalf of the tribes but once again, government was determined not to recognise Maori on a tribal basis. Eventually the Maori Welfare Act (1962) was renamed the Maori Community Development Act and this came into force in 1981 but there were no substantive changes to the Act. Any paternalistic connotations of the title were removed, but this did not alter the basic government attitude towards Maori people. The 'tribe' was still not acknowledged in law.

Pan-tribalism

While Maori place considerable emphasis on tribal identity, that is not to say that pan-Maori organisations do not have a place in Maori

politics. The New Zealand Maori Council is pan-tribal in its structure and has had considerable political impact. It was made a statutory body by a National government, it receives some government funding, and it is used by the National political party as an advisory body on Maori affairs similar to the manner in which the Labour Party has used its four Maori Members of Parliament[13], hence its strong identification with the National party. The Council has been politically active since its inception and while its primary focus has been that of land it has also been involved with many significant political and social issues (Walker, 1990:207-208). For example, it applied to the High Court in March 1987 to prevent the transfer of Crown assets to State Owned Enterprises, claiming that this was unlawful and contrary to section 9 of the State Owned Enterprise Act 1986, which states that 'Nothing in this Act shall permit the Crown to act in a manner that is inconsistent with the principles of the Treaty of Waitangi'. Indeed the Council was successful in its application insofar as its actions were responsible for the passing of the Treaty of Waitangi Act 1988. The Maori Council has taken the Crown to court over forestry ownership and, whilst not preventing the sale of forests, it did prevent the land from under the forests being sold. It took part in negotiations that resulted in ten per cent of the New Zealand fishing quota being obtained for Maori fishing and members of the New Zealand Maori Council have played a substantial part in obtaining for Maori fifty per cent ownership of the Sealords fishing company.

13 Four parliamentary seats have provided Maori with separate representation since 1867. In the 1930s the Labour party attended to some of the social welfare needs of Maori and since then the four Maori parliamentarians have aligned with the Labour party.

Nevertheless, there are a number of Maori who believe the pan-tribal New Zealand Maori Council should relinquish its political role to that of the National Maori Congress which has approximately 45 tribes affiliated to it. Hohepa (Nga Puhi runanga chairperson), has argued that the New Zealand Maori Council has not served the interests of Maori well, and Mahuika (Ngati Porou), says that the Council has been restricted because of its regional base. He is also of the opinion that Maori are more comfortable with the confederation structure of the National Maori Congress (New Zealand Herald, 18 July 1990). But there is clearly an important and significant role that the New Zealand Maori Council has taken in pursing Maori interests which should be recognised as being complementary to tribal interests although it does not represent Maori tribes. No pan-Maori organisation, confederation or tribal organisation, is able to speak on behalf of all Maori tribes.

There are a number of Maori organisations that promote Maori development through structures other than tribal organisation. The Federation of Maori Authorities is pan-tribal and tends to be an umbrella organisation or collective voice for the economic activities of Maori Incorporations, Trusts constituted to administer freehold land, and Maori Trust Boards. Recently it has undertaken a training programme aimed at promoting management skills among directors and trustees of Maori incorporations and trusts who administer tribal assets (Kia Hiwa Ra, January/February, 1994:17). It has an emphasis on economic concerns and when it does make a public statement it is only on behalf of registered members.

There are urban organisations such as the Tatau Te Iwi Trust which was founded by the Auckland chapter of the Black Power gang (Walker, 1990:261), or Te Whanau o Waipareira Trust in west Auckland (see Dominion, 24 August, 1994) who are not kin-based but nevertheless provide support, community and economic development and social services for urban Maori. Te Whanau o Waipareira Trust is currently challenging the traditional tribal model of representation, with a Treaty of Waitangi Tribunal hearing to investigate the Community Funding Agency of Social Welfare, which the Trust claims, has failed to meet its obligations towards the Trust as a local provider of community services. The Trust is effectively challenging for the right to represent the people in the West Auckland suburbs, regardless of kin-ship or territorial rights. The chief executive of Te Whanau o Waipareira Trust, John Tamihere, is quoted in the Dominion (August, 1994) as saying "the Maoris living in West Auckland now should not be too greatly intimidated by the descendants of whoever was there in 1790". This is a direct challenge to some of the fundamental elements of tribalism. Historical links, whakapapa and tangata whenua status are some of the crucial issues that will have to be confronted and are just starting to be publicly debated by Maori. The issue of 'who represents whom' in Maori society is as complex as it is varied.

In 1945, three-quarters of the Maori population was living in rural areas, by 1966 more than three-fifths (62 per cent) lived in urban areas (Pool, 1991:153) and in 1986 almost 80 per cent resided in urban areas (Pool, 1991:197). In the late 1980s Pool (1991:213) observed a change in migration patterns from the simple rural-urban movement to one where the Auckland urban area was showing net migration losses, but

the Northland Maori population was increasing. According to the government statistician, a noticeable trend of movement from urban to ancestral marae is becoming apparent (Department of Statistics, 1994:95). Any explanation for this movement, according to Pool (1991) is very complex and must include socio-economic factors and the erosion of cultural imperatives. However, tribal identification must also have a bearing on the urban-rural movement. Comments from several interviewees have been that if they are going to be unemployed then they might as well be unemployed at home. Meaning they prefer to return to their tribal area rather than stay in the large metropolis. The point to be made here is that while the majority of the Maori population may be living in urban areas, most still identify tribally and when asked where they are from, will almost always respond in terms of their own tribal area (regardless of whether they or their parents have 'kept the fires burning'). Even Sir Graham Latimer, the chairperson of the pan-tribal organisation, the New Zealand Maori Council, states that "whakapapa - kinship with its implicit rights and responsibilities - [is] the basis of Maori identity" (Dominion, 20 July 1994).

At the 1991 census 12.9 per cent of the total population (434,847) identified themselves as being Maori, 15 percent (511,947) identified themselves as having some Maori ancestry (Department of Statistics, 1994) and most identified themselves tribally. Culturally, socially and politically, tribal identification is important to most Maori and needs to recognised as such. While the complexity of Maori politics provides for differing organisational structures to be used to promote Maori development, an important component is that of tribalism. The variety of urban organisation structures does not deny the concept of the tribe,

rather they are working parallel with the tribe to achieve a similar end - that of an improvement in the socio-economic position of their people. There is no one Maori way of achieving a particular goal, and to attempt to identify issues in purely terms of tribe or pan-Maori is to ignore the complexities of tribalism itself.

Non-Maori people in New Zealand tend to deny or ignore the existence of tribes in New Zealand, or at the very least to minimise their importance and persistence. Attitudes of paternalism toward the Maori have been and are still common. Elsdon Best, an ethnologist writing in 1924 stated,

> The peculiar communal system under which the native lived prevented the development of true family life ... (Best 1974:100).

Eric Schwimmer (1966:122) commented that the loss of land destroyed Maori social structure since the chief no longer had 'mana' (pride, prestige, status) over the whole of the tribe's territories and that

> individuals henceforth stood essentially on their own, even though a sentimental tribal cohesion continued.

A former Prime Minister, Mr G. Palmer, as recently as 1988, was quoted as saying,

> because Maori society is based on iwi (tribes) there is no one clear set of Maori opinion. From a political point of

> view that takes a lot of getting to grips with (N.Z. Herald, June 7, 1988).

It is to be hoped that after 154 years the government will soon 'get to grips with' the reality of Maori tribal organisation.

Graham, the Minister of Justice, in 1992 stated that:

> the hardest problem that this country has ... is the question of representation ... we have tried to get it right, we have sought the concurrence of the Maori people as best we can, but we are not going to wait another hundred years to sort out their structure (NZPD, 1992:12951-12952).

The implication here is that Maori should be structuring their organisations in a manner that is readily recognisable by government.

Acceptance and recognition of the tribe by non-Maori in contemporary times is still difficult. Even cases that go before the Waitangi Tribunal to look into breaches of the principles of the Treaty of Waitangi, can only be brought by either a Maori, or a group of Maori. To achieve any of the self-determining goals that Maori may set for themselves, an acceptance by the policy makers of both traditional and contemporary organisational structures would probably enhance efforts to reduce the number of Maori who are disproportionately dependent

upon the state for basic living needs. A tribe is not recognised as a legal entity and so any collective action taken by the tribe today is usually carried out by tribal organisations recognised under the Maori Trust Boards Act 1955.

Chapter Three
Paternal Legislation

Maori Trust Boards were established within a framework reflecting governmental requirements, for the express purpose of administering compensation monies paid by the Crown to various Maori tribes in settlement of land confiscations, land disputes, and lake income claims and grievances. The first Maori Trust Board to be established was that of the Arawa people in 1924, which had the specific role of administering a £6,000[14] annual perpetuity payment in exchange for government use and control of various lakes and thermal areas which had considerable tourist value. The Arawa people, like many other tribes, sought recognition and validation from government for the unjust treatment they had received regarding the ownership and use of physical Maori resources. Whilst the Te Arawa Maori Trust Board was the first to be established, many other tribes had been petitioning parliament, making submissions to Ministers and using the courts to try and have their grievances legitimated by Pakeha law since the signing of the Treaty of Waitangi in 1840. The circumstances by which each Board was established differed from tribe to tribe as did their grievances. However, a common factor for those tribes who eventually received some compensation funds was the paternal legislation under which they must, even today, operate. Paternalism means to interfere with peoples liberty for their own good, but Dworkin (1983:33-34) argues it is only justifiable if the authorities can clearly show the exact nature of the harmful effects (or beneficial consequences) to be avoided (or achieved) and the probability of their occurrence. In 1994

14 £1 has an approximate value of $2.

Maori Trust Boards are bound by paternal legislation that allows the state to interfere and coerce their administrative practices although the Boards are administering their own assets. This chapter will critically assess the 1955 Maori Trust Boards Act, which determines the role and functions of the Boards as well as the actual administrative and expenditure requirements of the Boards. (Appendix One provides basic details of the Maori Trust Boards that come under the 1955 Maori Trust Boards Act). This will be followed by a discussion of the changing perceptions and political expectations that many Maori have of Maori Trust Boards.

Maori Trust Boards Act 1955

The function of a Maori Trust Board is to administer assets for the general benefit of its beneficiaries. The traditional functions of a Trust Board, as defined in the Maori Trust Board's Act 1955, are to promote health, social and economic welfare, education and vocational training, and other such purposes as the Boards' may determine. Under this legislation, the Minister of Maori Affairs controls the expenditure of Trust Board funds and Ministerial approval must be sought before any tribal initiative can take place.

"No Board shall, without the prior consent of the Minister, pay in respect of any matter or for any purpose, any sum in excess of ($200)" (s32.3). The buying, selling or leasing of land must have Ministerial approval (s26.1). "With the prior consent in writing of the Minister" each Board may borrow or guarantee loans (s27), in other words, the Minister may refuse consent to borrow. The banks into which tribal

funds are paid must be approved by the Minister (s28.1), and the Minister may at any time authorise any person to countersign cheques drawn on the bank account of the Board (s29.1). Yearly statements of accounts and a report must be sent to the Government Audit Office (s31.1). The Minister must be provided with detailed receipts and proposed payments for the ensuing financial year (s32.1) and in effect be provided with an explanation of annual accounts. The Minister can, at any time direct an investigation of Boards' affairs (s33) and the written approval of the Minister must be gained before a Board member may receive any benefit from the Board even though the Board members must be beneficiaries of the Board (s37.2). The tone of these legislative requirements is restrictive to say the least, as well as patronising.

Accountability

The general consensus of opinion amongst beneficiaries of Trust Boards is that Trust Boards should be accountable to beneficiaries for the administration of tribal assets, yet legislation demands that accountability must be to government. Financial restrictions have already been referred to, but government further controls Trust Board activities by demanding Ministerial approval on all administrative procedures as well. The Minister, or the Chairperson, may call a meeting of the Board at any time (s18.3). The Minister must approve the appointment of a secretary (s19.1), approve gratuities payable on retirement or death of employees (s19A), as well approve the initial manner in which the roll of beneficiaries is prepared (s44).

Trust Boards do not legally have any rights to mana motuhake, that is, Maori control and autonomy over matters pertaining to Maori when they must go to government for approval of any expenditure over $200. It is ironic that money which has been paid to various tribes as compensation for raupatu (confiscations) or Crown control of resources, is still under direct government control. Accountability to government for the financial administration of government training and business development schemes such as Mana and Maccess (which will be discussed a little later on) is not disputed. However, for Trust Boards to be legally obliged to account to government, for the administration of their own funds, implies an attitude that the state knows the interests of Maori better than Maori know themselves. As it stands, the state is a permanent guardian of Maori interests *in loco parentis* (Feinberg, 1983:3). This attitude in typified by Sim, the member for Waikato and chairperson of the Maori Affairs Committee in 1955, who stated in the parliamentary debates on the Maori Trust Boards Bill,

> ... that the trust boards did not have the right to buy land *ad lib*. I think it is well known that they never had that right, except with the approval of the Minister, which is a wise precaution where trust funds are involved ...
>
> The Government has a responsibility to see that the trust boards handle their finances in a reasonable way ... Every bit of legislation that has been put on the statute book throughout the years has been designed to give added responsibility to the Maori people and today we find that

> on the whole they are administering their own affairs very well indeed (NZPD, 1955:2849-50).

In reality, Trust Boards have tended to ignore the legislative controls and some have refused to submit annual accounts. Sir Graham Latimer, chairman of the Tai Tokerau Maori Trust Board, has little respect for such patronage.

> Government said that the (compensation) money must be invested in government stock. So the money was invested in government stock and the people were allowed to operate on the interest. The amount of interest at that stage was 3%. That's how government kept Trust Boards under control for almost twenty years. They never moved from that position, even though inflation and costs were increasing. We were not allowed to take the money out of government stock and invest it in something with a better return ... We took the money out of government stock and bought a farm ... There was no legislation to allow me to do that ... I got away with that (personal interview, May, 1988).

Local body politicians also have to be elected by their constituents but by comparison they do not have to face the kinds of restrictions that are applied to Trust Boards. "I consider provisions made for us to be demeaning and I feel we are competent to manage our own affairs, determine our own budgets, destiny, etc" (Asher, 1983:30).

It is recognised that there must be provisions for proper accounting and audit, for reporting back to the beneficiaries and the opportunity for review of Trust Board activities. Simple legislative changes can be made to overcome the outdated measures that still exist in the 1955 Maori Trust Boards Act. For example, accounts can be audited by a registered chartered accountant. There does not appear to be any valid reason for the Auditor's office to be a compulsory requirement when funds are not public monies; they are compensation monies paid to the beneficiaries as defined in the Act.

The trustees of Maori Trust Boards are elected to office triennially and thereby subjected to the scrutiny of registered beneficiaries. The legislation implies a lack of credibility and moral integrity on the part of those Maori people elected to positions of tribal trust. There are no guarantees, in either Maori or pakeha institutions that problems will not occur. Government has however, singled Maori Trust Boards out for "special" treatment and has yet to concede that Maori people are quite capable of managing their own affairs. The secretary to the Ngai Tahu Maori Trust Board says,

> The Board is keen to be accountable to Ngai Tahu. At the present time the Board is accountable to the Minister of Maori Affairs, the Act is drawn up that way, but the Board is most keen, not so much to drop him, but to take accountability to the people (Ashton, personal interview 1990).

Elections

Trust Board elections and electoral procedures need to accommodate the special requirements of each tribe. Historical, cultural and geographic issues are a few of the factors that determine or influence the individuality of each tribe. Legislation treating all the Trust Boards in like manner has been proved to be unsuitable, and this is very noticeable when one looks at the electoral procedures of various Trust Boards.

The Maori Trust Boards Act 1955 sets out the provisions for the election of members to Trust Boards and the method of lodging nominations. The term of office for members of each Board is three years (s15.2). When an election is to be held, public notice must be given in newspapers in the district where the majority of beneficiaries reside, and written notice must be given to all Maori Committees, Maori Executive Committees and District Maori Councils in the area (s46.2-3). Nominations for election to the Board must be in writing and signed by at least five beneficiaries (s47.1). Elections must be by postal ballot and ballot papers are required to be posted to each beneficiary shown on the roll of beneficiaries, as entitled to vote (s50-51). An electoral returning officer is appointed by the Minister (s52), and election results must be given to the Minister of Maori Affairs through the Ministry of Maori Affairs (s49.1).

Section 14.3(c) of the Act defines who may be nominated for office. Firstly, the person must be a beneficiary of the Board, secondly, if members are elected or appointed to represent different divisions of

beneficiaries, the person representing a particular division must belong to that division. Thirdly, if a person is eligible to belong to more than one division, that person can only be representative of the division in which he or she chose to be enrolled in. In addition, s7.4a provides for the appointment of an additional member without election to the Tainui Maori Trust Board. This appointment represents the Kahui Ariki for the time being recognised by the Tainui tribes.

If there are minor irregularities at elections, s54 states that an election will not be invalid if the election was otherwise conducted in accordance with the principles laid down in the Act and the irregularity did not affect the outcome of the election. Section 55 states that only substantial irregularities will invalidate an election and an appeal to the Governor-General for validation or invalidation of irregular elections is the preferred method of resolving any dispute. There was a challenge in 1987, about the electoral procedures used by the Taranaki Maori Trust Board, which went before the High Court in Wellington, 15 March 1988. The appellant failed to gain an injunction because the High Court ruled that while there was an arguable case, an appeal to the Governor-General was the preferred method of resolution (Greig 1987-88). While the Trust Board had not fully adhered to the legislative requirements of elections, the Court's decision in effect implies that the legislation needed to be amended. In practice, the beneficiaries of Trust Boards have adapted legislative requirements to suit their own tribal methods of administration.

Electoral Procedures

As with many tribal societies, there are tribal variations to the electoral procedure - variations which do not adhere strictly to the letter of the law. The Tainui Maori Trust Board does not hold postal ballots, elections are held on the marae. According to the secretary of the Tainui Board, postal ballots are time consuming, costly and inappropriate to Tainui selection procedures. Tainui prefers their elections to be more informal and personal, with elected representatives being decided upon in a tribal consensus manner (Taka, personal interview, 22 November 1988). If there is more than one nomination for office, then a hui (meeting) is held by the rohe (subtribe collective) who then decide who will be elected to office. The procedure followed is one of consensus decision making. Elected representatives are not formally required to be resident in the Tainui region, and there have been representatives who have lived in Auckland for example. This has not been a common occurrence however and generally members do live within the Tainui boundaries. There had been one incident, according to Pat Park (personal interview, 1989) when a candidate from Waahi demanded that elections be held according 'to the book', that is, as legally set out in the Act. That candidate as a consequence lost the election. The new Maniapoto Maori Trust Board requires that at least three quarters of the people elected to the Board must reside in the area.

In order to vote for the Ngati Porou executive, beneficiaries must be registered on a stated rohe (division) on the tribal roll. For these East Coast people, postal voting is not acceptable.

> We will not accept postal voting because we believe that if the people are really concerned about their Ngati Porou mana and about the things that are happening to us as a people, then their commitment will be manifested by their interest to come home and vote (Mahuika, personal interview, 20 July 1988).

Members of the Te Aupouri Maori Trust Board are elected in a manner suited to Te Aupouri needs. The Board has eleven members who represent four different constituencies of the tribe. Two members represent the Te Hapua people and these members have traditionally been appointed by the Ngati Kuri who are the tangata whenua of Te Hapua. The three other constituencies generally elect their members by postal ballot although one constituency, in recent elections, was pleased with the performance of the two existing members and asked them to continue. Again, one interviewee expressed dissatisfaction with the legislative requirements in the following terms.

> There is a difficulty I think with postal ballot systems of electing people on to Boards in that it actually has the effect of reducing accountability, it doesn't strengthen accountability (Jones, personal interview, 1989).

Tribal electoral requirements differ significantly, but for the Ngai Tahu Maori Trust Board, which covers the whole of the South Island, the electoral procedures as stipulated in the Act have proved adequate. A major reason is the vast geographic area covered by the

Board. Postal voting is the most practical means for a tribe that is so widely dispersed. The Taranaki Maori Trust Board represents eight iwi or tribal groups. Voting in the past has been decided by each tribe. Electoral proceedings have varied, depending on each iwi's preference, and this may be postal, by a show of hands, secret ballot or tikanga Maori (frequently meaning a person will be unopposed because of his/her mana within that tribe).

Elections, Leadership, Mana and Rangatiratanga

Those who are elected to office tend to achieve their position either through ascribed or achieved status. Ascribed status, as defined in social science terms, means a person having rank or status in the tribe based on inherited factors. Ascribed status means that power or influence and recognition does not come from the personal achievements or political position that a person happens to hold. It comes from some inherited attributes and standing in the tribe. Mana is perhaps the closest Maori concept to equate with ascribed status, although mana does have to be maintained by performance, achievement and/or leadership (see Winiata, 1966). It is status not open to competition, and in the Maori world, an individual's whakapapa (genealogy) has an important bearing on one's rank. Individuals are able to increase their standing through achieved means, but mana (status) and seniority tends to be generally acquired through inherited factors. Traditionally, those who could demonstrate their expertise in terms of whakapapa and leadership qualities, were rarely if ever, challenged for their leadership positions.

Some members to the Tai Tokerau Maori Trust, have until recently, been virtually appointed by their various tribes. Sir Graham Latimer, for example, represents the Ngati Kahu tribe and says that he has never been challenged and therefore never had to go to the ballot box. It has not been unusual in many areas for a retiring member to nominate a successor and for that person to be elected uncontested. Furthermore if a Board member has died whilst still in office, Boards have tended to appoint a replacement. Consequently it has frequently occurred that that person has been returned unopposed at the next election. These senior executives of Trust Boards have generally been people whose rangatiratanga is almost paramount. Sir James Henare (Tai Tokerau), Sir Graham Latimer (Tai Tokerau), Robert Mahuta (Tainui) and Sir Hepi Te Heuheu (Tuwharetoa) are but a few examples. These are people who fulfil Maori criteria of 'mana' and they are elected because it would be unthinkable to elect anyone else. 'Mana' cannot be written into electoral requirements, yet it has been a major factor in the election of executive members to Maori Trust Boards.

'Mana' and the place of women on Maori Trust Boards

There are noticeable tribal differences when looking at the election of women to Trust Boards. There appears to be a general consensus that in the past 'mana' has played a considerable part in determining who may be elected to the Board, but 'mana' does not always include women or the status of their whakapapa. Ngai Tahu for example, (at least until 1989) had only elected one woman to the Board (Maria Tene from Ruahehu) while Tuhoe and Tuwharetoa do not have any women

members. The board room of the Te Arawa Maori Trust Board is 'paepae tapu' which means that women are not allowed to enter. This effectively denies women a place on the Board (Te Arawa kawa or protocol does not allow women to speak on behalf of Te Arawa). Recently, this policy has been challenged by one woman - Cathy Dewes, who is seeking the Ngati Rangitihi seat on the Board. In 1994 she has taken court action in an attempt to overturn a Board decision that refused to accept her nomination.

In contrast to Te Arawa the Tainui Maori Trust Board in 1994 elected five women to the Board, in 1989 there were three. Princess Te Puea Herangi, a powerful and influential Tainui leader with both ascribed and achieved 'mana' had been instrumental in having the Tainui raupatu grievances legitimated[15] and the Trust Board set up, and it would be 'unthinkable' for Tainui to deny women the opportunity to be elected to the board. A more recently constituted Maori Trust Board, Tauranga Moana (1981), has only had one woman executive member and her election arose from the retirement (due to ill health) of her uncle who would only stand down if he could nominate her as his successor. Clearly in this instance 'mana' was being used to influence selection and election. Interestingly, several Tauranga Moana women have been asked to put themselves forward for nomination but they have always declined with the attitude that "I'm not good enough for those learned people, they are all elders of their various hapu, with a lot of status and mana" (Rolleston, 1989). In the far north, a number of women have been and are, members of the Tai Tokerau Maori Trust. In 1990

15 See Te Puea A Biography by Michael King (1978 edition), pp222-225.

the members representing Nga Puhi ki Whangarei, Te Rarawa, Nga Puhi ki Whangaroa and Nga Puhi ki Waimate were all women. In a changing political environment, election in the North because of inherited 'mana' is no longer guaranteed, as exemplified when the male member of Nga Puhi ki Whangarei retired from the Board but promoted his daughter for the position. Instead, a woman who was very actively involved in the community with very considerable 'achieved' status was elected to the Board, but this appears to be a recent phenomenon, probably due to the changing functions of the Trust Boards in contemporary times.

Statutory Requirements determine beneficiary status

The 'elected' trustees of the Boards are required to administer tribal funds on behalf of the Boards' beneficiaries. Section 42 of the Maori Trust Boards Act provides that the Board shall prepare a roll containing the names and addresses of adult beneficiaries, and where the beneficiaries are divided into different sections or divisions, the roll shall also show the section or division to which each beneficiary belongs. Section 43 puts the onus on the beneficiaries to enrol and declares that it shall be the responsibility of each adult beneficiary to ensure that his or her name is included on the roll. Again, a patronising element comes into the legislation since s45 requires that the initial preparation of the roll of beneficiaries must have ministerial approval.

In the past there appears to have been an attitude by many beneficiaries that so long as one member of the family was enrolled

as a beneficiary, then that was sufficient. For example,

> Occasionally people will come to the Trust Board and say "Dad's died, so we would now like to be enrolled". In other words, so long as he was enrolled as the head of the family, there was really no need for many of the brothers and sisters to be enrolled, but now he's gone, here we all are, we want to be enrolled (Secretary to Ngai Tahu, personal interview, June 1989).

The legal definition of Tuwharetoa's Trust Board beneficiaries was clarified by the Maori Land Court, Tokaanu, 30 July 1965 in the case "The Beneficiaries of Tuwharetoa Maori Trust Board". The Native Land Amendment and Native Land Claims Adjustment Act 1924 empowered the Minister of the Crown to negotiate with the owners of lands surrounding Lake Taupo and the 1925 empowering Act authorised negotiations to take place with the Ngati Tuwharetoa Tribe and the 'Ngati Tuwharetoa' representatives. The Native Land Amendment and Native Land Claims Adjustment Act 1926 and Maori Trust Boards Act 1955 Act, define the Board's beneficiaries as "members of the Tuwharetoa Tribe or their descendants". The Court's conclusion was that the people who are descended from Tuwharetoa and who are descendants of those who owned lands bordering on Lake Taupo are the beneficiaries of the Tuwharetoa Maori Trust Board (Maori Land Court, 30 July 1965:15).

The Tuwharetoa boundary or rohe however, extends into the Taumarunui valley and includes the land west of the Hauhangaroa range.

> If you line up the Trust Board boundaries with what they call the Te Heuheu boundaries, then the 1886 description to the Maori Land Court of where Tuwharetoa lay, there's a lot of land that lies outside of the present Trust Board boundaries (Brown, personal interview, 1989).

The people within this region do not fall within the Board's legally defined mandate, but the Trust Board is expected to politically represent all Tuwharetoa people, not just those physically affected by the selling of the lake and river beds. Political representation of the whole tribe rather than just named beneficiaries has also been a role performed by other Trust Boards including Tainui and Tai Tokerau.

The functions and changing status of Trust Boards

Traditionally many of the Boards had a low profile since the funds they were administering were very small. Tai Tokerau for example, invested their capital in government bonds at an interest rate of only 3% for many years. The return amounted to approximately $8,000 and out of this travel expenses for Board meetings had to be met. Hence political awareness of the role of Maori Trust Boards in many areas has been minimal and to some extent, there has been little felt need to challenge those in executive positions. One prominent, respected Maori leader and academic goes so far as to say that Trust Boards have just been organisations carrying out delegated functions of the Crown.

> By their nature ... they have been little other than subsidy granting agencies of the Crown, passive in social welfare and inconspicuous in capital accumulation - less successful in commercial enterprise, indeed, than many incorporations (Kawharu:1989:xiv).

And until very recently, political activism by both executives and beneficiaries has not been high. A very recent phenomenon is a perceivable change in attitude by many people, towards Trust Board members who in the past have gained office through ascribed status. Recent political changes and the governmental impetus of decentralising service delivery over the past decade, to the tribes has been responsible for this.

When government established the Mana Enterprises programme in 1985, it was aimed at broadening the Maori economic base through the creation of Maori enterprises and the expansion of existing Maori businesses so that Maori employment opportunities could be created. Maori Trust Boards were used to administer the programmes. This immediately changed the role and functions of the Boards. Apart from administering assets on behalf of their beneficiaries, the Boards became involved in service delivery to all Maori in their region.

In 1987 Maccess was phased in, and administered by various Maori Trust Boards. This programme was designed to provide work related skills to unemployed Maori people. The allocation from government, of resources for these training schemes and small business development, required that Boards' operate in a manner quite different from their legislative

requirements. Some Boards were inadequately prepared for the role government expected them to perform and did not have the necessary expertise to administer large sums of money. Yet given the opportunity to administer programs to their own people, many of the tribal trustees took on administrative roles that they were inadequately prepared for, believing (perhaps rather naively) that this was an opportunity to finally have some autonomy over policy delivery at a local level.

It wasn't until December 1988 that the Maori Trust Boards Amendment Act was enacted to allow the Trust Boards to legally administer government schemes. Until the passing of this amendment, the Trust Boards were operating outside their legal mandate, and as the Audit Office pointed out, there had been no available criteria to judge the performance of Boards, nor were there appropriate financial and accountability controls (Audit Office, 1987). The addition of section 3.24D(1) now provides for the Boards to enter into any contract with, or accept grants or loans from, any government department or agency that is approved by the Minister for the purpose of delivering approved services to Maori. This is a radical departure from the traditional function which was administration solely for designated beneficiaries. As a service provider the Trust Boards were now required to cater for all Maori in the region not just the beneficiaries or even the tribe.

The establishment of another seven Trust Boards in 1987 and 1988 was also a departure from the traditional justification for setting up Trust Boards. These Boards were established not to administer tribal compensation funds on behalf of beneficiaries but to promote Maori development in their own tribal area. For example, the Ngati Porou

Runanga was legislated in 1987 and comes under the 1955 Maori Trust Boards Act. The kaupapa of this Board is not the administration of compensation monies but to provide for their own people. The Ngati Porou people did not lose their land as a consequence of colonisation, and most of their tribal lands remain intact. The tribe is rich in people resources although many Ngati Porou do not live in the area. Nevertheless, the primary concern of the Runanga is employment:

> Employment in the area is going to rely heavily on our lands. We've still got our lands, but our employment has to come from that land, because there is nothing else. There are no heavy industries, there are no commercial ventures ... so we need optional land uses ... we need also to be looking at commercial spinoffs from the land that can create factories and so on ... The problem with the land issue at the moment for us, is that while we own the land we do not have control over it. The control is still with the Maori Trustee under the Maori Affairs Act 1953 (Mahuika, personal interview, 1988).

The move to service delivery had the effect of raising the profile of Trust Boards. The higher profile has also had the impact of increasing the number of registered beneficiaries on tribal rolls. A natural consequence has been the re-evaluation by many, of the people most suited to the new responsibilities of the Boards. Younger people in particular, are starting to take a more active role in recruiting people with professional qualifications in order to ensure ongoing delivery of services to their people.

> In the early days Trust Boards had been run by a certain strata of people very few young people, in my experience anyway, were given an opportunity to be involved in Trust matters. Now I see a lot more (Kirikiri, personal interview, 1989).

The contracting by government of services and programs to Maori Trust Boards, the establishment of Trust Boards who do not receive and administer compensation money, and the changing expectations of the Trust Board beneficiaries illustrate the urgent need for legislative reform. In November 1994, the Tainui Maori Trust Board held a hui (meeting) for all its beneficiaries to discuss the raupatu (confiscation) negotiations between the Board and the Crown. The meeting was not open to the whole tribe, only descendants of those whose lands were confiscated in or about the years 1864 and 1865. On the other hand the Trust Board administers health and education programmes to the whole tribe. These are two very different requirements but are nevertheless bound by the same paternal requirements of the outdated 1955 Maori Trust Boards Act.

The 1955 Maori Trust Boards Act is founded on white ethnocentric attitudes which imply that Pakeha knowledge and capabilities are superior to Maori whilst assuming that at some point in the future Maori will attain Pakeha standards of competency and administrative ability. When the Maori Trust Boards Bill was introduced to Parliament for its second reading, Tirikatene, the member of Parliament for Southern Maori and an executive of the Ngai Tahu Maori Trust Board,

objected to some of the paternal aspects of the Bill, namely the lack of autonomy on investment, the inclusion of the word Maori in the title and the need for government consent on expenditure (NZPD, 1955:2444-2449). Those objections were ignored and the paternalism continues.

Maori are capable of looking after their own affairs, and a start to providing Maori with the opportunity to be self-determining in a limited manner can be achieved through changing basic legislation such as the 1955 Maori Trust Boards Act which provides government with the paternal powers to veto (or otherwise) Maori developments.

Legislative Requirements versus Tribal Expectations

Maori Trust Boards are ad hoc organisations, set up by government under their own legislation (but consolidated by the 1955 Maori Trust Boards Act) with a specific purpose - the administration of assets for the general benefit of the beneficiaries. The beneficiaries of those Trust Boards listed in Appendix One are not the tribe, rather, the legislation defines them in a number of ways. Whakapapa linked to a defined group of people determines Ngai Tahu beneficiaries, whakapapa linked to victims of raupatu (confiscation) is the legal requirement for Tainui whilst the Arawa, Aupouri and Whakatohea Maori Trust Boards have beneficiaries loosely defined as members of their tribe and their descendants. Tauranga Moana beneficiaries are linked to the battles of Gate Pa and Te Ranga. The Wairoa-Waikaremoana Trust Board has a residency requirement for its beneficiaries.

Maori Trust Boards were not originally established to represent tribal interests and did not tend to do so until political changes in the 1970s and legislative changes in the 1980s, made it politically expedient for government to use them as such. The decentralising policies of government in the 1980s will be discussed in a later chapter and will illustrate the convenience by which government used the statutory authority of Trust Boards in order to have them implement services to tribal members rather than beneficiaries. This process tended to politicise the people as well as raise their expectations of the functions and objectives of the Boards. The legislative requirements tended to become of less importance than the need for a tribal organisation to represent tribal interests.

The consolidating Maori Trust Boards Act 1955 was not originally intended to provide the legal framework for the delivery of government programmes to Maori. It's specific purpose was the administration of beneficiaries assets. In the late 1980s however, it was used to set up new Trust Boards even though the kaupapa of the new Boards is quite different to that of the original eleven Trust Boards. The political climate of the 1980s and 1990s has seen government use Trust Boards as government agents to deliver services in health, employment, labour and education to different tribes and Maori communities. The contracting of services to various Maori organisations does not require paternal and outdated legislation. In July 1993 a private Bill was introduced into the House of Representatives seeking the establishment of Te Runanga o Ngai Tahu. This Bill seeks to have Te Runanga o Ngai Tahu act on behalf of the Ngai Tahu iwi and to abolish the Ngai Tahu Maori Trust Board. Tainui have also discussed the possibility of having

new legislation introduced that would appropriately suit their needs. The partnership concept that has been promoted government since the introduction of its devolution policies needs to include a revision of Trust Board legislation so that the basic steps towards Maori self-determination are not hindered.

Chapter Four
The Tribal Experience/Maori Trust Boards

Maori tribes have all experienced the deprivations caused by colonisation but how the tribes experienced them is not the same, hence Maori insistence on reminding the world that Maori people are whanau, hapu, iwi then Maori. In other words the people are Maori but tribally they are not the same. This tribal difference and experience can be more easily understood if one looks at some fundamental differences between the tribes.

An historical review of the circumstances by which the Te Arawa, Ngai Tahu, Tainui, Tai Tokerau, Taranaki, Tauranga Moana,[16] Tuwharetoa and Whakatohea Maori Trust Boards were established will illustrate the need for government to make a serious and immediate effort to work with Maori tribally, to effect change that will be positive for Maori development.

Tai Tokerau Maori Trust Board

Northland is a region that had considerable contact with European explorers, whalers, traders and settlers prior to the signing of the Treaty of Waitangi. It was reported by the Myers Commission (1948) that the first land acquired, farmed and settled by Europeans in New

16 These six Trust Boards agreed to participate in my research. The information on Tuwharetoa and Whakatohea has been gathered from published secondary data.

Zealand was by the Church Missionary Society in 1815. Between 1815 and 1836, approximately 1.7 millions acres of land is believed to have been acquired by Europeans from Maori (AJHR, 1948, G-8:19). After 1836 the demand for land increased rapidly owing to the prospect of the establishment of British sovereignty.

> ... (traders) obviously prompted by speculation, bartered merchandise for land, and for a nominal consideration acquired vast areas ... Almost every captain of a ship arriving at Sydney from New Zealand exhibited a piece of paper with a tattooed Native head rudely drawn on it, which he described as the title deed of an estate, bought for a few muskets, hatchets, or blankets ... Baron de Thierry ... purchased from Hongi and Waikato ... 40,000 acres of land, the consideration for this hugh transaction being thirty-six axes ... (AJHR, 1948, G-8:20)

Once the British Crown had gained sovereignty in 1840, no title to land in New Zealand was recognised unless it was derived from, or confirmed by, the Crown. That is, any land purchases between Maori and European after 1840 were considered null and void and not recognised by the Crown. Any property acquired prior to the signing of the Treaty that any person could prove had been *bona fide* acquired, was however, safeguarded. There were many extravagant claims to Maori land by various people and it was shown in 1845 that if the area of New Zealand computed to 56,000,000 acres then nine purchasers considered themselves entitled to 56,654,000 acres, leaving the Maori not only landless but in debt of 654,000

acres of land. Most of these claims were disallowed after the imposition of British sovereignty, but smaller areas of land acquired by several hundred settlers and missionaries were accepted as valid (AJHR, 1948, G-8:21).

All land transactions which the Crown considered illegal meant that the land was considered 'surplus lands' and became the property of the Crown. According to the Reedy and Samuel report (AJHR, 1948, G-8)[17], after the signing of the Treaty of Waitangi Maori were assured that all lands wrongly acquired would be returned to them and not kept by the government. This did not occur, hence Maori grievances over the failure of government to return surplus lands to the Maori. That the Crown acquired surplus lands for nothing when the land should have been returned to the Maori, was, in Myers view, entirely fallacious (AJHR, 1948, G-8:38). Myers contended that much of the surplus lands had been purchased from Maori vendors and they had received payment for the land so whether the Crown acquired the land by forfeiture or confiscation was of no concern whatsoever of the original owners and that if the Crown were to pay the Maori, then they would have been paid twice over for the same property. If anyone had a right to complain, he believed, it was the purchaser and not the vendor. After a lengthy discussion justifying his view, Myers concluded that

17 The 1948 "Report of Royal Commission to Inquire into and Report on Claims Preferred by Members of the Maori Race Touching Certain Lands known as Surplus Lands of the Crown" was not unanimous in its recommendations. The Crown was presented with two reports, one from Messrs. H. T. Reedy and A. M. Samuel, and another by the Chairman, Sir Michael Myers.

> ... the Maoris had returned to them hundreds of thousands of acres for which they had received consideration which, though inadequate, nevertheless aggregated to a considerable sum ... (AJHR, 1948, G-8:73)

Myers argued that the Maori were only entitled to compensation for the actual area of surplus land that went to the Crown, where the surveyed area was greatly in excess of the supposed or granted area. He contended that mostly the transactions on which the surplus lands arose were made in good faith and fair and adequate consideration had been made. This was the source of major disagreement and discontent by the Maori. It was agreed by all members of the Commission that in the North, the disputed lands included in deeds of sale prior to 1840, had not been surveyed. The boundaries were simply described by geographic or physical features.

> It is a fact, however, that in a large number of cases, when the land later came to be surveyed, it was found that the area surveyed turned out to be greater (in some cases very much greater) than the supposed area - that is to say, the area which the purchaser thought he was buying (AJHR, 1948, G-8:47).

The difference of opinion between Myers and the other members of the Commission had considerable influence on the financial recommendations made in the two reports. Whilst both parties

agreed that the Maoris concerned had an equity in 87,582 acres of surplus land (AJHR, 1948, G-8:18), the Reedy-Samuel report states that the

> explicit promise by the newly-appointed representative of the Queen whose word would be regarded as sacrosanct, it seems abundantly clear to us that the Natives were entitled to consider that the surplus lands were to be returned to them (AJHR, 1948, G-8:29)

Reedy and Samuel argued that the surplus lands should have been, and if they had been, returned, then their asset would have been considerable. In considering the question of compensation they adhered to the legislation of the New Zealand Land Claims Settlement Act, 1856, which set compensation at not more than £1 per acre, rather than compute a value upon the prices ruling when the land should have been returned to them and adding interest to the date of settlement. Because Reedy and Samuel believed the quality of the surplus lands to be mixed, they recommended that compensation of 14 shillings per acre, amounting to £61,307 for 87,582 acres of land be paid to a Trust Board for the benefit of those people affected in the surplus lands issue. This sum, they recommended should be paid as full and final settlement of those lands known as 'surplus lands' (AJHR, 1948, G-8:36). Myers final recommendation was that a sum of £15,000 be paid, calculated on prices per acre which he says, were above the prices being paid at that time, for similar quality land.

Most of the land involved in surplus sales was along the shores of the Ngati Whatua area (Waipu), large areas of the Bay of Islands and further North to Mangonui and Kaitaia districts. These were the main settling areas of the Anglican settlers in the North. But there were also some surplus lands in the Whakatohea and Tainui areas.

The 1948 Commission of Inquiry presented many problems to those people wishing to appear before it. Initially the Commission was only scheduled to sit in Auckland. This therefore required everyone from the North to find a means of getting to Auckland and in the 1940's when few people had motorcars and buses were the only means of transport, only those who were able to afford the bus fare were able to travel to Auckland. Eventually however, after a lot of complaining from the old people (kaumatua), the Commission spent about a week in Kaikohe and Russell. Even so, this still proved a hindrance to many Maori because of the associated transport problems.

According to Sir Graham Latimer (personal interview, May 1988), when the Commission came to making a recommendation, the two Pakeha members decided it was unethical for a Maori to sit and award compensation to Maori people so he was asked to leave the room while two Pakeha people decided the compensation for the iwi.

The Samuel and Reedy report (AJHR, 1948, G-8:36) stated that "we conscientiously believe that equitable justice will be served ..." if government were to pay compensation of £61,307 based on their calculations of 14 shillings per acre for 87,582 acres of surplus

land. Myers (AJHR, 1948, G-8:78) estimated that a fairer estimate of the value of the surplus lands was £9,476 6s. 9d. but he was "prepared to add something to that amount by way of solatium ..." and so recommended to government "that a payment of £15,000 would give the fullest measure of justice to the Maori claims".

The two recommendations were conveyed to Cabinet but no decision on compensation was immediately made and then a change of government took place which delayed the eventual settlement of £61,307 to the affected tribes. There was no avenue for the Maori people to object to the recommended payment, there was no Waitangi Tribunal, and no system in the country that allowed Maori redress.

It took over one hundred years for the long standing disputes on surplus lands to be addressed by government and it was not until 1953 that compensation was eventually paid out. From a total of £61,307, the sum of £4,648.14s went to the Whakatohea Maori Trust Board and £4,155.18s to the Tainui Maori Trust Board for "surplus lands" in their areas. The newly constituted Tai Tokerau Maori Trust Board received £47,150.4s. A few thousand pounds were also allocated in respect of surplus lands on Whanganui Island, Waiheke Island and Great Barrier Island (Maori Purposes Act 1953, s28).

The Tai Tokerau Maori Trust Board was formed as the umbrella organisation to administer the lump sum compensation payment of £47,150 on behalf of the members of the Ngati Whatua, Nga Puhi, Te Rarawa, Ngati Kahu and Te Aupouri tribes of the North. Initially the

funds were invested in government bonds which gave the tribes very little return on their investment and often amounted to not much more than the travelling expenses of members attending Trust Board meetings. Then later the funds were withdrawn from those bonds and used to buy a farm as an investment for the beneficiaries (Latimer, 1988). In 1989 the Tai Tokerau Maori Trust Board was administering a tribal income of about $5,000 but in addition to this it was also administering government Mana and Maccess programmes which, as will be discussed later, required considerably different infrastructures (Latimer, 1989).

Tainui Maori Trust Board

More than one million acres (1,202,172) of Tainui tribal land was originally confiscated by the Crown in 1865 under the New Zealand Settlements Act 1863, because it was alleged, some of the Tainui Maori had engaged in rebellion against Her Majesty, the Queen of England's authority. That is, they violated the sovereignty of the British Crown (Article One of the English version of the Treaty of Waitangi). Additionally, the growth of the political Maori King movement was perceived as a threat to British sovereignty since it sought to maintain Maori sovereignty and challenged colonial encroachment on to Maori land. 314,364 acres were returned, (a lot of it western hill country which some say was returned to the 'wrong' people), leaving a balance of 887,808 acres of confiscated lands (AJHR, 1928, G-7:17). .

The injustice of the confiscations was recognised long before 1928 and there were numerous petitions to government describing the unjust and illegal confiscation of Waikato lands, but it was not until 1928 that Crown attention was focused upon the Tainui grievance. The setting up of a Royal Commission to Inquire into Confiscation of Native Lands and Other Grievances Alleged by Natives (more commonly referred to as the Sim Commission after its Chairman), meant that nearly sixty years after the land had been confiscated, the Waikato people finally gained a legitimate hearing. Upon investigating the Tainui grievances the Sim Commission concluded that

> ... it is clear that a grave injustice was done to the Natives in question by forcing them into the position of rebels, and afterwards confiscating their lands 887,808 acres [was] finally confiscated our recommendation is that the excessive confiscation should be compensated for by making a yearly payment of £3,000 ... (AJHR, 1928, G-7:17).

It was not part of the terms of reference for the Sim Commission to investigate whether the confiscations were unjust, hence their statement "we are not justified ... in saying that the (Waikato) tribes ... ought not to have suffered some confiscations" (AJHR, 1928,G-7:15). Instead, under the 1863 New Zealand Settlements Act the Waikato people's actions in supporting the Taranki tribes' defence of their lands were considered rebellious and therefore liable for land confiscations (AJHR, 1928,G-7:13 -15). Indeed, according to the Sim Commission

> It became the fashion for all the adventurous men {Waikato} to spend a month or two in the year at Taranaki 'shooting pakehas', and in obedience to this fashion along they went and took part in the war (AJHR, 1928,G-7:13).

According to law then, these 'rebels' were responsible for the land confiscations which the Sim Commission (AJHR, 1928,G-7) considered to be excessive even though it had earlier stated that the Taranaki wars were unjust and that

> they [Taranaki] ought not to have been punished by the confiscation of any of their lands (AJHR, 1928, G-7:11).

The conclusion reached by the Sim committee, was that the Waikato people should be compensated for excessive land confiscations, and that this compensation should be in monetary terms. The Sim Commission also recommended that the Waikato compensations be at a lesser amount to that of Taranaki. Eventually, the Tainui people agreed to a monetary figure, but it must be recognised that Maori agreement to a monetary pay out is purely in terms of vindication and legitimisation. Monetary compensation recognises that the grievances are valid and therefore gives "mana" to those grievances. The regaining of land, which is the essence of Maori being and spirituality, is perceived as the full and final solution to Maori land grievances.

The initial government offer of £3,000 annually as compensation for excessive land confiscations was not acceptable to the Waikato people.

In light of the recommendations made on the Taranaki confiscations for an annual payment of £5,000 for 462,000 acres, the Waikato people continued negotiating for a more equitable payment. Tainui and the Crown disagreed on the amount of financial reparations and discussions continued to take place during the depression. Part of the reason for a delayed solution, according to King (1977:222-3), was Waikato's inability to decide what was acceptable. Many Waikato people demanded that 'as the land was taken, so should land be returned'. In 1936 an offer of £5,000 per annum was made by Prime Minister Savage but an accord was still not able to be accomplished and then World War 2 intervened. Negotiations were suspended by mutual agreement and resumed in 1945. In 1946 Waikato finally compromised and accepted the Government offer that

> £5,000 was to be paid in perpetuity ... and it was held to be only fair, as reciprocating the fine spirit of the people in time of war, to make a payment of £50,000 for the ten year period since 1936, £5,000 of which was to be paid forthwith, and £1,000 a year for a further 45 years (NZ Parliamentary Debates Vol 275, 1946:180).

A Board was set up to administer the funds on behalf of the Waikato and Maniapoto people who had been affected by the land confiscations. It was called the Tainui Maori Trust Board after the canoe in which the ancestors of the Waikato people came to New Zealand.

The legislation under which the Trust Board was constituted, states that it is to administer funds on behalf of Tainui tribes, or sections of

Tainui tribes in the Waikato district who were affected by land confiscations in or about the years 1864 and 1865. (Maori Trust Boards Act 1955 s7(5). Contrary to the legislation, the Board has from the outset, maintained that,

> Tainui has a common history, identity and fate, that its purposes are set by the tribe and the Kingitanga, that raupatu affected the whole tribe (since the wars were designed to smash tribal structure and unity) and that its task is primarily one of tribal development and not just to act as a conduit to syphon money out to a limited list of beneficiaries. (Tainui Maori Trust Board, 1988)

The traditional territory of Tainui is from the Manukau to the Mokau, along the Kaimai ranges and south to the plains of the lower Waikato. Within these traditional boundaries the Trust Board has generally viewed its role as being holistic in nature and encompassing all people of Tainui descent although representatives elected to the Tainui Trust Board are only drawn from raupatu (confiscated lands) areas.

The Tainui Maori Trust Board operates beyond its legislative functions. It does administer compensation funds on behalf of the Tainui people but socially, economically and politically it is very active on behalf of all Tainui. In the 1970's considerable pressure was put on government to acknowledge and compensate for the building of a power station directly adjacent to Waahi marae (see Lynn, 1989). The region has considerable coal reserves which have been mined by government and the 1980s saw the Tainui Maori Trust Board battle with government

over the ownership of those resources. It has been directly negotiating with government regarding settlement of raupatu (illegal land confiscations) issues, rather than having its grievance heard by the Waitangi Tribunal, been involved with fisheries negotiations, forestry negotiations and many other issues which affect Tainui.

In 1991 government returned the 185ha Hopuhopu military camp (near Ngaruawahia) to the Tainui Maori Trust Board which was given to the Anglican Church for educational purposes in 1853 and then taken by the Crown under the Public Works Act in 1922. According to the Minister of Justice, it was a 'gesture of goodwill' and a first step in reaching a negotiated settlement over confiscated lands in the Waikato (National Business Review, 2 September 1991). In 1992 the Te Rapa Air Force Base was also returned to the Tainui Maori Trust Board and both sites are now being administered by Trust Board. In September 1992 the Tainui Maori Trust Board was the first Maori tribe to be granted a short-term television licence, and it runs a regional radio station as well. The Tainui Maori Trust Board is currently contracting with government and administering various social policies in areas for example, such as health and education. The Tainui Maori Trust Board has considerable responsibility for the economic, social and political development of the Waikato people, and the short term, self-determining goals of the Tainui people to be independent from government welfare policies are being facilitated by the Tainui Maori Trust Board.

Te Arawa Maori Trust Board

The Arawa people were more fortunate than many Maori tribes after the signing of the Treaty of Waitangi in 1840 in that they managed to retain much of their tribal lands. They did not become involved in the Waikato wars of the early 1860's and so emerged in the 1870's with much of their traditional lands intact. The natural resources of the area, including the Pink and White Terraces, thermal activity, and various lakes, enabled a tourist industry in the Arawa region to be developed and accordingly this meant the Arawa people became subject to the various pressures of tourist development. As a consequence of the developing tourist industry, some Arawa land alienation did occur. Some Maori land was leased, and in 1880 the Chief Judge of the Native Land Court, Francis Dart Fenton, asked that a township be established in Rotorua. An agreement was signed in November 1880 and 3,020 acres were given, surveyed and divided into sections for this purpose. The government undertook to be the agents for the Arawa people for the purpose of leasing, and also undertook to collect rents on behalf of the Maori owners. According to the Ngati-Whakaue people, the Pukeroa Reserve of 30 acres, the Sanatorium grounds, the Kuirau Reserve, the Arikikapakapa Reserve and sites for public buildings were donated for public use. (AJHR, 1908,G-1e:6). Unfortunately, once the first payments from which the survey, advertising and auctioneers' expenses were deducted, rents fell into arrears,

> the government neglected to collect them... Not only were written agreements left unfulfilled but verbal promises valued by us as sacred and as valuable as the

> gifts we donated to the public use were disregarded or repudiated (AJHR, 1908, G-1e:7).

The Arawa people were becoming discontented with government and were further prejudiced by the strict controls placed on them by additional government legislation. The 1881 Thermal-Springs Act prohibited private sale or leasing of Maori land. Section 3 of the Act states "... it shall not be lawful for any person other than her Majesty to acquire any estate or interest in Native land". The Act also empowered the government to "treat and agree with the Native proprietors for the use and enjoyment by the public of all mineral or other springs, lakes rivers and waters" s5(3). This meant that the Maori had no control over their lands, private sales were illegal and all transactions had to be through the Crown. The Arawa people became increasingly cynical and dubious of Crown actions.

The lakes of the district became increasingly subject to tourist pressure. The introduction of trout into the streams and lakes as an attraction for the tourists visiting the Thermal-Springs district, proved fatal for the indigenous lake populations, particularly kokopu, native trout. The lakes had always provided sustenance to the Arawa people and were an important part of the tribe's food supplies. The introduction of trout eliminated traditional Maori foods and a very important element of the local Maori diet. More importantly, when the Arawa Maori were required to pay a licence fee for taking fish from their own lakes they clearly believed that this contravened Article Two of the Treaty of Waitangi which guarantees to the tribes the "full exclusive and undisturbed possession of their Lands and Estates

Forests Fisheries". Furthermore, s5(3) of the Thermal-Springs District Act, 1881, empowered the government to negotiate with the local Maori for the use and enjoyment by the public of the local waters, rivers, lakes and springs. Since no negotiations had taken place, the locals believed that they had customary ownership of the lakes and beds in which they lay. Regardless, however, a local clergy man (the Reverend Manihera Tumati) was prosecuted for taking fish from one of the lakes without a licence. Many within the tribe perceived this as a grave injustice since "Manihera was fishing from his own land, into his own lake" (Te Arawa Maori Trust Board, 1974:10). The denial of tangata whenua rights, compounded by court action for taking what was perceived as rightfully theirs in the first place, led the Arawa to present a claim to the 1908 Native Land Commission (referred to as the Stout-Ngata Commission), regarding the ownership and use of the lakes in the Rotorua district. The interim report of the Native Land Commission, on Native lands in the County of Rotorua recommended that the

> the Tourist Department could ... remedy a real injustice that has been inflicted on the Maori landowners of this district if they issued licenses free of charge to the heads of families, permitting them at stated times, to catch trout for food and not for sale (AJHR, 1908,G-1e:5).

This was an unacceptable solution to the Arawa who had never parted with their rights to any of their lakes and rivers, nor had they treated with the government under s5(3) of the Thermal-Springs District Act, 1881 over lake and river ownership.

Under Article 11 of the Treaty of Waitangi, the Arawa people sought recompense from Government for the right of use of the hot or mineral springs, lakes and waters of the Thermal-Springs area. Between 1908 and 1922 negotiations were held between representatives of the Arawa tribe and the Government. Eventually an agreement was reached in 1922 and s27 of the Native Land Amendment and Native Land Claims Adjustment Act 1922 was passed allowing for a £6,000 annual perpetuity payment to be made to the members of the Arawa tribe and their descendants from April 1924, in exchange for Crown control of the lakes and lake beds in the Arawa region. For the purpose of administering those funds on behalf of the beneficiaries a Trust Board was constituted in 1924 and called the Arawa District Trust Board.

Taranaki Maori Trust Board

Colonisation and its impact on the Taranaki people differed again from that of other tribal people in New Zealand. Following the land wars of the early 1860's, substantial tracts of Maori land were unjustly confiscated from the Taranaki tribes. The land confiscations stemmed from what is commonly known as the Waitara purchase of 1859. Reeves (1987) in 1898 wrote in his book titled The Long White Cloud that

> ... less than 3,000 settlers, restricted to 63,000 acres, fretted at the sight of 1,750 Maori holding and shutting up 2,000,000 acres against them ... the impatience of the Taranaki settlers, though mischievous, was natural. The Maori scarcely used a hundredth part of their lands ... In

> 1860 came the Waitara land purchase - the spark which set all ablaze ... During a visit to the district, Governor Browne invited the Ngatiawa natives to sell land. A chief, Teira, and his friends at once offered to part with six hundred acres which they were occupying. The head of their tribe, however, Wiremu Kingi, vetoed the sale. The Native Department and the Governor sent down commissioners who, after inquiry, decided erroneously that Teira's party has a right to sell and the head chief none to interfere (Reeves, 1987: 196-199).

The land was sold, hostilities broke out, and in February 1860 martial law was proclaimed. Two Taranaki land wars followed and the Waitara purchase was also considered to be at least one of the causes of the Waikato wars because Waikato people joined Taranaki in fighting British troops in the defence of their lands. Substantial land was confiscated but the Taranaki people refused to accept the Crown's decision to forcibly take their lands. They sought redress through official authorities. Finally, in 1928 a Royal Commission to Inquire into Confiscation of Native Lands and Other Grievances Alleged by Native, commonly known as the Sim Commission after its chairman, came to the following conclusion.

> Both the Taranaki wars ought to be treated ... as having risen out of the Waitara purchase ... The Government was wrong in declaring war against the Natives for the purpose of establishing the supposed rights of the Crown under that purpose....It was an unholy and unjust war. We

> (the Commission) think that they (the Maori) ought not to have been punished by the confiscation of any of their lands (AJHR, 1928,G7:10-11).

Originally 1,275,000 acres of Maori land was confiscated from the Taranaki tribes. Of this, half a million acres were eventually purchased, one quarter of a million acres were returned, but a total area of 462,000 acres, was retained by the Crown. Of the lands retained, substantial areas were leased to the settlers in perpetuity, and are administered separately by the Maori Lands Board (AJHR 1975, H3:259) In 1928 the Native Land Claims Commission recommended to Government that

> ...the wrong done by the confiscations should be compensated for by making a yearly payment of £5,000 to be applied by a Board for the benefit of the Natives (sic) of the tribes whose lands were confiscated (AJHR,1928,G-7:11).

Crown acknowledgement of such a miscarriage of justice was finally made with the passing of the 1931 Maori Purposes Act No. 32, s.49(5) to constitute a Board of management for the eight Taranaki tribes and their descendants. Due to various delays, including the need for a Maori consensus accepting the Government's offer of £5,000 in perpetuity, the intervention of World War 2, and Government's own lack of haste in finally resolving the issue, meant that the Taranaki tribes did not receive any monetary compensation until the 1944 Taranaki Maori Claims Settlement Act (No 32) was passed. It had

taken a further thirteen years for Government to make its first payment to the Taranaki people. A Taranaki description of one of their carvings reads as follows,

> Below the figure of Maui-tikitiki-a-Tauranga, is the tiki or koruru, named Maui Pomare, who fished out of the troublous ocean of racial conflict and misunderstanding the fish, which is the Taranaki Maori Trust Board Fund, the tardy requital in 1936 of the Waitara injustice of 1859 (Taranaki Maori Trust Board, unpublished & undated document).

Ngai Tahu

In 1848 a large tract of land in the South Island extending from Kaiapoi to Port Chalmers, containing approximately 20,070,314 acres was purchased from the Ngai Tahu people by the New Zealand Company. The New Zealand Company was a public company that had organised British colonisation of parts of central New Zealand. In 1844 the company sought large tracts of land in the South Island to continue British colonisation Today that transaction is commonly known as the Kemp purchase after the Colonel who was appointed to purchase land in the South Island for British colonisation. A condition of the Kemp purchase was that a certain portion of the land be reserved for the Maori and their offspring.

> Our places of residence and our cultivations are to be reserved for us and our children after us; and it shall be

> for the Governor hereafter to set apart some portion for us when the land is surveyed by the surveyors (AJHR,1921:27).

'Reserves' as understood by the Ngai Tahu people amounted to one-tenth of the land sold. The New Zealand Company's colonisation policy was to reserve one tenth of the purchased land for the Maori people, and it was stressed in company writings that such reserves would compensate the Maori for the small sums paid for the land, since the value of the land would progressively increase through colonisation and settlement and ultimately prove of greater value than the nine tenths lost by sale (Evison 1988:51-53). The New Zealand government which took over the New Zealand Company failed to set aside the Maori reserves to which they were entitled under the deed of purchase, dated 12 June 1848. Hence the Crown failed to honour the contracts signed by Maori in good faith.

From the initial sale the Ngai Tahu considered the reserves that had been set aside inadequate but no satisfactory solution was reached and so Ngai Tahu began the very long process of establishing their claim. It began in 1849 when Matiaha Tiramorehu wrote from Moeraki to Lieutenant-Governor Eyre complaining about the smallness of the reserves (Evison 1987:26). In 1868 Ngai Tahu went to the Native Land Court's first sitting at Kaiapoi. In 1879 a Commission headed by Smith and Nairn investigated the land sales but no action was taken on their recommendations. A further Commission in 1887 under Alexander McKay recommended land grants to Ngai Tahu but no land

was allocated. Large sums of money had to be spent on employing legal counsel and Parliament was petitioned in 1872. The claim involved the Land Courts and there were inquiries, commissions, petitions to Parliament, delegations and interviews. Finally in 1921 a Royal Commission was set up under Judge Jones of the Native Land Court to investigate the Ngai Tahu claims. In the final summary of the Commission it is stated that

> ... if the original intention of the Crown to make adequate reserves or provision for the Natives had been properly carried out ... the reservation of one-tenth of all land sold for the benefit of the natives ... would have been ... one and a quarter million acres (AJHR,1921:39).

The Commission recommended that a sum of £354,000 as full compensation[18] be paid to the Ngai Tahu people to rectify the long standing grievance which arose in the

> first instance out of misconception, prolonged through misunderstanding and magnified by neglect in taking prompt measures to rectify it (AJHR,1921:40).

No immediate action was taken by Government to settle the Ngai Tahu claim. Under the 1928 Native Land Amendment and Native Land Claims Adjustment Act No 49 s21, a Board called the Ngai Tahu Trust Board

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18 The Commission qualified their recommendation by stating that the £354,00 was not based on 1920's land values, but rather values at the time of Maori loss.

was set up to represent Ngai Tahu beneficiaries for the purpose of discussing and arranging terms of any settlement of the claim. A Government offer was made in 1935 of £100,000 as full and final settlement. This was rejected by Ngai Tahu and it was not until 1944 that a compromise was reached between the Crown and the tribe. An eventual settlement of £300,000 payable in thirty annual instalments of £10,000 each was accepted. The agreement was given effect by the Ngai Tahu Claim Settlement Act 1944 and provision for the administration of the funds was given effect with the passing of the Ngai Tahu Trust Board Bill 1946.

In 1973 payments to the Ngai Tahu Maori Trust Board were due to cease but the people felt that the settlement provisions were unsatisfactory therefore they sought to have the payments continued. Government agreed and payments are to continue in perpetuity. In 1977 when four other Maori Trust Boards were given an increase in their payments, Ngai Tahu was refused on the grounds that Government had in 1973, 'generously' agreed to change their fixed term annuity to an annuity in perpetuity. Never mind that the 1977 purchasing power parity of the $20,000 annuity had decreased to a mere $3,347 and by 1993 was only worth $776 (see chapter 5). If government was to be fair, it would have inflation proofed the payment so that in 1993 Ngai Tahu would have received $515,000 and if government were to be 'generous' the payment would be calculated using the prevailing one year government bond rate.

Tuwharetoa Maori Trust Board

Whilst Article Two of the Treaty of Waitangi guarantees Maori possession of their Lands, Forests and Fisheries, Maori ownership of Lake Taupo was disputed by the Crown. Government, fearful that lakeside land would be sold to foreign investors, set about getting the local Maori to agree to Crown use and ownership of the assets. The Native Minister, in 1924 was empowered by Section 29 of the Native Land Amendment and Native Land Claims Adjustment Act, to enter into negotiations for an agreement in respect of fishing rights in Taupo waters and in respect of the beds and margins of Taupo waters with the Maori who claimed to be owners of the lands bordering on Taupo waters. In 1926 an agreement was reached whereby the Crown paid to the Tuwharetoa tribe a sum of £1,000 as well as a further £3,000 in perpetuity for the ownership rights to Lake Taupo and the rivers running into the lake.

> The bed of the lake known as Lake Taupo, and the bed of the Waikato river extending from Lake Taupo to and inclusive of the Huka Falls, together with the right to use the respective waters, are hereby declared to be the property of the Crown, freed and discharged from the native customary title (if any) or any other Native freehold title thereto (Native Land Amendment and Native Land Claims Adjustment Act 1926 s14).

Additionally Maori considered that they had sole fishing rights to the lake but were deprived of much of their traditional sustenance once

trout were introduced to the lake for predominantly tourist reasons. Hence a negotiated agreement was achieved between the Crown and the Tuwharetoa people in that the revenue from 50% of all fishing licenses over and above £3,000 as well as a share of camp fees and fines received for breaches of the Fisheries Act were to be paid to the local Maori. This income was to be administered by the Tuwharetoa Maori Trust Board, set up for this express purpose.

In November 1992 the ownership of the lake bed of lake Taupo was returned to the Tuwharetoa people.

Whakatohea Maori Trust Board

In 1865 two Pakeha men, the Reverend Mr Volkner and Mr J. Fulloon were killed in Opotiki and government armed forces were sent to Opotiki to capture members of the Hauhau religious movement who were accused of the killings. The Opotiki and Whakatane Maori refused to co-operate with the government forces and the Governor responded by stating that unless the murderers were given up to 'justice', the Governor would seize part of the lands of the tribes who were concealing the 'murderers'. In 1866 three people were sentenced to death, another was imprisoned and a further man was tried and hanged in 1871. Additionally, according to the 1921 Native Land Commission, "... about 440,000 acres in all were taken from the Whakatane and the Opotiki Maori..." (AJHR,1921. G-5:27).

> The punishment of the actual perpetrators was an after event, and could not have been taken into account in

> assessing the amount of land that should be confiscated. Nor, apparently, was the fact sufficiently considered that the arch-criminal was of another tribe altogether (AJHR, 1921, G-5:25).

Various petitions and submissions were made to Parliament regarding the injustice of the excessive land confiscations and finally in 1920 a Commission was appointed by Government to investigate the land grievances of the Whakatohea people. It was not in the terms of reference for the Native Lands Commission of 1921 to query the assumption that land confiscation was justified and so concluded its investigation with the comment that it did not have sufficient evidence to "say what would have been a fair and just area to confiscate" (AJHR,1921, G-5:27). Nevertheless the Commission did state, "We have no hesitation ... (that) the penalty paid by the Whakatohea tribe, great as was the offence, was heavier than their deserts" (AJHR,1921, G-5:27). The Commission made no recommendation as to appropriate compensation for the tribe and it was not until 1928 that the Sim Commission (AJHR, 1928, G-7) made a recommendation for some monetary compensation to the tribe. In 1949 the Whakatohea Maori Trust Board was constituted to administer a £20,000 lump sum payment which was the government settlement on claims arising out of 'excessive' confiscation of the lands of the Whakatohea people.

Tauranga Moana Maori Trust Board

The tangata whenua of the Tauranga region are Ngati Ranginui who trace their ancestry to Tamatea-Ariki-Nui of the Takitimu canoe and

derive their name from Ranginui, Tamatea's grandson. Ngai Te Rangi migrated to the Tauranga area about 300 years ago under the leadership of Te Rangihouhiri from the East Coast and trace their ancestry to Toroa and the Mataatua canoe. Conflict and conquest was eventually overcome by these two tribes, substantial intermarriage has taken place and close kinship links maintain a benevolent relationship between the two tribes. Ngati Ranginui and Ngaiterangi occupy the whole of the Tauranga region.

In the 1860's the Tauranga Moana people supported the battling Waikato tribes in their efforts to retain and protect tribal territory from permanent alienation to colonial settlers. The Tauranga tribes were part of the King Movement, a loose confederation of tribes including Waikato-Maniapoto. The basic philosophy of the King Movement was the retention of land to ensure tino rangatiratanga - an ongoing economic, political and social order. The King Movement was perceived to be against the interests of the white settlers since the Movement opposed Maori land alienation, whilst also espousing a doctrine of separate Maori government. In 1863 Imperial troops engaged the Waikato tribes in war which was a direct result of European need (or greed) for Maori land. The Tauranga tribes supported the King Movement, and were therefore also involved in the Waikato land wars.

According to Stokes (1990:16-18), the government suspected that arms and ammunition were being smuggled to Waikato tribes through the Tauranga district and that the Tauranga Moana people were supplying food to the Waikato. Hence it was considered that military intervention at Tauranga was necessary. Troops in 1864, were landed at Te Papa in

Tauranga to prevent Tauranga people joining or sending supplies to Waikato. The arrival of troops was interpreted as an aggressive act designed to seize "fine agricultural" land. Being opposed to the alienation of tribal land to European settlers, war broke out between Maori and Imperial forces at Pukehinahina ridge, subsequently known as Gate Pa in April 1864. In June 1884, a further battle was fought at Te Ranga. Stokes (1990:35) reports that a large number of Maori surrendered their arms during July of 1864 and at that time the Tauranga Maori were warned that some of their land might be seized by the government.

The New Zealand Settlements Act 1863 authorised the government to set apart sites for colonisation and take any land within the districts for settlement whenever the Governor was satisfied that any 'Natives' had been engaged in rebellion against the Crown. In May 1865 an Order-In-Council brought the Tauranga District under the provisions of the New Zealand Settlements Act 1863, and allowed the confiscation of Tauranga tribal lands to proceed. The land confiscation was validated in the Tauranga District Lands Act 1867 and 1868 and the Schedule to the 1868 Act describes the whole of the Tauranga Moana tribal area as being confiscated.

> Of 86,590 hectares confiscated at Tauranga, 20,235 hectares of good land were retained by the government and much of the rest immediately purchased. The Katikati Te Puna Purchase, in the circumstances, must be seen as having the nature of a compulsory purchase.

> There were certainly many unwilling sellers and subsequent disputes over the "rights" of "Ngaiterangi chiefs" to sell. (Stokes 1990:45)

> Of the confiscated 20,235 hectares, 10,117 hectares were allocated for military settlement and 809 in compensation and reserves for "friendly" Maori. Mountain and swamp comprised some 4,451 hectares. The remaining 4,853 hectares were regarded as saleable land ... The expected revenue of £4,500 ($9,000) was assumed would cover the costs of military settlement (Stokes 1990:94).

Various petitions and objections to the land confiscations have been made since 1865. Land, boundaries and ownership have been disputed as well as the actions of government officials involved with decision making, surveying and allocating of dispossessed land. Finally, in 1928, the Royal Commission to Enquire into Confiscation of Native Lands reported on its investigation as to whether the confiscations were excessive, whether any land had been wrongly included or whether any of the Native Reserves made in the confiscated area were inadequate. The Commission did not however, look at the primary issue of whether the confiscations were justified. The Commission's response to its inquiry of excessive land confiscations in the Tauranga region was that the 'Natives' had no grounds for compensation. "We think ... that the confiscation was justified, and was not excessive" (AJHR,1928, G7).

The Commission's findings were not accepted as a fair hearing of the Ngati Ranginui claims and Stokes (1990) argues that the Commission did not understand the nature of the Ngati Ranginui grievances nor the nature of Ngaiterangi ownership of the land. Finally, in 1975, their claims were accepted in principle by the Labour government of the day but negotiations were not completed before the change of government in November of that year. Further negotiations had to be made with the new government and the validity of the claims was finally recognised with a Crown payment of $250,000 "in full and final settlement of all claims of whatever nature arising out of the confiscation or other acquisition of any of the said land by the Crown" (TMTB Act 1981).

The Tauranga Moana Maori Trust Board Act 1981 stated that the money be paid to and dealt with by a Maori Trust Board under and in accordance with the Maori Trust Boards Act 1955. The Act states that the beneficiaries of the Board are "the descendants of members of those tribes who took up arms against the Crown at the battles of Gate Pa and Te Ranga or those who were dispossessed of any lands as a direct result of those battles". The Act also provides for the restoration of the reputation of certain warriors who fought in the battles of Gate Pa and Te Ranga.

Implications for the Tribes

Land and resource alienation has impacted on the tribes as a whole, not just named beneficiaries. The confiscated (raupatu) lands in the Waikato were those of various hapu (sub-tribes) but the title given to

the Tainui Maori Trust Board was that of the whole region. A secretary of the Tainui Trust Board (1988) expressed this effect in the following manner.

> Thus the name gives jurisdiction over traditional territory but the beneficiaries under the Act are limited to those hapu directly impacted by raupatu. It is as though a body had been set up bearing the name of a Wellington province yet limited in its operations to those who live in the few hectares around the Government centre. Faced with this Paakeha-created confusion, the Trust Board has, from the outset maintained that Tainui has a common history, identity and fate, that its purposes are set by the tribe and the Kiingitanga, that raupatu affected the whole tribe (since the wars were designed to smash tribal unity) and that its task is primarily one of tribal development and not just to act as a conduit to syphon money out to a limited list of beneficiaries (Tainui Maori Trust Board, 1988).

In the far North, the Tai Tokerau Maori Trust Board is an umbrella organisation for the five tribes of the northern region, who shared the 'surplus' land issue in common. This collective or pan tribal representation was promoted by the Commissioners of the 1948 Surplus Lands Commission who issued the following statement:

> Although we have examined every case individually, it would be impracticable ... after the lapse of one hundred

> years, and in view of the changed conditions during that period and the intermarriages that have taken place between members of the various tribes and hapus and families, to individualize the parties or persons to whom the compensation should be paid ...
> ... the only way in which the matter could be equitably dealt with ... [is] *in globo* for the benefit of the Maoris or of Maori institutions in the district or districts in which the surplus lands are located (AJHR, 1948, G-8:17).

The traditional function of the Trust Board was to administer the very small annual income it received from its invested capital. But the Board has been actively representing northern tribes on various northern initiatives and activities. In 1986 for example, the Northland United Council allocated the Tai Tokerau Maori Trust Board $400,000 from the Northland Refinery Development Levy Allocations, for local Maori job creation projects (see Lynn, 1987:53). The Trust Board was working for the collective interest of the tribes not solely the members of the five named tribes and their beneficiaries. One of the trustees elected to office for the first time in 1986 believed that the function of the Board was "not to be a distributor of beneficiary funds but to implement government programmes and enhance tribal and Maori development" (Barrett, personal interview, 1989).

According to Jones (1994) the Ngai Tahu people have only one organisational and institutional identity - the Ngai Tahu Maori Trust Board, even though the beneficiaries of the Board must trace their membership to a defined group of people. According to Brown (1989) of

Tuwharetoa, his Trust Board has also been expected to be politically active on behalf of the tribe and not just the named beneficiaries.

One of the crucial and unresolved issues for Maori today is that of representation. The political environment in which Maori Trust Boards operate is multifarious and the political expectations of tribal members from their Trust Board executive, is not that which is set out in legislation. In recent years most Trust Boards have been involved in political and economic activities on behalf of tribal members rather than just beneficiaries. Trust Boards are being used as *de facto* tribal organisations by both government and the tribes when it appears politically expedient to do so. The following chapter will discuss the issues surrounding the payment of compensation to Maori Trust Boards and then look at the wider implications of tribal development if compensation is to be paid at a rate that reflects changes in interest rates. The discussion will then move on to policy issues that affect the tribes which by default, tend to use Trust Boards as their representative organisation.

Chapter Five
The Real Value of Annuity Compensation Payments to Maori Trust Boards

In 1984 the overriding theme of the Hui Taumata/Maori Economic Development Summit Conference, was to increase Maori employment opportunities, increase skills and training programmes, encourage education, strengthen culture and language and decrease Maori dependency on the welfare state. These were the ideals. The practical implementation was much more difficult to define. Maori Trust Boards have not been able to play a major role in developing these ideals because they do not have the finances to do so, yet current expectations are for Trust Boards to actively participate in tribal development. Some Maori Trust Boards are paid an annuity as compensation for injustices of the past but inflation has eroded the purchasing power of those payments. The purpose here is to assess the effects of inflation on those annuity payments because if the payments were to reflect the original agreement then some of the Trust Boards would have a financial foundation that would ensure substantial tribal development.

Compensation

Compensation in terms of money to make amends for the expropriation of land and/or resources is derived from concepts of private property that are peculiar to capitalist societies. The philosophical basis of capitalism is one of private or individual ownership and it is from this premise that compensation for the expropriation of Maori land and resources is determined by the Crown. Historically, it has been the

doctrine of discovery that has been used to negate the sovereign rights of indigenous people and forcibly alienate their land. The Inca and Aztec civilisations were crushed so their land could be acquired; Black Africa was the victim of European slave trading, followed by extensive European colonisation and expropriation of their lands; North American Indians, Australian Aborigines and New Zealand Maori have all been forced into subjugated positions by similar white settlement that has been coupled with land alienation. The ideology of discovery allowed the colonising powers to extinguish aboriginal title by either compulsory acquisition, purchase or conquest. The European impact on New Zealand was severe. Tribalism, communalism, reciprocity, tribal laws and sanctions were suppressed, indigenous land holdings were forcibly expropriated. The philosophical basis for the 'assimilation' of the indigenous people and the taking of land for white settlement was made legal under the capitalist ethic of individualisation of land title. Initially, the colonial government had a pre-emptive right over all Maori land and

> from the outset British expectations of economic growth in the colony were based on Maori land, easily and cheaply bought and appreciating in British hands (Gardner 1984:59).

Prime Maori land was quickly acquired by the settlers. This was facilitated by the Native Lands Act of 1862 which abolished pre-emption and permitted settlers to purchase land directly from Maori. This legislation also imposed an English system of individual freehold

title to land and the establishment of the Native Land Court[19] which converted "Maori customary title into a title cognizable under English law ... to achieve what seems to have been the main administrative goal of the day: viable Maori land title for speedier European settlement" (Kawharu, 1977: 89). Maori, like other colonised indigenous people, were left with very little productive areas on which they had to subsist.

Policies allowing for the confiscation of land were determined by the passing of the New Zealand Settlements Act 1863 and amendments of 1864, 1865, and 1866. Under its guise, the Taranaki tribes had 462,000 acres confiscated, Tainui lost 887,908 acres, Tauranga 49,750 acres and Opotiki 211,060 acres (AJHR, 1928, p: G-7). The rationale for the confiscations was that the tribes had been engaged in rebellion against Her Majesty's authority. No recognition was made of the fact that the tribes were engaged in defending the retention of their lands. The preamble of the New Zealand Settlements Act 1863 states that the Crown was

> subject to insurrections amongst the evil disposed persons of the Native race to the great injury alarm and intimidation of Her Majesty's peaceable subjects ... many outrages upon lives and property have recently been committed a large number... have entered into combinations and taken up arms with the object of attempting the extermination or expulsion of European

19 Since 1947 the Native Land Court has been referred to as the Maori Land Court.

settlers.

Section two of the Act made it lawful for the Crown to confiscate any land belonging to any tribe who engaged in rebellion and provided that no compensation be paid to any persons who counselled, advised, induced, enticed, persuaded or conspired to rebel against the Crown.

The confiscation of land has caused deep and lasting resentment. The tribes consider their losses to be unfair, unjust and illegal. The confiscations deny the principles inherent in the Treaty of Waitangi and especially the promise of Article Two to retain "... the full exclusive and undisturbed possession of their lands ...". Protest at the illegality of land losses began immediately. Tawhiao, the second Maori King, demanded the return of all confiscated land and refused repeated attempts by Crown officials after the land wars, to reconciliation. His objection with the Crown was not the defeat in war but the loss of land. Since the land was confiscated in the 1860's, repeated attempts have been made for 'justice' to be seen to be carried out and the Maori demand for compensation through to today is based on the principle of the return of land. Partial (monetary) compensation has been awarded to some tribes which led to the establishment of Maori Trust Boards[20] to administer funds on behalf of their beneficiaries.

The origin and nature of Crown compensation in New Zealand has its precedence in English law when, in the 19th century, railways and canals needed special Acts passed to facilitate construction programmes. It was the 1845 Land Clauses Consolidation Act which

20 See Appendix 1 for a list of Maori Trust Boards.

established in the United Kingdom a code for the taking of land and a procedure for determining compensation in monetary terms. This Act formed the basis for similar legislation in New Zealand and the first New Zealand statute on land acquisition was the Land Consolidation Act 1863. Compensation provisions have been incorporated, consolidated, repeated and amended in the Public Works Act 1876, 1882, 1894, 1905, 1908 and 1928. The Public Works Act 1981 is a complete revision of legislation covering compensation and compulsory land acquisition (Speedy, 1985). The revised legislation does not however, address the issue of compensation for confiscated lands nor does it address any of the complexities and imponderables of indigenous land ownership

Compensation determined according to Maori standards of restitution differs significantly to the capitalist monetary mode of thought. For the Maori, communal living in a clearly defined region was the traditional way of life. Land is the essence of life. It is the essence of the past, the present and the future, hence ownership of land was never in the hands of individuals. Land has always been held in trust for future generations and tribal ownership of the most sacred commodity - land - was sanctified by common law and political and social organisation. Since land has been forcibly expropriated by various methods from Maori tribes, they have sought recognition from the Crown of the legitimacy of their grievances. The Crown has contended that in those instances where some part of a Maori grievance has been found to be justified, compensation in monetary terms is generally deemed the appropriate course of action to take. In those instances when tribes have had their grievances vindicated by government appointed commissions, they have accepted from

government, a monetary payment, but only in terms of vindication and legitimisation. A full and final payment as indicated by government, is contrary to the Maori attitude that only by the regaining of land can there be a full and final solution to the land confiscations of the past. It is the direct re-transfer of resources or similar resources, of those which were expropriated in the first place, which defines Maori attitudes to compensation.

For those tribes who did not have land confiscated, but experienced forced or unjust, illegal or inequitable land and resource dealings, compensation must be seen to be paid in a manner that will ensure socio-economically, Maori are not immeasurably worse, relative to that of the Pakeha population. Girvan (1974) argues that any compensation for past deprivations must be compounded at an appropriate interest rate, if it is to yield a value which is 'fair' in present day terms. He bases this contention on the oft argued questions of compensation in international economic relations, which usually contemplate the case of expropriation of a foreign company's assets in a third world country. The difficulties in computing and implementing compensation for third world peoples, Girvan (1974:59) argues, are not methodological but rather, they are political. He cites as an example, Germany's reparation payments to other Europeans and to Jews after the two world wars. Politically, he contends, those who wished Germany to pay, were in a position to force her to do so. Furthermore, when a third world government has expropriated a multinational corporation, compensation is immediately demanded. Generally this type of confiscation has occurred in countries

> whose peoples have been the victims of centuries of decimation, plunder and exploitation (and) are bound to approach the question of compensating foreign interests with a great deal of cynicism. That they contemplate compensation at all may be only in deference to international realpolitik (Girvan, 1974: 80).

For people of the non-western world, the inconsistency inherent in this attitude appears to be one of racism. Generally, reparation or compensation has not been paid to people of colour and moral considerations have not been addressed by those in power. As stated previously, the third world abounds with examples of non-compensation for the forcible taking of indigenous lands by conquest. Black Africa, North America, South America, Australia, New Zealand, to name but a few. Ethically, indigenous people do have legitimate grievances but restitution, reparation or compensation has only been addressed when it has been politically expedient to do so.

Deriving compensation agreements between the Crown and Maori tribes has proved to be complex and time-consuming. Policies have evolved in a haphazard fashion and it was not until the Native-Land Claim Commission of 1921 and more specifically the Royal Commission on Confiscated Lands in 1927, (generally referred to as the Sim Commission which reported to the Governor-General in 1928), were set up to inquire whether the confiscation of Native lands under the New Zealand Settlements Act 1863 exceeded what was fair and just, that monetary compensation was considered. The terms of reference of the Sim Commission however, did not deal with the fundamental issue of

whether the confiscations were fair and just in the first place! The findings of the Sim Commission generally upheld Maori grievances and the Commission made recommendations on what it considered 'appropriate' compensation to affected Maori tribes. Government valuation of alienated land was not based on precise valuations:

> It is difficult, if not impossible, to arrive at any satisfactory conclusion as to the value of the land at the date of its confiscation ... (AJHR 1928, p G.7,11)

Instead, valuations tended to be based on the price for which the confiscated lands sold. Even so, long periods of negotiations took place before the government was prepared to provide some monetary compensation.

Government solutions to Maori grievances dating back to the signing of the Treaty of Waitangi, have predominantly been in economic terms. Monetary compensation has been used to absolve the Crown for unjust or illegal Crown land confiscation, for Crown use and exploitation of natural resources such as the lakes at Rotorua and Taupo, and for the failure to provide Maori reserve lands as occurred in the South Island and Wellington. For Maori however, financial payment is not a resolution of Maori grievances, rather it is at best, recognition and vindication of the legitimacy of Maori grievances. The recognition of mana by means of monetary payment is succinctly illustrated in King's (1977, p:225) quote of Te Puea, an influential and highly respected Tainui leader.

> Our ancestors have been vindicated in the sight of New Zealand ... The people now know that justice is on our side. Money can never wipe away the blood that has been shed. No settlement can ever efface the tears that have fallen. And those who suffered most are no longer with us. No, money is not everything. But it means much to know we have been proved right.

Between 1924 and 1958 ten Maori Trust Boards were created by Statute and originally constituted to administer compensation monies paid by the Crown to various Maori tribes in settlement of land confiscations, land disputes, and lake income claims and grievances. The compensation funds paid by the Crown to various tribes are administered by tribal Trust Boards on behalf of the beneficiaries. Initially special legislation was enacted to establish each Maori Trust Board but in 1955 all were brought under the provision of the Maori Trust Board Act 1955.

Additionally in that time period one other Trust Board, Te Aupouri Maori Trust Board, was constituted, but this was to administer a communal farming enterprise in Te Kao, North Auckland. In 1978 a further Trust Board (Ngati Whatua 0 Orakei) was created to hold, conserve and administer Bastion Point and other lands that had finally been vested back to them, and then in 1981 the Tauranga - Moana people were paid a lump sum amount for lands that had been confiscated from them in 1864. Between 1987 and 1988 six new tribal organisations were constituted and come under the same 1955 Maori Trust Boards Act as the earlier eleven Maori Trust Boards.

Of the ten original Boards created to administer compensation funds on behalf of their beneficiaries, six opted to take a lump sum compensation payment from government. They were Aorangi, Aupouri, Tai Tokerau, Wairoa-Waikaremoana[21], Whakatohea and Tuhoe-Waikaremoana. The four Maori Trust Boards, Te Arawa, Tainui, Taranaki and Tuwharetoa elected to receive funds as fixed annual payments in perpetuity, with Tuwharetoa also receiving a share of fishing licences, camp site fees and fines received for breaches of the Fisheries Act. The tenth Board, Ngai Tahu, accepted an annual payment for a thirty year period, although in 1973 an amendment to s3 Maori Purposes Act 1973 was made to the constitution of the Board so that there is no stated final payment to the Board. In effect the Ngai Tahu compensation was changed to a perpetuity payment.

Recognition has been made by Government that the Maori tribes were justified in their various claims for compensation hence the setting up of Maori Trust Boards to administer the funds. Justification for the annuities or the amount of compensation paid therefore is not the issue here, nor is the purpose to discuss whether or not the compensation payments were a fair and adequate price for the value of the asset. (It should be noted however, that many of the grievances such as raupatu or confiscation, and resource ownership are currently before the Waitangi

21 The name Waikaremoana was added to the Wairoa and Tuhoe Maori Trust Boards to accommodate payments made to the Boards of rent payable by the Crown for Lake Waikaremoana (see s14 of the Lake Waikaremoana Act 1971).

Tribunal[22] and are not considered by the tribes to be even partly 'resolved'). Rather, the intention is to estimate the effects of inflation, and the effects of changing interest rates upon the value of the perpetuity compensation payments to the Te Arawa, Tuwharetoa, Tainui, Taranaki and Ngai Tahu Maori Trust Boards. The analysis will demonstrate that Government has not been acting in 'partnership' or in 'good faith' with the indigenous people of New Zealand over the issue of reasonable and adequate redress for injustices that have been legitimised by the state. The issue to be clearly illustrated is that inflation has decreased the value of monetary compensation to an unacceptable amount.

Annuity Compensation

The Crown, generally on the advice of various land claim commissions[23] has sought to recompense various Maori tribes in monetary terms for the acquisition of Maori land, lakes and other assets. Some of those compensation funds have been paid to tribes as annual perpetuity payments as a result of negotiations between the Crown and the tribe concerned. The purpose here is to assess the loss in purchasing power of those perpetuity payments and the consequent impact on the affected

22 The Waitangi Tribunal was set up by government in 1975 to consider claims from any Maori who considers he or she or any group of Maori of which he or she is a member, is prejudiced by any legislation, policy or practice by or on behalf of the Crown which is inconsistent with the principles of the Treaty of Waitangi (Department of Statistics, 1990:195).

23 See for example, the AJHR Native Land Claims Commissions of 1921 and 1928, or in more recent times the reports of the Waitangi Tribunal.

tribes.

If it is assumed that the granting of compensation was an exchange of an annual right to purchase goods and services for a given property right, then it could be reasonably expected that the purchasing power of the annuities should remain constant. To retain that original purchasing power parity the annuity needs to be inflation proofed and indexed to the cost of living. However, this has not occurred and the purchasing power of annuities granted to the Maori Trust Boards and the real value of the perpetuities has been badly eroded by inflation. As the years have passed since the perpetuity payments were originally agreed upon, the amount of goods and services that may be purchased has steadily decreased.

According to Ward (1983) there are three approaches that may be taken to assess the real value of compensation by annuity. These are, a purchasing power parity approach, an asset value approach and an equity approach. Ward (1983:9) prefers the purchasing power approach since the asset value approach involves 'the valuation of the asset for which compensation was given for each year and then the calculation of the annuity as a yield on the original compensation at the rate of 4.8%'. This he says, is rather complicated due to legal and statistical problems. The equity approach according to Ward (1983) involves assumption and assessment on what the capital amount would be valued at had it been invested. This method involves assessing the value of that asset and what the yield thereon would be worth in present terms. Difficulties of assessment also arise here, hence Ward's preference to use the purchasing power parity approach since it is based on official

figures[24] and therefore difficult to dispute. The following analysis therefore uses Ward's real purchasing power methodology and incorporates the model described in his submission to the Waitangi Tribunal in 1987 on the Ngai Tahu claims, commonly referred to as 'Kemp's Purchase'. Ward's (1987) methodology is broadened to take account of the years prior to his study, as well updating his tables to 1993, and additionally to enable an analysis of the annuities paid to the tribes other than Te Arawa and Ngai Tahu which were not the subject of his analysis. While Ward (1987) did not use the asset valuation methodology, calculations using this methodology will also be made to demonstrate the undervaluation of assets that government is in effect, leasing from Maori tribes.

The Official New Zealand Consumer Price Index (CPI) is used to measure the changes in prices of goods and services, whilst the erosion in the value of the dollar or the declining purchasing power of the dollar is shown in column four of Tables 1-6 (see pp261-272). For example, Table 1 shows that $1.00 in terms of its purchasing power in 1924 was worth 3 cents in 1993. The actual purchasing power equivalent in terms of the original annuity is shown in column five whilst the final column shows the nominal values which would have to have been paid each year to maintain the real purchasing power of the annuity.

Table 1 shows that the Arawa people in 1976 would have had to receive $72,000 if the purchasing power parity was to be retained. Instead

24 See J. Ward (1983) 'The real value of compensation by annuity' in Proceedings of Maori Trust Boards Conference 1983 for a description of his purchasing power parity methodology which is based on the consumer price index.

however, the Te Arawa Maori Trust Board until 1977 continued to receive the non-inflation adjusted amount of $12,000. In 1977 the nominal payment was increased to $18,000,[25] an amount hardly adequate given that the real purchasing value of the $18,000 was only $2621 and in 1993 only worth $608. The 1977 readjustment is less than satisfactory because the real value of the payments has been eroded over the years and each year sees a further decrease in the parity of the purchasing value of the payment. In 1977 as shown in Table 1, the annuity inclusive of the increase, if related to the cost of living index or inflation proofed, was actually worth $82,388 and in 1993 the equivalent of $355,200. Instead however, the Te Arawa Maori Trust Board receives a yearly payment of $18,000.

Tables 2-4 clearly illustrate similar disparities. The Tuwharetoa beneficiaries agreed to a $6,000 annuity for Crown control of Lake Taupo. Table 2 (pp263) demonstrates that in 1976 the real purchasing value of that annuity had decreased to $1,000 whereas if it had been inflation proofed Tuwharetoa would have been receiving $36,000. In 1977 when the nominal payment was increased to $9,000 its actual purchasing power parity was only $1,310 whilst an inflation proofed payment in 1977 (inclusive of the increase) would have been worth $41,194. Furthermore, by 1993 if the annuity had been related to the cost of living it was worth $177,600.

Ngai Tahu (pp265) agreed to a $20,000 annuity payment in 1944 for a period of 30 years. In 1977 when Government reassessed its annuity

25 The 1977 increases to the four perpetuity payments will be discussed in more detail further on in this essay.

payments it did not increase Ngai Tahu's payment since in 1972 it had already conceded to convert the 30 year payments to annual payments in perpetuity. In 1977 however, the real purchasing value of the $20,000 annuity was only $3,347 whilst its inflation proofed value was $119,480. In 1993 this value had risen to $515,200.

Table 4 (pp267) shows that the $15,000 annuity paid to the Taranaki Maori Trust Board as compensation for unjust land confiscations during and after the land wars of the 1860's, if related to the cost of living or inflation proofed had a value in 1993 of $257,600 Tainui, who have had an annuity since 1947, would be entitled to $244,900 if it had been indexed to the cost of living or calculated in terms of the purchasing power of 1947. Moreover the finite annual payment of $2,000 for a 45 year period (Table 5) in 1989 had a real purchasing power value of only $82.

Whether or not the tribes were adequately compensated in the first place is not the point of this argument. Suffice to say that Government compensation for confiscated lands has always been seen as less than adequate by the tribes affected. However, it is possible to argue on the figures of Tables 1-6 that the Government, even when it has paid out compensation to Maori tribes, is still not treating them fairly or equitably.

In terms of partnership between the Crown and the Maori people as signed in the Treaty of Waitangi in 1840 the 'partnership' can be seen to be operating in a context detrimental to the Maori tribes. Not only were their lands confiscated unjustly but that compensation which

government agreed to pay to the aggrieved tribes has not, over the years been paid in its full or true value. It is clearly demonstrated in Tables 1-6 that the true value of compensation payments agreed to between the tribes and the Crown has not been paid by the Crown.

In 1974, Pehimana Tamati and others on behalf of the Taranaki Maori Trust Board petitioned Parliament (Parliamentary Petition No 1974/19), praying for an inquiry into the amount of compensation paid to the Taranaki Maori Trust Board. The following unpublished correspondence, obtained through the Official Information Act, from the Minister of Maori Affairs, to the Cabinet Committee on Legislation and Parliamentary Questions (18 July 1975), reflects official attitudes to Maori compensation.

> As to the merits or otherwise of the present claim there are probably two main approaches to the problem. It might be argued, to a degree, that where payments are made in perpetuity any change in money values is not so significant. This point of view is unlikely to attract any strong support where it can be shown, as was done in 1972, by the Government statistician in the Ngai Tahu case, that to give the same purchasing power as $20,000 in 1944 a board would in 1972 need to have $63,310. All in all, it is not difficult to develop a pretty good case for an increase in the size of the annual payments to offset the inflation now being experienced. This premise, if accepted, raises an important issue. If an argument for an increase in the size of the annual payments to offset

> established inflation is accepted, how frequently should there be a review. Again an argument for a review every five years could be made, but the prospect is not attractive. To do this might ultimately destroy completely the relationship of the compensation to the original loss.
>
> It is suggested that there are dangers in tying the question too inflexibly to mathematical calculations. Most settlements of claims have been made on a more or less arbitrary basis and there could be merit in merely taking the view that something ought to be done in view of inflation to increase the grant and settle around a figure of say $12,500 or $15,000 (Minister of Maori Affairs to the Cabinet Committee on Legislation and Parliamentary Questions, 18 July 1975).

This Government paper was referring to the Taranaki perpetuity payment of $10,000, but the principle was extended to include the perpetuity payments to the Te Arawa, Tainui and Tuwharetoa Maori Trust Boards. Treasury agreed with the Minister of Maori Affairs and recommended to the Deputy Minister of Finance that,

> ...(it is) agreed that the proposed fifty per cent increase appeared to be reasonable having regard to the length of time since the annual grants were first fixed...This increase was not fixed on a precise mathematical basis but was an arbitrary figure to give some compensation

for inflation (Treasury, 22 November 1976).

On 14 March 1977, on the recommendation of the Cabinet Committee on Expenditure, Cabinet agreed to a fifty per cent increase of the perpetuity payments. Ngai Tahu was excluded because the original settlement was for a total sum of $600,000 payable by annual instalments of $20,000 over 30 years. This was made a perpetual grant by legislation in 1973 (Minister of Maori Affairs, 16 February 1977).

In 1975 it had also been suggested to the Cabinet Committee on Legislation and Parliamentary Questions (CCLPQ) by the Minister of Maori Affairs that

> The Tuwharetoa Board might well be excluded from this group as their 'other annual income' in recent years from fishing licences, fines etc, has exceeded $40,000 and this figure could, of course, increase as and when the cost of licences and other fees are altered to counteract inflation. This Board could, therefore, be said to have a 'built in' adjustment to counteract such things as inflation (Minister of Maori Affairs to CCLPQ, 18 July 1975).

The inequity and injustice of this statement needs little comment. Suffice to say Tuwharetoa's annuity was increased by 50%, but what is inappropriate in the above statement is the willingness to use the inflation argument as the means to deny Maori justice on the one hand, and then refuse to acknowledge it on the other.

The general level of importance that Government attached to Maori concerns in the 1970's is reflected in the above statements which could only be obtained through the Official Information Act. Government recognised that the case for increasing the size of payments to offset inflation had a lot of merit and should be reviewed every five years. To state that the 'prospect is not attractive' belies any concept of partnership between Maori and the Crown. To argue that payments indexed to inflation 'might ultimately destroy completely the relationship of the compensation to the original loss' is incomprehensible and unhelpful to say the least. By suggesting that 'there are dangers in tying the question too inflexibly to mathematical equations' reflects a continuing patronising attitude by Government to Maori. Surely any contract signed between two parties must be 'professionally' assessed. An 'arbitrary figure to give some compensation for inflation' is not acceptable. The 1973 amendment to s6 of the Maori Trust Boards Act 1955 which changed the Ngai Tahu payment from ceasing in 1973 to an annual perpetuity payment, provides adequate precedent to reopen the whole question of past decisions on compensation payments.

Crown Readjustment of Annuities

Ward's research concentrated on the real value of compensation as it relates to the purchasing power parity of recent years. The following analysis uses the 'asset valuation' methodology to assesses why the original asset valuation should, at the very minimum, be retained. If Government is not prepared to honour the spirit in which the

compensation payments were made and index perpetuity payments to inflation (the 'Ward' approach), then it is argued that Government has a responsibility to at least retain the original value of the assets for which perpetuity payments have been guaranteed.

In 1977 Government increased the perpetual annuities to the Te Arawa, Tuwharetoa, Taranaki and Tainui Maori Trust Boards by fifty per cent to give some compensation for inflation (the figure being considered reasonable by Treasury, because an inflation indexed payment would have cost government considerably more!). The Arawa payment of $12,000 was increased to $18,000, the Tuwharetoa payment adjusted from $6,000 to $9,000, while the $10,000 annuities of Taranaki and Tainui were increased a further $5,000 giving each an annual annuity from 1977 of $15,000.

The annual payments, by 1977, had of course been badly eroded by inflation. Tables 1-6 clearly demonstrate the significant financial deprivations caused by inflation. The purchasing power of Te Arawa's compensation of $12,000 in 1924, equates to a figure of $72,000 in 1976. Government in 1977 only increased the Te Arawa payment in 1977 to $18,000, yet if it had been inflation adjusted, the Board should have received a figure of $82,388. Similarly, the payment of $6,000 to the Tuwharetoa Maori Trust Board had been affected by inflation to the extent that in 1976 it only had a purchasing power equivalent of $1,000. The government in 1977, gave the Board an increase of 50% in dollar terms, but in actual purchasing power parity, it was worth only $1,310. Government did recognise this but was not prepared to publicly acknowledge the full extent of Maori losses.

The fifty per cent increase can be calculated to show that the adjustments for Te Arawa and Tuwharetoa appear to retain the original value of the asset for which compensation was paid. It gives the appearance of restoring the value of the asset to its original valuation. By readjusting the annuities it is self-evident Government recognised the unjust nature of the size of the perpetual annuities. The following analysis demonstrates that Government actions were in fact misleading and deceived those people with whom it purports to be working in 'partnership'.

Asset Value Approach

Ward's research used the 'purchasing power' approach to assess the real value of compensation being paid to Maori Trust Boards. This next section will demonstrate that even using the 'asset value' approach, the real value of the annuities is less than can be reasonably expected, given that one of the principles of the Treaty of Waitangi, as defined by the Privy Council in the Broadcasting Assets[26] case was that the relationship between Maori and the Crown should be founded on reasonableness, mutual co-operation and respect. The Trust Boards are not receiving compensation that is fair or just. Tables 7 (pg130) and 8 (pg132) show the original perpetuities paid to Maori Trust Boards and their actual worth if they are to retain at least their original purchasing power. The original perpetuity payment is shown in column 1, the interest rate at the time of agreement is shown in column 2 while the original government valuation of the asset is shown in column

26 New Zealand Maori Council v Attorney General, 13 December 1993.

3. This has been calculated by multiplying the annuity times the inverse of the interest rate.

Table 7. ORIGINAL ANNUITIES AND ASSET VALUATION

		Col. 1	Col. 2	Col. 3
Trust Board	Year	Annuity $	Interest Rate %	Asset Price $
Te Arawa	1924	12,000	4.8	250,000
Tuwharetoa	1927	6,000	4.8	125,000
Ngai Tahu	1944	20,000	3.3	375,000*
Taranaki	1944	10,000	3.3	300,000
Tainui	1947	10,000	3.3	300,000
Tainui	1947	2,000	3.3	45,000*

* An adjustment has been made to reflect a finite period of time

In other words, in 1944 when government agreed to pay the Taranaki tribes an annuity of $10,000, the interest rate at that time was 3.3%, therefore the value government put on the confiscated lands in the Taranaki district was $300,000 (the original government asset valuation). In the Taranaki case, the 1921 Sim Commission said that,

> It is difficult, if not impossible, to arrive at any satisfactory conclusion as to the value of the land at the date of its confiscation, and our recommendation is that

> the wrong done by the confiscations should be compensated for by making a yearly payment of £5,000, to be applied by a Board for the benefit of the Natives of the tribes whose lands were confiscated (AJHR, 1921, G-7:11).

But implicit in this recommendation of £5,000 is a capitalized value of $300,000.

In 1977 Government readjusted the annuities as shown in column 4 of Table 8. Column 5 shows the actual Government undervaluation of the assets, calculated at the prevailing (long term) interest rate in 1977, of 8.4%. Column 6 sets out the value of the annuity if Government had readjusted payments according to the 1977 interest rate of 8.4%. The original asset valuation in 1993 dollars is set out in column 7. Column 8 is the recommended 'real' annuity, calculated at a 4.8% real rate of interest using the column 7 figures for asset prices. 'Real' is defined as inflation free or in other words, future nominal annuity payments must be adjusted or indexed to the inflation rate. The final column is the recommended annuity for 1994 using the 1994 one year government bond rate of 5.2%. This approach makes sense in a deregulated financial market and a good case can made for using one year government bond rates, which have been market determined since New Zealand deregulated in 1984. It would not have been possible to use these rates prior to 1984 because interest rates were not market determined which meant they did not reflect well, the market premium.

By 1977 Government was undervaluing the compensation it had agreed to pay the five Maori Trust Boards since interest rates had steadily

increased to 8.4%. Government officials in recognition of this inequity, increased the annuities to the Te Arawa, Tuwharetoa, Taranaki and Tainui Maori Trust Boards. The Ngai Tahu annuity was not increased since it had a finite period ending in 1973 but was changed to a perpetual annuity in 1973.

Table 8 REVISED (1977) ANNUITIES, ESTIMATED ASSET VALUATIONS & RECOMMENDED REAL ANNUITIES.

	Col. 4	Col. 5	Col. 6	Col. 7	Col. 8	Col. 9
Trust Board	Annuity $ (1977)	Gvt Asset Valuation (1977) at 8.4%	Annuity (1977) at 8.4%	Asset Price at 1993$	Real ($1993) Annuities at 4.8%	Annuities for 1994 at 5.2%
Te Arawa	18,000	214,286	21,000	7,400000	355,200	384,500
Tuwharetoa	9,000	107,143	10,500	3,700000	177,600	192,400
Ngai Tahu	20,000 (30,000)*	(238,095)	(31,500)	9,660000	463,680	502,320
Taranaki	15,000	178,571	25,200	7,728000	370,944	401,856
Tainui	15,000	178,571	25,200	7,347000	352,656	382,044
Tainui	2,000 (3,000)*		(3,300)	1,096452		52,630

* A Government annuity adjustment was not made to the Ngai Tahu Maori Trust Board, presumably because it was an annuity that originally had a finite period but was converted to an infinite annuity in 1973. The $2,000 payment to Tainui was also for a finite period ending in 1991

However, the 50% increase to the Te Arawa and Tuwharetoa Boards are actually an adjustment that has been calculated using a 7.2% interest rate. This gives a rather tidy figure for Government to pay out to the Te Arawa and Tuwharetoa Boards. But if all the payments were to be based on this line of reasoning then the Tainui and Taranaki Boards were entitled to readjusted payments of $21,600. Instead, the Tainui and Taranki payments show an adjustment at an interest rate of 5%, a substantial inconsistency.

The reasoning which came into force here was to give all the Boards a 50% readjustment and this did not undervalue the original asset price (col. 3 & col. 5) of the Te Arawa and Tuwharetoa tribes substantially. It did however, undervalue the original valuations of the Taranaki and Tainui confiscated lands from $300,000 to $178,571.

Even given the increased payments in 1977, Government still undervalued the assets in terms of the 8.4% long term interest rate. For example, the $18,000 annuity to the Te Arawa Maori Trust Board in 1977 only adjusted Government's undervaluation of the Rotorua lakes and lake beds to $214,286 (see col.5). The original asset valuation was $250,000 (col. 3). Even worse, Government was undervaluing the Taranaki and Tainui land compensation from an original price of $300,000 (col. 3) to $178,571 (col. 5). In order to retain the original asset valuation Government should have increased the annuity payments to $25,200 (col. 6). Instead the Tainui and Taranaki Maori Trust Boards received compensation funds of $15,000 (col. 4).

Government officials clearly did not want to carry out basic mathematical calculations. It is unfortunate to say the least, that government was not willing to address the 'mathematical calculations' and at least retain the original asset value for compensation purposes. After all, it has already been shown that if the payments had been indexed to inflation, in 1977, Tainui would have received $56,790 (see Table 5, pg 269) and Taranki, $59,740 (see Table 4, pg 267).

The government did not increase the perpetual annuity payment to the Ngai Tahu Maori Trust on the grounds that the Ngai Tahu payment had been converted from a finite payment ending in 1973 to a perpetuity payment. Even had the Government increased the Ngai Tahu payment in 1977 to $30,000 (on the 50% increase basis, or 7.2% interest rate) the asset valuation at the 1977 long term interest rate of 8.4% had eroded from $375,00 (col. 3) in 1944 to $238,095 (col. 5) in 1977. To retain the original asset valuation of $375,000 Government needed to increase the annuity payment to $31,500 (col. 6).

Similarly, claims can be made with regard to the $2,000 finite payment to Tainui. This was for arrears owing between 1936 when negotiations began with Government for a compensation settlement and 1946 when the first payment was made to Tainui. The annual $2,000 payment ceased in 1991. The original value of this finite payment in 1991 dollars was $1,096,452. It should at the very least, have been adjusted in 1991 using the 4.8% long term interest rate, to a sum of $52,630 to ensure an original asset valuation price of $45,800.

The 1977 changes made by Government to the annuities were an attempt to reflect the different interest rates. This does not mean that the tribes were compensated for the changes in interest rates between 1944 and 1977. Furthermore, since 1977 there have been considerable interest rate increases and Government has yet to acknowledge the substantial sums of money owed to the five Maori Trust Boards if this relationship to interest rates is accepted.

If one is to use the reasoning of Government that the tribes should be paid an annuity that only represents the original asset value then the five tribes were still entitled to a readjustment in 1977 (col. 6) and in subsequent years not taking into account the readjustments that should have automatically been made between 1977 and 1993. In other words, Government needs to readjust the annuity to reflect changes in interest rates and to bring the asset valuation closer to a fair market price. Recognising of course that an adjustment solely in terms of the original asset valuation is the least government should be doing if no recognition is made of effects inflation has upon the value of the asset.

In columns 7 and 8 of Table 8 the asset values in 1993 dollars and the required annuity payments, to reflect inflation, are shown. For example, in 1993 the original $300,000 valuation of the Tainui compensation for excessive land confiscations converts to a sum of $7.4 million. Therefore, if a 4.8% real rate of interest is recognised then an annuity in real terms should have been paid to the Tainui Maori Trust Board of $355,200. In 1993 dollars it is demonstrated that the Te Arawa perpetuity should have been $355, 220 (col. 8). Using the 1994 one year government bond rate of 5.2% which was prevailing at the end

of 1993, it would yield an annuity of $384,800 (col. 9) for Te Arawa which is calculated on the 1993 asset valuation of $7,400,00.

In terms of equity and justice it seems reasonable to recommend that government should be making basic mathematical calculations for annuity payments in future years, using each year the prevailing one year government bond rate which reflects the market premium well and makes sense in a deregulated financial market.

The Government actions of 1977 imply a recognition of the legitimate grievances these Maori Trust Boards have toward the annuity payments. In 1977 Government attempted to adjust payments and to some extent, this reflects the original valuation of the asset. It did not assess or take into account the effects of inflation on the perpetuity payments. Partial recognition of government negligence was made by government officials, but it appears, only enough recognition to 'keep the natives quiet'.

It would appear that there should be a clause added to the legislation of these payments which will reflect changes in long term interest rates. It should also be recognised of course, that this is, at the worst, the least that should be implemented by Government, because the five tribes should be receiving an annuity that is inflation proofed and indexed to the cost of living. In fairness and good faith, at the very least they should be receiving an annuity calculated using the one year government bond rate.

The Investment of Limited Resources

The compensation money paid to Trust Boards has provided them with a limited resource which most have tended to invest in purchasing land for and on behalf of their members. In the far north, according to the current chairperson of the Tai Tokerau Maori Board (Sir Graham Latimer), the three per cent return the Trust Board received from its capital which was originally invested in government bonds was barely enough to cover the travel costs of those attending executive meetings. When the Trust Board reinvested that capital in the purchasing of a farm the annual return was still minimal. An executive officer of the Board said that "until the past couple of years, the Board did very little and few knew what it did. Apart from a few educational grants, it hadn't been active" (Puriri, 1989).

Whakatohea has a policy of purchasing farms and surrounding land, as capital and land became available. On the other hand, "since the 1940s the Ngai Tahu Trust Board has stacked money into education and that has paid off" (Dominion, 16 August 1994). The Aupouri Maori Trust Board pays for all tribal marae insurance costs and lends money to individual marae at concessionary rates to facilitate building projects (Jones, 1994:28). Trust Boards have also invested in their future by providing scholarships and education grants to beneficiaries.

Demographic changes have increased the demands on the limited resources of the Trust Boards. The population data in Table 9 show a considerable youthful population between the ages of fifteen years and forty four years which substantially increased in the 1970s and 1980s.

Table 9 Maori Population 1966 - 1986 (per cent).

Age Group	1966		1976		1986	
	Male	Female	Male	Female	Male	Female
0 - 4	20	20	16	15	12	11
5 - 14	31	31	31	30	23	23
15 - 24	17	17	21	21	24	24
25 - 44	22	22	22	22	27	28
45 - 64	8	9	9	10	12	12
65 +	2	2	2	2	2	3

Source: Pool, (1991:180)

Coupled with an increasing number of Maori entering tertiary institutions (Davies,1993) who are eligible to apply to their Trust Board for an educational grant, increasing demands and expectations are being formulated. Particularly since the 1970s, incremental economic and political demands have been made on the Trust Board executives that were not initially part of their mandate, nor were some of those demands legal.

Social Implications of devalued annuity payments.

Monetary compensation is used by the Crown to redress immeasurable grievances such as those of the Taranaki land confiscations. The Sim Commission (1928) clearly stated that the Taranaki tribes "ought not to have been punished by the confiscation of any of their lands (AJHR, 1928,G-7:11) and so recommended the payment of a perpetual annuity. In the far north, reparation for the 'surplus lands' was in cash rather

than land. Ethnocentric and paternal attitudes of the land commissioners believed the surplus lands in Crown ownership were not economically viable therefore a monetary payment was more appropriate. The Myers Commission (1948) wrote that there were a number of surplus land transactions that Maori vendors had a claim for

> compensation in money or money's worth [which] should in equity and good conscience be granted ... We have examined the possibility ... of making any surplus lands that may still be held undisposed of by the Crown available for the benefit of the Maoris, but this would appear to be quite impracticable - the undisposed of lands are not of any considerable aggregate area, are scattered in various districts, and are not lands which would be suitable for profitable or successful occupation by the Maoris (AJHR, 1948, G-8:17).

The Waikato confiscations were excessive according to the Sim Commission (AJHR, 1928,G-7:17) and it recommended a compensation offer that was the cash equivalent of the value of the land. Many in the Waikato believed that as land was taken, so should land be returned (King, 1977:223). Hence negotiations between the Crown and tribal representatives were ongoing until agreement was finally reached in 1946. "As Te Puea put it: Our ancestors have been vindicated in the sight of New Zealand" (King, 1977:225). Implicit in Te Puea's statement is that monetary compensation is only a legitimisation and acknowledgement of the grievance.

In the Ngai Tahu case, the Smith-Nairn Commission of 1879 suggested a general fund for the 'Natives', consisting of one-eleventh of the proceeds of all sales of the land bought from the Ngai Tahu, less any expenditure Government made on behalf of the 'Natives' (AJHR, 1921, G-5:36). The Jones Commission (1921) said that compensation could be considered by providing individual Maori with a small allocation of land but this was impracticable because there was no suitable land for such a settlement. Instead, the Commissioners saw the grievance in terms of a contract being "unwittingly broken" but which could be addressed by a monetary pay out (AJHR,1921, G-5:36-38).

The Crown has used compensation to provide tribes with a cash payment that was generally equivalent to the economic value of the land at the time it was taken. No recognition was made of the increasing value of the resource over time nor its value at the time of settlement. It has also used cash compensation as the only means for redressing immeasurable grievances such as those of the Taranaki tribes. There was no mention of reparation in terms of land by the investigating Sim Commission (1928, G-7). For Maori, compensation is seen as an acknowledgement of a past grievance. Tainui have accepted monetary compensation as legitimisation of their land grievances but they are adamant that 'as land was taken, so land must be returned'. The loss of resources has meant that the tribes do not have a foundation on which to build a sustainable development programme. Article Two of the Treaty of Waitangi guaranteed to Maori the "full exclusive and undisturbed possession of their Lands and Estates, Forests, Fisheries and other properties". Those resources are now out of Maori control. But the dominant attitude of Maori today, towards

compensation, is that economic resources should be the primary means of reparation.

When the negotiated settlements were made between the various tribes and the Crown it is probable that both partners were acting in good faith to resolve some of the long term grievances that had been legitimised by various Royal Commissions.[27] It has been pointed out by Ward (1983) that the high inflation rates of recent years could not reasonably have been anticipated when the settlements were originally finalised. But there cannot be any doubt that by 1977 Government recognised that the annuity payments had not kept pace with inflation, and in fact were totally inadequate. The 1977 adjustment appears to retain the original asset value but in actuality still undervalues the original asset valuation. To persist with a policy that is purely an 'arbitrary' decision, only reinforces the claim made by many Maori people that the 'partnership' concept espoused by Government in its 'He Tirohanga Rangapu/Partnership Perspectives' discussion policy document of 1988 is not one of equity and equality. What persists is a relationship in which the dominant partner refuses to negotiate a reasonable compromise with the indigenous people of New Zealand.

One of the chief evils of inflation is that a person or group of people holding fixed income assets are going to lose out and the rest of the country benefits from them. People who have borrowed the money and

27 Native Land Claims Commission:
a) 1921 Appendix to the Journals, House of Representatives 1921-22 Vol. 2. G-5 (Ngai Tahu)
b) 1928 Appendix to the Journals, House of Representatives 1928 Vol. 2 G-7 (Taranaki, Tainui)

put it into real assets benefit because they pay back in appreciated currency. People who hold the financial asset lose because the value of the financial asset falls, while the value of the real asset rises (Ward, 1983:12). In other words, the value of land has increased at a much greater rate than the rate of inflation, therefore those Maori Trust Boards that took lump sum compensation and invested it in land probably proved to have a much better return on their funds.

The land and lake assets acquired by the Crown for which it makes annuity payments to Maori Trust Boards constitute a significant part of the nation's income producing assets. Coal is but one example of national income which is derived from confiscated land in the Waikato and from land lost due to breach of contracts in the South Island. The tourist value alone of the Rotorua lakes and lake Taupo ensures substantial income to Government and private businesses alike. The assets for which Government makes minimal annuity payments have increased immensely in value while the annuity payments continue to diminish in purchasing power. In effect, it can be argued that government has a perpetual lease on substantial Maori resources but is refusing to pay Maori the market price for the use and exploitation of those resources. The New Zealand public is benefitting at the cost of Maori people. Successive Governments, not satisfied with stripping Maori of all assets that would provide an income or sound economic base, are still expecting Maori to subsidise 'all New Zealanders'.

In terms of 'partnership' between the Crown and the Maori people, that partnership is operating in a context detrimental to the Maori tribes. Not only were Maori resources and assets unjustly and illegally taken,

with insufficient compensation, but even that compensation which government agreed to pay to the aggrieved tribes has not been paid over the years to its full or true value. Morally and ethically the compensation agreements entered into between the Crown and the various tribes should be honoured in their delivery. The onus of responsibility lies with the New Zealand government to act honourably and in good faith.

The effects of inflation upon the value of the perpetuity compensation payments and the refusal of government to redress the inequity of the payments is a considerable cost to the nation as a whole. If tribes received funds that are of right, owing to them, then it is possible that the tribes would have been able to address their aspirations for self-determination in a more substantive and meaningful manner.

Chapter Six
Maori Affairs Policies: The Colonial Legacy

Assimilation

Historically, in the Maori affairs arena, successive governments have pursued centralised policies aimed at assimilating[28] the Maori population into the Pakeha way of life. Captain Hobson's comment at the signing of the Treaty of Waitangi in 1840 "He iwi kotahi tatou" (we are all one people), encapsulates the colonial assimilationist attitude. The primary means of assimilation was through legislation which promoted and facilitated individual land ownership and title rather than land ownership by the collective tribe. But additionally there was a concerted effort to erode the tribal structures of Maori society assisted by the Native School Act 1867, which denied the use of the Maori language as a medium of instruction in schools thereby providing a powerful tool for the assimilation process.

Assimilation came in various guises. The Native Land Court, renamed the Maori Land Court in 1953, was created in 1865 to implement policies designed to individualise title to land. Under Chief Judge Fenton, the Court generated its own 'petty procedural rules' which required land surveys and Court attendance when seeking or challenging legal title to land. Substantial financial costs were involved in this

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28 Ward's (1983) book A Show of Justice clearly illustrates assimilation and amalgamation policies of the past; p:161, ethnocentrism and racism; p:311, land policies; p:212, education policies; p:303, legislation. See also Walker's (1990) book Ka Whawhai Tonu Matou Struggle Without End.

process and considerable hardship and land losses were incurred by Maori (Gilling, 1993). The Land Court facilitated assimilation.

In 1901 the ratio of Pakeha to Maori was more than 16:1, in contrast to the 1850s when the two populations were about the same size (Pool, 1991:61). Pakeha fertility rates were high and mortality rates low, while Maori were subjected to diseases against which they had no immunity, often having to congregate for court hearings and being forced to live in temporary accommodations which were "less than perfectly hygienic (and this) greatly enhanced the efficiency of disease diffusion" (Pool, 1991:62). The demise of the Maori population was widely accepted, assimilation was inevitable.

By the 1920s government recognised that most of the land that remained under Maori control was insufficient to provide Maori with a self-sufficient economic resource base and in 1929 some state funds were available for Maori land development. However, this programme coincided with the onset of the depression years and increased unemployment, therefore the limited amount of capital[29] invested into these schemes made little overall impression on the socio-economic position of Maori (see Sutch, 1969). By 1933 three-quarters of the adult Maori male population was unemployed and most relief payments went to those working on land development schemes (King, 1981:287). According to King (1981:287) the argument that was used to make it difficult for unemployed Maori to qualify for relief, which was paid to Maori at a lower rate than Pakeha, was that many Maori were normally

29 £25,000 in 1929-1930 and increased to £142,000 in 1934-1935 (Sutch, 1969:224).

unemployed and "could live off the land".

The election of a Labour government in 1935, New Zealand's gradual emergence from the depression and the development of the welfare state had an impact on the social well-being of Maori. In 1936 the Labour government was responsible for equalizing the Maori and Pakeha unemployment benefits,[30]

> though it was some time before they were brought onto the same rates as Europeans for old age and widows' pensions. With the passage of the Social Security Act in 1938 Maori were eligible for the child benefit on the same basis as Europeans (Sorrenson, 1986:B-43,44).

Welfare policies improved Maori health, housing and education and land development was largely in terms of job creation and the physical development of land (Butterworth,1989:16). Labour also finally introduced the secret ballot for Maori electors, which had been introduced for Pakeha electors in 1870. Part of the process of assimilation is to phase out separate strategies and policies, and inequalities between Maori and Pakeha "were expected to be ameliorated by time, money and the good race relations that supposedly existed in New Zealand" (Pearson, 1984:203).

World War Two interfered with Maori land developments, and urban labour requirements to assist the 'war effort' saw the beginning of a

30 see C. J. Orange, *A Kind of Equality: Labour and the Maori People*, M.A. thesis, University of Auckland, 1977.

movement of Maori from urban areas to the cities in search of employment opportunities. Government's objective in 1944 was to

> improve the living standards of the Maori race, of absorbing the largest possible proportion of the Maori population into the economic structure, of bringing idle hands into production ... (Department of Maori Affairs, 1944).

In other words, to assimilate. A 'two peoples, one nation' myth had emerged, assisted by the fact that Maori and Pakeha had tended to be geographically separated and thereby largely insulated from one another, until the post-World War Two Maori urbanisation era (King, 1984:300).

The 1950s was a decade of relative economic prosperity for New Zealand, but considerable Maori relocation from rural to urban areas "heightened the awareness of disparities in housing, educational attainment employment and income" (Dunstall, 1984:424).

Integration and Accommodation

Assimilation continued as government policy until the introduction of the policy of integration in 1961. By the 1960's the assimilation or 'amalgamation' rhetoric changed to integration as can be seen in the 1960 report on the Department of Maori Affairs (known as the Hunn Report) which observed that

> ... Maoris have taken quite remarkable strides forward in the last two generations; and, in another two generations they should be well nigh fully integrated (Hunn, 1960:14).

and

> full integration of the Maori people into the main stream of New Zealand life is coming to be recognised ... (Hunn, 1960:78).

Hunn (1960:14-15) defined integration as combining both Maori and Pakeha elements to form one nation although keeping Maori culture distinct. In other words diversity was to be allowed but only within the rules of the governing framework.

Hunn (1960) further promoted the urban drift as the quickest and surest way of integrating the two 'species' of New Zealanders. A large movement of Maori from the economically depressed rural areas to the cities was quite evident by the late 1950s (see Pool, 1991) and government welfare policies for Maori in the 1960s centred around providing additional housing and vocational training. In the 1960s integration leading to assimilation was evident in the 'pepper-potting' policy for housing.

> In Rotorua, Tauranga and certain country areas ... blocks of Maori land have had to be subdivided into building sites, thus laying the foundations consciously but regretfully, for all-Maori settlements ... Investigation is under way as to the possibility of buying ... sections from

> the Maoris and reselling them to Europeans to achieve a mixed community (Hunn, 1960:41).

Ethnic segregation and concentration, such as had occurred in Otara, Mangere and Porirua was considered to be an obstacle to assimilation (Trlin, 1984:173).

Government became involved in Maori land development schemes because it would accelerate the integration of Maori. Land legislation was passed (1967 Maori Affairs Amendment Act) which had the effect of further alienating Maori land by forcing the utilisation of Maori land and providing for compulsory acquisition of 'uneconomic' interests in Maori land. This was of course, resented by Maori because the policy denied cultural values and traditional attachment to the land. It coincided with dissatisfaction with integration policies that had done nothing to improve the Maori socio-economic position in New Zealand society and which continued to alienate Maori land.

Whilst a Maori Education Foundation was established to improve Maori education as a result of recommendations made by Hunn (1960), today there is still very little improvement in Maori education standards (see Davies, 1993). The National government of the time also provided the necessary means to establish the New Zealand Maori Council which it still uses as its consultative body for Maori affairs. Particularly since 1986, the New Zealand Maori Council has been extremely politically active (as has already been discussed), but the point here is that the government supported the establishment of a Maori advisory body whose structure was not based on traditional Maori structures.

Rather, it was a Pakeha imposed structure that was pan-Maori and based on arbitrary regions rather than tribal areas and tribal membership.

In the 1970s the New Zealand economy was under considerable pressure. The 'oil shocks' of the mid 70s, increasing unemployment, a substantial balance of payments deficit coupled with the National government's investment into a 'Think Big' strategy, as well as high inflation meant that government needed to cut back on various areas of spending. Government policies on Maori affairs were reviewed.

The 1970s were also a decade of considerable Maori activism. Integration and assimilation policies and attitudes, had in fact politicised many of the urban Maori and coupled with the emergence of tertiary educated Maori, Maori issues started to make national headlines (Nga Tama Toa, the Land March of 1975, Bastion Point, the Raglan Golf Course and others). The integration message of the 1960s created unrest and little improvement in the social and economic status of Maori.

Puketapu (1982), the Secretary for Maori Affairs, said the Department of Maori Affairs had

> created a paternalistic, centralised bureaucracy removed from the clients it was expected to serve. Clients were viewed as hapless victims whose primary function related to their role as consumers of services designed for their benefit by faceless experts (Puketapu, 1982).

Puketapu introduced a new policy called Tu Tangata (Stand Tall), its objective being the social and economic advancement of Maori and their resources to overcome institutionalised dependency. Under Puketapu's guidance, Maori affairs policies attempted to include cultural values and a spiritual dimension.

> Whether by taking a greater role in the mainstream of New Zealand's social, cultural, and economic life, or by drawing on the strengths of distinctive Maori institutions and values, Maori people are being encouraged to "stand tall", to grow in the self-esteem and self-confidence which has in the past been conspicuously absent (Department of Maori Affairs, 1980).

The emphasis of government policy was on community-driven solutions to the Maori 'problem' and the most significant programme to emerge was Kohanga Reo (language nests). These established immersion education centres for pre-school children where they learn Maori language and cultural values. It has been so successful that in 1992 there were 719 centres (Department of Statistics, 1994:207).

Other community initiatives were attempted such as kokiri 'basic skill' centres, Employment and Vocational Training, Marae development and Family and Youth development (Department of Maori Affairs, 1991). Additionally the department itself was restructured, an emphasis was placed on trying to recruit Maori personnel and

> when the social welfare division [of the Department] was phased out, much of the responsibility for individual casework was redirected towards Maori voluntary organisations or the appropriate government agency - a move endorsed by Puketapu as freeing up departmental resources for positive development at the community level (Fleras, 1989:218).

The Tu Tangata philosophy did attract considerable criticism however, (see Tainui Report, 1983:58-9) and

> many were sceptical of the Department's motives in revising its relationship with its client groups ... others dismissed the shift towards people-powered development as a shrewd exercise in transferring the burden of responsibility, costs and accountability to the local community (Fleras & Elliott, 1992:185).

Aside from the Kohanga Reo programme, the official integration polices of government nevertheless had still failed to advance the relative position of Maori in New Zealand society.

Government has implemented some of Hunn's (1960) 'integration' recommendations nearly thirty years later. In 1988 government's intention was a "transfer of responsibility for Maori programmes to mainstream departments and agencies" (Department of Maori Affairs, April 1988:9). This was included in the Maori Affairs Restructuring

Act 1989. One of the intended benefits of such actions was to make government departments more 'responsive' to their Maori clients. However a review of the State Services Commission (SSC) in 1991 found that the SSC had not succeeded in developing strategies to attract Maori staff, it was unable to retain Maori staff and it sought external Maori advice when the SSC felt it was appropriate and not necessarily when it was needed (Manatu Maori, (1991:5). Integration in this instance does not appear to be successful.

In 1960 as part of the government's assimilation policy, it was recommended that

> the time has come to think of transferring its (Department of Maori Affairs) physical operations ... to agency departments and of eventually shrinking to policy making ... (Hunn, 1960:17).

This recommendation was based on Hunn's (1960) concern that the department had a staff which had increased from 148 in 1930, to 836 in 1960 coupled with a belief that the variety of operations performed by the Department could be better administered by single-purpose departments. In other words, main stream departments were better able to deal with Maori affairs, they had standardised rules and regulations which would adequately apply to both Maori and Pakeha. This assimilationist theme pervaded much of Hunn's rhetoric. Hunn (1960:33) argued that increased social contact with 'Europeans' would help the efforts to decrease Maori criminality and that the trustees of Maori Trust Boards did not best know how to allocate their own funds

(Hunn, 1960:63). Hunn (1960:18) also believed that "miscegenation is inexorably integrating, even assimilating, the two races ..." hence inter-marriage would further hasten assimilation. Thus it is difficult to determine Hunn's (1960:15) differentiation between assimilation (becoming absorbed, blended and amalgamated) and integration (combining Maori and Pakeha elements to form one nation). Fleras and Elliott (1992) are correct when they state:

> To Maori leaders, the conclusion was inescapable: both assimilation and integration shared a single political objective: the creation of a uniform society, united under a common set of political and social values. Maori culture was devalued except as decoration (Fleras & Elliott, 1992:183)

Three decades after the Hunn report was released government policy professed to have as its objective the desire to

> eliminate the gaps which exist between the educational, personal, social, economic and cultural well being of Maori people and the general population (Department of Maori Affairs, Nov. 1988:3).

This is an admirable objective, but it was also identified by Hunn in 1960, and still the Maori people are not much better off. The 1991 Census of Population & Dwellings shows that 12.9% of the NZ population is Maori; The 1986 Census showed that 14.9% of the Maori labour force was unemployed in contrast to 5.8% non-Maori; 67% of all

Maori had no school qualifications compared to 28% non-Maori; Maori incomes are lower than non-Maori; the 1988 Census of Prison Inmates shows 48% of the prison population identify themselves as Maori; the 1981 Census of Population & Dwellings shows 58% of Maori adults were dependent on welfare benefits compared to 31% non-Maori; Maori households tend to be larger than non-Maori; a higher proportion of Maori than non-Maori families are one parent families; Maori have a higher infant mortality rate than non-Maori, higher rates of alcoholism, greater health problems and higher incidence of smoking. All the current socio-economic indicators portray a similar pattern.

By the 1980s Maori were still an identifiable underclass in New Zealand society, with a disproportionate number of people dependent upon the welfare state for sickness, unemployment or domestic purposes benefits, or as clients of various institutions such as prisons and hospitals. Government attitudes expressed in policies of assimilation or integration have marginalised Maori and denied Maori people the right to retain their cultural, economic, social, spiritual and traditional values in a manner appropriate to them. The assimilationist and integration eras had deprived Maori of the freedom to manage their own affairs but in the late 1980s Maori were attempting to end paternalism, partly through a functional transfer of power from government to the tribes. Devolution was perceived by Maori as being a tool for Maori initiative and control - self-determination.

The political environment in 1984

The Labour government of 1984-1990 embarked upon radical economic reform policies to restructure the economy, reduce inflation and reduce the budget deficit with the objective of creating a modern market economy free of price distortions, bureaucratic management and government protectionism (see Margaritis et al., 1993). The direction of change was a move from a predominantly welfare state and protectionist economy to a form of market and economic liberalism.

> It is only sensible to organise economic and social activities in the form of a government department, state-owned enterprise, education or health board, or whatever, if the particular form of organisation chosen enables these activities to be provided more cheaply, more effectively, or more equitably, in aggregate, than would provision through the market (Treasury, 1987:3).

A major component of the reforms was the restructuring of the public sector. Many state commercial activities that were able to generate income separate from taxation were corporatised or sold to the private sector. Corporatisation and privatisation became every day words in a very short period of time, (as did the term redundancy). Government departments such as those of health, education and Maori affairs were restructured into policy and expenditure control Ministries, no longer providing services to their clients. The administration or delivery of the services previously provided by those departments was decentralised to regional or community levels and to other mainstream

departments. Local and regional government was included in the restructuring process. The rationale for reforming the public sector and restructuring the machinery of government was to provide an efficient and cost effective organisational administration. Low inflation and a reduction of the overseas debt were government priorities, economic considerations outweighed social concerns and these were to have considerable impact in the areas of employment, crime and violence, health and education. The subsequent reforms had considerable impacts upon Maori.

Maori Objectives

In 1984 an economic conference of Maori tribes was held in which past performances of government were examined with regard to the economic and social status of Maori in New Zealand. A comparison of Maori and non-Maori economic and social indicators highlighted the fact that successive government policies have failed to meet the professed ideal of a fair and just society for all people.[31] One of the major concerns that arose from the conference was the amount of government money being spent on Maori people in a negative [32] manner. It was estimated that at least $784.5 million per annum had been paid out by government to maintain the marginal social and economic position of Maori by way of welfare benefits, institutionalising Maori

31 Maori Economic Development Summit Conference 1984 - A Briefing on Maori and Economic Affairs.

32 Negative spending refers to the maintenance of many Maori in a state of dependency whether in penal institutions or on welfare benefits for example

in penal and mental health institutions and so forth (Douglas & Dyall 1985:24). The 1984 conference consensus was that money ought to be spent in a more positive manner but that this could only be done if the Maori people were themselves able to define and determine their needs.

Maori sent government a clear message that the low economic growth rate of the nation had most severely impacted upon Maori and new and realistic strategies to halt the decline were required. The major recommendation arising from the conference was that Maori and Maori resources were under-utilised and under-developed and the way to maximise the use of resources was to radically reform the 'negative' government spending so that Maori could redress some of their social and economic problems themselves.

Reform was required in terms of empowering Maori organisations to address more adequately Maori self-reliance and Maori economic recovery. This included calls for an adequate process of consultation so that Maori could be involved in the policy making processes; the transfer of resources to Maori control so that Maori could set priorities; encouraging and promoting the education of young Maori into the 'profession'; allowing Maori to determine and deliver policies to try and improve Maori health, reduce crime rates and so on (see Maori Economic Development Summit Conference Proceeding, October 1984). It was a call for government to allow the Maori people to determine their own requirements, and at least let them attempt to improve the situation of the Maori since the government was obviously unable to do so. Maori were asking for the decentralisation of government policies

and programmes in terms of devolution rather than delegation or deconcentration. Maori initiative, discretion, autonomy and control were the recommendations of the 1984 Maori Economic Development Summit Conference.

Chapter Seven
Radical Reform

Restructuring Maori Affairs

Included in the economic restructuring programme of the 1984/87 Labour government was public sector reform which included the Department of Maori Affairs. Like the departments of Health and Education, it was to be transformed into a small policy ministry divorced from programme delivery and administration, justified in economic terms of efficiency and effectiveness. Government was to reduce expenditure and ministerial responsibility for the delivery of many services whilst at the same time retaining central control of policy and funding. This was the principle (and method of central control) that government adopted for Maori affairs.

The first step in government's response to the issue of inequality between Maori and Pakeha was to reassess the functions of the Department of Maori Affairs, within the parameters of government's restructuring programme. The department was involved in community services, vocational training, housing, land development, rural lending and with servicing the Maori Land Court and the Maori Trust Office (Department of Maori Affairs, 1984). In 1985 a ministerial review team, headed by Denise Henare, was appointed to assess the roles and functions of the Department of Maori Affairs. Part of the underlying motive for the review was the strong Treasury opposition to the

growth of the Department over the years[33] and Treasury determination to mainstream resources to 'specialist' departments such as Social Welfare, Housing and so forth (Ministerial Review Committee, 1985:51). According to the Henare report, the Department also had a poor public image, a low and negative profile within the public service as well as a poor internal morale (Ministerial Review Committee, 1985:28). The review team's considered assessment was that it was inappropriate for the Department of Maori Affairs to be involved in service delivery such as employment training programmes (Ministerial Review Committee, 1985:36), or housing, which instead could be facilitated by the Department acting as a broker between Maori and the specialist social service department (Ministerial Review Committee, 1985:51). Additionally however, there had also been administrative problems which had caused some 'embarrassment'[34] for government and may have had some bearing on government's desire to reassess the role and functions of the Department of Maori Affairs.

The final report from the Henare committee recommended that the department should facilitate Maori development rather than providing services to a dependent people. Social services should be mainstreamed and economic development of Maori should be managed

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33 In 1984 the Department of Maori Affairs had a "sinking lid" policy which required a reduction in personnel (Department of Maori Affairs, 1984:5).

34 In 1986-1987 officials in the Department of Maori Affairs were publicly criticised and the Minister's resignation called for, because of their involvement in attempts to raise funds for Maori development 'off-shore', without the sanction of the Treasury and the Minister of Finance.

through a corporate structure which would monitor and develop economic policies to assist Maori self-sufficiency with an emphasis on self-dependency. The rhetoric failed however, to provide in-depth explanation of what it meant by facilitating development, or how it would aid self-sufficiency in any practical manner and certainly not in a manner called for at the 1984 Hui Taumata or Economic Summit. Neither Maori involvement nor decentralisation of policies and programmes was suggested (Department Maori Affairs, 1985:51-53). The report clearly signalled a change in direction for Maori affairs policy but it did not extend its review to consider decentralising services to Maori themselves.

Subsequent to this was the establishment in 1987, of the Devolution Implementation Committee on Maori Development, with a brief from government to look at ways of 'devolving' services provided by the Department of Maori Affairs (Ritchie 1988). The committee membership had a majority of non-governmental Maori officials who worked from the premise that devolution meant empowering Maori tribes to deliver programmes to Maori rather than mainstreaming operations to specialist departments, but they were unable to agree with government on the interpretation of devolution (Mahuta, 1990, personal communication). As a consequence, five months later the Committee was disbanded by government, with no report being made on the complex issue of devolution.

Following this, in 1988, a government officials' committee comprising representatives from government departments produced a document called He Tirohanga Rangapu/Partnership Perspectives. This document

indicated possible changes that government would make in relation to Maori issues and Maori concerns.

Government's stated objectives in the discussion document were to formulate a new relationship (or undefined 'partnership') between the Crown and Maori people that would honour the principles of the Treaty of Waitangi as well as attempt to improve the socio-economic position of the Maori (Department of Maori Affairs, April 1988:6). This was to be achieved by restructuring the existing power structures. The proposal was to disband the Department of Maori Affairs and create a Ministry of Maori Affairs (Manatu Maori). The function of the old department had been to provide services and implement government policies[35] to the Maori people. Under the new policy those services were to be devolved to mainstream government departments and Maori tribal authorities called 'iwi'[36] authorities.[37] Manatu Maori/Ministry of Maori Affairs was to provide policy advise to Government. The services previously provided to the Maori Land Court were to be taken over by

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35 The Department of Maori Affairs was involved in most social and economic areas. Services were provided in the areas of housing, education, legal aid, land development schemes, employment and training schemes to name but a few.

36 'Iwi' is a Maori term loosely translated to mean a tribe of people descended from a common ancestor. The iwi is comprised of 'hapu" (sub-tribes), and each 'hapu' consists of 'whanau' (extended family) groups.

37 Currently the term 'iwi authority' is generally accepted as meaning a corporate group elected by the tribe to deal with Government on their behalf. An iwi authority has no legal status although the "Runanga Iwi Act" which was passed in 1989 but repealed by the new government in 1990 was an attempt to define and legalise tribal organisations.

the Department of Justice which already serviced the Waitangi Tribunal and the responsibilities of the Maori Trust Office (which had amalgamated with the Department of Maori Affairs in 1934) were to be reviewed. It was proposed in the discussion document that tribal authorities be established to deliver, implement and administer government programmes (Department of Maori Affairs, 1988:13). The reason government stated, was to "see the iwi ultimately become independent and self-sustaining" (Department of Maori Affairs, Nov. 1989:5). The stated intention of government in 1988 was to "provide opportunities for Maori people to develop economic activities ... to promote self-sufficiency and eliminate attitudes of dependency" (Department of Maori Affairs, April 1988:6).

The government stated that 'mainstream' government departments were not responsive enough to the needs of the Maori people (Department of Maori Affairs 1988:16). This was to be overcome by the establishment of a new Ministry (Manatu Maori) that would deal only with policy advice, monitor the responsiveness of all other government departments in meeting Maori needs, provide government with advice on Maori matters, and generally act as a 'watch dog' on all new legislation and other matters pertaining to Maori needs (Department of Maori Affairs 1988:12).

Mainstreaming

In the discussion document Partnership Perspectives/He Tirohanga Rangapu, the term 'mainstreaming' is used. This is a restatement of the assimilation/integration attitude of the 1960 Hunn Report.

Government admits that 'mainstream' departments and agencies are not responsive enough to the needs of the Maori people (Department of Maori Affairs, April 1988:14) and acknowledges that

> its agencies must rouse themselves and respond in a definite and positive way to the needs, concerns, and aspirations of Maori people (Department of Maori Affairs, Oct. 1988:19).

The intent of government's Maori affairs reform programmes was that iwi authorities would formulate the needs of their people, present a proposal to the appropriate mainstream department and then be allocated funding from the appropriate mainstream department. Funding of the proposals would be subject to individual agreements or contracts with the various government agencies (Department of Maori Affairs, Nov. 1988:21). Government implied that mainstream departments must not view proposals from a monocultural perspective, and that they would be accountable to government if this occurred. There was official recognition that mainstream departments were "predominantly monocultural in outlook and personnel", insofar as

> few (Maori) have reached influential positions in mainstream departments and agencies ... (due to) the existence of work environments and operational methods which are inhospitable to, or even intolerant of, Maori ways of doing things. Other reasons include insufficient professional and technical training, the under-estimation

> of skills and qualifications of value to Maori people (Department of Maori Affairs, April 1988:14).

Government recognised that without commitment at the top levels of government and organisations, there was little prospect of eliminating institutionalised racism which has been clearly identified, for example in the Department of Social Welfare.[38]

Institutionalised racism is any bias in an institution which automatically benefits the dominant ethnic group and which subjugates subordinate groups (Rangihau et al, 1986:26). The writers of the "Institutional Racism in the Department of Social Welfare" (Tamaki-Makau-Rau, 1985) report, argued that staffing, training, legislation and policies - the institutional framework - of the Department of Social Welfare systematically discriminated against Maori and was part of the department's overall culture because it had an overwhelming majority of Pakeha staff who dominated the decision-making positions and who did not reflect the ethnic composition of the consumer group: The department's recruitment and selection processes were based on merit which emphasised educational qualifications and to a lesser degree work experience, but did not give equal weighting or value to Maori merit criteria of age, mana, life experience, ancestry or bilingualism. The Department had only Pakeha people providing training courses for staff who were responsible for setting the agendas for training programmes. So

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38 see Rangihau, J., et al., 1986 Puao-Te-Ata-Tu (Daybreak) Report of Ministerial Committee on a Maori Perspective for the Department of Social Welfare.

training requirements were dependent upon needs as perceived by the non-Maori gate-keepers who predominantly had little involvement with the cultural values or norms of their clientele. The report further criticised the inadequacy of the physical environment to cater for the needs of the majority of the consumers who, for example, would often be accompanied by small children or babies. Collectively, it was argued, these factors demonstrated the institutionalised nature of racism in a government department.

The Department of Social Welfare report, Puao-te-ata-tu 1986 (which incorporated the Tamaki-Makau-Rau 1985 report), helped provide part of the rationale for reshaping the administration of Maori affairs. Martin (1988:287) says that the impact of the Puao-te-ata-tu report directly on the Department of Social Welfare and indirectly on wider the public service, 'cannot be overestimated' and that it took on a symbolic significance that went way beyond the context of the content, superimposing a 'bicultural and power sharing' dimension on the Department of Social Welfare insofar as the Social Welfare Amendment Act 1987 allowed for the establishment of a Commission to establish the appropriate means for delivering programmes and welfare benefits, with the objective of more directly involving communities in the process. One element in the restructuring of the Department of Maori Affairs was to try and include the Maori community in the delivery of services thereby (ideally) allowing Maori to participate in a power sharing process. The low socio-economic status of Maori, as cited in Partnership Response/Te Urupare Rangapu necessitated in the need to develop a public sector more responsive to Maori needs and cultural traditions.

For government, the State Sector Act 1988 was the appropriate means to improve the responsiveness of government agencies to Maori issues. The Act requires chief executives of government agencies and departments to be good employers (s56) and to promote, develop and monitor equal opportunity policies and programmes (s6). A 'good employer' is required to have personnel policies that are regarded as fair and include good and safe working conditions, an impartial selection process of suitably qualified persons for appointment and opportunities for the enhancement of the abilities of individual employees. In other words, the chief executives are accountable to government for their responsiveness to Maori. Affirmative action is accepted as the means to try and remedy any apparent inequalities. In reality this has meant the establishment of Maori units within government departments designed to enhance the understanding of Maori culture and values, but there is little evidence of power-sharing or any detailed monitoring of departments' Maori policies (or expenditure) let alone data on Maori recruitment or promotion.

Government determination to mainstream former Department of Maori Affairs services was coupled with a commitment to address institutional barriers within government departments. Rangihau et al, (1986:26) link poor socio-economic conditions with institutionalised racism and the statistics do show that Maori have the usual characteristics of a racial underclass (high unemployment, infant mortality and rate of imprisonment; low educational achievement; an alienated youth and urban gangs along with alcoholism, heavy smoking and health problems). Hence the need for

affirmative action, equal employment opportunities, training programmes and most importantly, education and training of departmental officials in 'tikanga Maori'[39] (Department of Maori Affairs, Nov. 1988:14).

Government intended to empower tribal organisations such as Maori Trust Boards or Runanga to have them execute some service delivery. To enable them to do this they needed the temporary assistance of the Iwi Transition Agency (Te Tira Ahu Iwi) to help facilitate the necessary infrastructure. The excess of Maori Department personnel were transferred to mainstream departments but having one or two Maori people in an organisation does not necessarily mean they will have any influence on the decision and policy making processes. Maori staff may be able to put forward a Maori perspective, but that does not mean it will be implemented, and changing peoples attitudes let alone identifying and rectifying institutionally racist practices is not a process that can take place over night or in a short period of time.

It is extremely naive to believe that the necessary socialisation processes and breaking down of institutionalised racism barriers could possibly have taken place by 30 June 1994 when the Iwi Transition Agency was originally due to be disbanded (but was in fact discontinued in December 1991) and the persistence and depth of ethnocentric attitudes is clearly portrayed in the following submission that was made on the discussion document He Tirohanga Rangapu/Partnership Perspectives.

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42 Maori perspectives, protocol and procedures.

> In my opinion (Maori) people should no longer receive special treatment and attention simply because of what they are ... Being a public servant I will serve the public to the best of my ability, equally and without favour with no special considerations given to Maoris (Department of Maori Affairs, July 1988:10).

Selling the Reform Package

He Tirohanga Rangapu/Partnership Perspectives set out what government said would be the beginning of a new partnership between Maori and the Crown. Officially the document was publicised as a discussion document calling for submissions from the public on the proposals outlined in the paper. The Minister of Maori Affairs launched the document on 21 April 1988 and during the following seven week period the Minister and several members of the Department of Maori Affairs travelled the country talking to Maori groups about the proposed changes, how government intended to implement them and their implications for the Maori people.

A total of 633 submissions on the discussion document were received by the Minister. The submissions to the Minister of Maori Affairs overwhelmingly called for the retention of the Department of Maori Affairs. The people did not want the Department of Maori Affairs phased out, rather, the general attitude was that the Department continue administering social services to Maori, but find a more efficient and cost-effective means of providing those services. Recognition by Maori people of administrative and accountability

problems within the department was acknowledged, as was the need to have it transformed into a more effective organisation working for the people in a positive manner. But the people who had been served by the Department of Maori Affairs overwhelmingly opposed the abolition of the Department (Wetere, Oct. 1989:14), and were very sceptical that other government agencies would respond sensitively to Maori issues given that governments over the past 150 years had failed to adequately meet Maori needs and concerns. (Department of Maori Affairs, Nov. 1988:4). The report Puao-te-ata-tu: Daybreak, written by the Ministerial Advisory Committee on a Maori Perspective for the Department of Social Welfare in 1986 illustrates this reality very succinctly.

However the submissions did generally support the idea of Maori empowerment, of devolving resources from government departments, so that programmes and services be administered by a recognised tribal authority. What appears implicit in those submissions is that the tribal authorities should have control over the devolved resources (Department of Maori Affairs, July 1988). This was also the message given to government by the Hui Taumata/Economic Summit in 1984. This message was further supported by the Royal Commission on Social Policy (1988:67) which recognised

> the potential benefits to Maori arising from the devolution of some functions currently controlled by government, to tribal and other Maori authorities. Undue haste, however will preclude adequate planning and create situations where wide-ranging expectations will

be frustrated by a lack of physical and human resources and by an insufficient commitment from the state or its agencies for shared responsibilities during the period of implementation or after.

Structural Reforms

In October 1988 government released Te Urupare Rangapu/Partnership Response which reaffirmed the objectives that had been set out in the initial discussion document. In this document government confirmed its earlier proposals to abolish the Department of Maori Affairs, restructure and separate the operations and policy advice functions of the Department so that a new Ministry could be established to provide 'policy advice', and an interim Iwi Transition Agency established to maintain existing Department of Maori Affairs operations until they had been transferred either to iwi authorities or other government departments. The document also set out the process by which government was prepared to establish iwi authorities to administer programmes on behalf of the Maori tribes.

The ideal of the Ministry of Maori Affairs (Manatu Maori) was that it would monitor, review and advise government on any proposals that would have possible implications for the Maori population. Its role, government stated, would "be similar to that of the Treasury and the State Services Commission" (Department of Maori Affairs, Oct. 1988:16). It could be argued that its role to comment and advise government is in fact similar to that of the Ministry of Women's Affairs for it is extremely unlikely that any Ministry would have the

influence on government that Treasury has. The Ministry's[40] establishment in 1989, like the Ministry of Women's Affairs, meant it dealt only with policy matters. It had no operational responsibilities for the delivery of programmes and services as did the previous Department of Maori Affairs. Like the Ministry of Women's Affairs whose head of department had a staff of only twenty, but given the task to "work the system, challenge it and ultimately change it" (NZ Listener, 1988:23), so too was the challenge for the new Ministry of Maori Affairs /Manatu Maori.

Support for the new Ministry by the Maori people was given more as an adjunct to the Department of Maori Affairs rather than as a replacement. The establishment of the small policy making Ministry immediately made it difficult to maintain a close relationship with Maori communities simply because it was not providing services to the people. Maori had the challenge of working with the Iwi Transition Agency which had an intended life-span of five years and which was given the responsibility of changing service delivery to either mainstream departments or Maori organisations.

The Maori Affairs Restructuring Act (1989) established the Iwi Transition Agency (Te Tira Ahu Iwi) as an interim service delivery organisation which was a concession to the substantial Maori reaction - "tapahia te peka rakau pirau, waihotia te rakau pai" (cut off the rotten branches but leave the trunk in place) - but it only had an operational

40 The Maori Affairs Restructuring Act (1989) provided for the abolition of the Department of Maori Affairs and the Ministry of Maori Affairs was established 1 July 1989

mandate of five years. As will be shown, this transition agency was also a response by government to try and accommodate Maori recommendations that Maori organisations be involved in formulating and delivering programs to Maori. Optimistically, it had the potential to empower the Maori organisations that it was to work with over the five year period.

The former branch offices of the Department of Maori Affairs became the liaison agencies between tribes and government. Their task as the Iwi Transition Agency, according to the policy statement of government, was to assist the iwi or tribe develop their operational base over a five year period (Department of Maori Affairs, Nov. 1988:5), with the stated objectives of firstly, helping to strengthen the iwi operational base, secondly, helping to develop delivery mechanisms for the iwi organisations and thirdly, to transfer existing programmes from the Transition Agency to the iwi.[41] The sole function of the Iwi Transition Agency[42] was to establish Maori organisations that met with government approval. The emphasis of government direction was clearly on a devolutionary process that acknowledged and intended to use Maori structures as a primary element for implementing change.

The Policy of Partnership

The radical economic changes of the 1980s Labour government were promoted to Maori as a 'partnership' (Partnership Perspectives and

41 "An open letter to iwi on the Iwi Transition Agency" Iwi Transition Agency, 31 October 1989.

42 Much of this Act was repealed by the 1991 National government and the Iwi Transition Agency's operations ceased on 13 December, 1991.

Partnership Response). For Maori affairs, the new policy of government was given the title of 'partnership' implying that a partnership was to be forged between Maori and the Crown. Partnership however, can be interpreted in many ways. There was no definition of whether it was to be an equal partnership (50/50) and all that that implies with regard to resources and decision making, or whether it was to be an unequal relationship with government dominating the much less powerful partner. Official documents use partnership as a nebulous concept that has very little substance. For example, Partnership Response /He Tirohanga Rangapu states that:

> Practical partnership will be achieved through consultation between iwi and government agencies over policies of concern to the iwi. For example, government agencies and iwi will be encouraged to negotiate the types of programmes for iwi and how these programmes will be handled. The iwi and the government will then need to build on this and establish strong working relationships. Such partnership will have clear and explicit support from the government (Department of Maori Affairs, Nov. 1988:12-13).

The Iwi Transition Agency was directed to

> ensure that Maori people achieve rangatiratanga in the sense of the agreed partnership guaranteed under the Treaty of Waitangi (Department of Maori Affairs, Nov. 1988:23)

And the judgment of the Court of Appeal[43] in 1987 over the transfer of Crown land to State-Owned Enterprises affirmed the concept of partnership enshrined in the Treaty of Waitangi by emphasising that the Treaty was a partnership requiring the parties to act in 'the utmost good faith' and that there was a need for the partners to act reasonably towards each other.

Partnership, as can be seen is very vague. There was no consultation with iwi (tribes) or Maori organisations prior to the release of the discussion document He Tirohanga Rangapu/Partnership Perspectives, nor was there any consultation with the person who headed the disbanded Devolution Committee of 1987 (Mahuta, 1990, personal communication). Many of the submissions on the discussion document complained that it had been developed without any input from the Maori people, for example:

> Partnership suggests the ability of both partners to express their views. This has not been accorded our people ... There was a consequent perception that far from being a consultative document, it was in fact a fixed statement of intent (Department of Maori Affairs, July 1988:14).

Winston Peters, the National Party Maori Member of Parliament,

45 Essentially the Court decided that the transfer of Crown assets could not be finalised until outstanding and potential Maori claims had been settled and until the approval of the Waitangi Tribunal had been given.

stated in Parliament,

> I want to make it very clear that as from day one, when I first saw the Minister's green paper (He Tirohanga Rangapu) advocating the disbandment of the Department of Maori Affairs I unequivocally opposed the move, I did so because the Maori people were not consulted. I know of nowhere in New Zealand - not one marae, where the Maori people were consulted. Not one Maori elder was consulted (NZPD, June 21 1988:454).

Granted the Minister held 55 meetings throughout the country discussing government's proposals (Wetere, 1989:14) but this consultation took place after government's policies were already formulated, not before. In acknowledging the concept of partnership which is inherent in the Treaty of Waitangi it is surprising that government did not consult with the 'other' Treaty partner. Partnership for government was more political, ideological and rhetorical rather than a reality of implementation.

Chapter Eight
Policy Implementation

Mana and Maccess

One of the recommendations from the 1984 Hui Taumata or Maori Economic Hui was that government be persuaded to implement an employment generating programme for Maori. It was pointed out that the occupational distribution of Maori employment was predominantly in production, transport equipment operative and labouring occupations such as factory hands, drivers and navvies. This distinct pattern of Maori employment was seen as a reflection of poor educational attainment which therefore propelled Maori toward low-skilled jobs (Douglas and Dyall, 1985:9). This report recommended that

> employment assistance programmes ... should (provide) for local Maori communities ... to initiate work projects more appropriate to their needs as they themselves perceive those needs (Douglas and Dyall,1985:10).

As a result government established the Mana Enterprise Scheme

> to provide assistance to Maori enterprises to enable them to develop and become financially viable with the aim of creating unsubsidised employment and increasing the earnings and employment potential of Maori workers (Audit Office Report to Parliament in December 1987).

It differed from other government job creation projects in that administration, and implementation was to be carried out mainly by Maori Trust Boards registered under the 1955 Maori Trust Boards Act. The Mana scheme required the administering authority to assess applications for small business development funds, analyse applications for fiscal viability as well as their ability to sustain and increase employment. In 1986 several Trust Boards began administering on behalf of government, the Mana programme, which had as its goal, the generation of more employment opportunities for Maori people through loans to Maori businesses. The aim of the Mana scheme was to broaden the Maori economic base through the creation of Maori enterprises and the expansion of existing Maori businesses so that Maori employment opportunities could be created. The Audit Office report (1987) stated that "the schemes have had a positive effect on the Maori community by giving them a role in the decision making process".

In 1987 a skills training scheme - Maccess - was introduced, again as an outcome of the 1984 Hui Taumata. Douglas and Dyall (1985) had recommended that training courses be prepared by regional or tribal Maori communities, and they argued that:

> Schemes which emphasize and develop any existing positive attributes of the young Maori unemployed person should be encouraged rather than schemes which focus negatively on the young person's lack of skills and other negative aspects of each person (Douglas and Dyall, 1985:14).

Maccess was designed to provide work related skills to unemployed Maori people. Trust Boards were again required to administer the programmes even though there was no legislation that gave Trust Boards statutory responsibility to do so. The cost of these programmes was substantial. Between 1986 and 1988, government provided $26.3 million for the Mana scheme. Maccess was phased in January 1987 with a budget that year of $3.9 million (AJHR 1987, E13). By 1990 $49.5 million had been appropriated to Mana (Ministry of Maori Development, 1991:43).

Administering government programmes

Trust Boards took on very new and very different administrative functions from the legislative functions for which the Boards were created (see chapter 4), which were to administer Trust Board assets for the general benefit of the Boards' beneficiaries. The distribution of resources for training schemes and small business developments resulted in some Boards being inadequately prepared, and without the necessary infrastructure and expertise to administer large sums of money. The Mana scheme for example, required the administering authority to assess applications for small business development funds, analyse applications for fiscal viability as well as assessing applicants' ability to sustain and increase employment.

While the funding for these programmes did represent a cost to central government, it may well be less than the full cost of providing services and facilities directly. Maori Trust Boards who were implementing

Mana and Maccess schemes on behalf of Government between 1986 and 1990 all argue that they were subsiding the programmes, be it in terms of labour, facilities or administration. Central government has benefitted in that the funding grants induced the non-governmental organisations to share some of the costs although iwi authorities are now providing services that would otherwise have been provided by the state.

Funds were made available to Maori Trust Boards with the specific purpose of providing job training and business enterprise programmes. These specific government grants, sometimes referred to as 'categorical' grants, are provided for a specific purpose. Generally they are accompanied by a variety of conditions and regulations which must be adhered to in order to receive the funds.

The problem with grants is that they have the potential for government to exert strong controls and restrictions over the recipient organisation generally by way of contracting which is the procedure now adopted by central government. This in turn can lead to dependence of the organisation on central government. For devolution to be possible, Maori organisations need to have funds made available as 'block' grants. This would allow the recipient organisation to use the grant for a wide range of purposes within a functional area. For example, a specific or categorical grant would be made for bilingual education alone whereas a 'block' grant would allow the organisation to utilise those funds in the area of education that was most appropriate to that tribal area (e.g. tertiary education assistance, school resources or library facilities).

In order for 'block' grants to be successfully utilised by non-governmental organisations adequate infrastructures need to be in place.

> It is unlikely that governments will be able to decentralize financial and management responsibilities to local governments, nongovernmental organizations or even the private sector without first making investments in strengthening the capabilities of these organizations to carry out those responsibilities more efficiently and effectively (Rondinelli 1989:95).

For a few tribal authorities, poor administrative procedures and slight irregularities resulted in adverse publicity (see Appendix 4) even though a Government commissioned report stated that the Te Arawa Maori Trust Board for example, had been "grossly overburdened by the demands of government policy" (New Zealand Herald, 27 September, 1989). A member of one Trust Board that faced difficulties with government put it in the following terms "...past administration never understood the criteria or the rules and regulations of Mana and Maccess. It has undermined the courses they've tried to administer ... " (Cribb, personal interview, 1988). Members of the same Trust Board were also highly critical of government in that they believed the programmes being administered were government's, therefore adequate accounting and administrative procedures, as well as qualified professional staff should have been included in the overall arrangements.

Rondinelli (1989) makes the point that decentralisation may increase the cost of service in the short run, a factor which was seen as a major failing of government when it had the Te Arawa Maori Trust Board administer Mana and Maccess programmes. Over the years this Board built up many assets on the tribe's behalf, but it now has financial difficulties due to the mismanagement of government Mana and Maccess programmes. Some of the Te Arawa tribe believe that many of their problems relate to the fact that government gave the Board funds, without adequate administrative resources. What they are saying is that government set them up to fail, by providing them with a large amount of taxpayers' funds, but no real assistance in administering those funds (Cribb, 1989, personal interview). Some of the Te Arawa interviewees cynically describe the reforms of the past decade as assimilationist. The assistance provided by the Iwi Transition Agency by way of seconding people with specialty areas of professional expertise, was a little late for the Te Arawa Maori Trust Board.

Another interviewee responded to Trust Board administration of government schemes in the following manner.

> I have always thought that Trust Boards were there to do a specific thing. They're there to look after trust monies, compensation monies ... When I first realised that there were a number of Trust Boards involved in Mana and Maccess I sat and thought to myself, "oh well is that what they should be doing, is that a function of Trust Boards?". The realisation came rather quickly that

> what had happened was the cart had come before the horse. Somebody had dreamed up Mana and Maccess, then they had to find a mechanism to deliver it. ... I'm not sure that there was any real thought given to the implications for simply giving Trust Boards the responsibility for administering Mana and Maccess (Kirikiri, personal interview, 1989).

During the same period however, numerous public companies (eg GoldCorp) were failing and major companies such as the Bank of New Zealand, were being heavily subsidised with government funds to prevent them collapsing.

In December 1987 the Audit Office reported to Parliament that the tribal authorities set up under the Maori Trust Boards Act 1955 had no statutory responsibility to report to the Board of Maori Affairs which had government responsibility for the entire Mana scheme. The Audit Office stated that it was essential for the relationship between the Boards and the Crown to be formalised (Audit Office, 1987:10).

On the advice of the Auditor-General, the 1988 Maori Trust Board Amendment Act was passed to take this into account (as well as register new tribal authorities). The intention of the now repealed Runanga Iwi Act was to provide a legal status to other recognised tribal groups such as runanga or the Maori Womens' Welfare League so that they could also administer government-funded programmes. Many Maori of course, saw this as an opportunity to finally have some control and influence, a sharing of 'power'. They thought it meant

'devolution'. This was not the case. Government demanded that contracts be signed between the two parties. The rules had changed.

From partnership to contract administration

Contracting is the empirical application of the 'agency theory', which has Maori organisations acting as agents that undertake to perform various tasks on behalf of a principal organisation such as the Crown (Boston, 1991:4). Contracts tend to specify the purposes for which resources must be used and so restrict the freedom of the contracting body to distribute its resources according to its own sense of priorities (Smith, 1979:221). Boston (1991:16-18) outlines the problems associated with contracting and which are directly problematic for Maori organisations. For example, there is a lack of recognition of the unequal distribution of power between government and the community, and contracting assumes that both signatories on the contract have equal rights and equal abilities. There is a general assumption that while the 'agent may be opportunistic the principal is not', therefore there tends to be a focus on ensuring that the principal minimises the likelihood of violations, rather than on ways that the agent can ensure that misrepresentation, exploitation or misinterpretation does not occur. Thirdly, Boston (1991) argues that contracting is "not sufficiently sophisticated to handle complex social relationships" so adverse selection of the agent may occur because the principal does not have access to all information. Hence selecting or recognising the appropriate tribal organisation to deliver programmes has the potential to be divisive insofar as determining which is the appropriate organisation, and knowing which

organisation the local or regional iwi recognise. These issues can be seen to be evident in the processes that have taken place since Maori affairs policies were re-examined by the fourth Labour government.

Currently tribal organisations are contracting with central government in order to continue with programmes already under way or to implement new schemes but two of the Maori Trust Boards, Tainui and Tuwharetoa, initially refused to sign the contracts that government insisted be complied with.

These two Boards were not keen on becoming agents of the Crown and took the view that contracting implied terms and conditions which potentially meant that tribal assets could be taken by the Crown if the Audit Office considered improper actions had been taken with regard to those government funds. The 1987 Audit Office report had already pointed out that it was unrealistic not to expect that small business ventures would have a number of failures.[44] Tuwharetoa and Tainui argued that final responsibility for Maori development policies of government that seek to address the negative funding aspects of social policy must ultimately lie with government and if adequate accounting procedures were not of a government accepted standard then those funds could be withdrawn, but it would be immoral for government to demand tribal assets as a 'bond' for service delivery.

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44 Prior to National winning the 1990 General election, Winston Peters, then a member of the Parliamentary opposition and National spokesman on Maori Affairs, frequently criticised Maori Trust Board administrative procedures. See for example, Waikato Times 25 Nov 1987; 31 Oct. 1988; 9 Oct 1989; New Zealand Herald 31 Oct. 1988; Sunday Times Oct. 22 1989; Oct. 29 1989; Sunday News 16 July 1989

Nevertheless after August 1988 Mana funds were only distributed to Maori organisations (iwi authorities) who were prepared to enter into a contractual relationship with the Crown and by the end of 1990 twenty four Maori organisations had done so (Ministry of Maori Development, 1991:45). Whilst many tribes agreed with the stance taken by Tainui and Tuwharetoa, they entered into a contractual arrangement because many of their people were dependent upon the programmes for retraining or establishing of commercial enterprises. The resources of the Taranaki Maori Trust Board (see chapter 3) for example, are extremely limited, Maori unemployment in the area is very high and the Board believed it had no alternative but to accept the government contracts. As will be shown, Tainui and Tuwharetoa worked out their differences with government, and have also become contracting agents of government.

Accountability

Mana and Maccess were programmes funded by the tax payers' funds therefore an insistence by government that distributing bodies must be accountable to central government was not unrealistic. Control and accountability are two separate issues. There is no denying the need for accountability, and when programmes and services are being funded by taxpayers' money, then responsible accountability procedures must be put in place. What the tribes have been asking government for, however, is control over the resources such as health programmes for Maori, or skills training programmes for Maori, to initiate and implement programmes that they consider most

appropriate for their tribe. To do this a certain amount of autonomy is necessary, otherwise they will just become delegated or co-opted agents of government.

The self-help path that Maori consider to be more beneficial to their people requires a dual accountability process. Because programmes such as Mana and Maccess were funded out of taxpayers' funds, the insistence by government that the distributing bodies had to be financially accountable was not unreasonable. However, to have assumed that all administering bodies, which have predominantly been Maori Trust Boards, had not only the expertise to administer government funded programmes but also the mechanisms to implement and audit such operations at that time was irresponsible and very poor judgement.

The Te Arawa Maori Trust Board is an example of the government failure to provide adequate administrative procedures. A government commissioned investigation on the Te Arawa Maori Trust Board showed that "substantial amounts of the Board's money have been lost and it has been placed in the position where its financial survival is at risk" (New Zealand Herald, 27 September, 1989). In this instance government policy was implemented before the tribes had the necessary infrastructure in place, and before government had ascertained the competency of each board to administer and appropriately account for, the delivery and administration of government programmes. The 23 November 1987 report to Parliament's Maori Affairs Select Committee by the Assistant-Controller and Auditor General states,

> the general standard of accountability of trust boards is generally poor ... (and) ... the attitude of some boards indicates little interest in the accountability process associated with their funding. In addition ... they (the Maori Trust Boards) lack the accounting expertise to prepare adequate financial statements (Waikato Times 25 Nov 1987).

If new organisations do not have adequate resources, the necessary requisites to follow through on their programmes, and the people with the necessary expertise to administer and be accountable for their programmes then there is little chance of success. The chief executive of the Iwi Transition agency, Wira Gardner, said that the problems which beset the Mana and Maccess programmes were the result of insufficient resourcing and administration and that the administration of both the programmes was 'grossly underestimated' by government. It was his opinion, based on the lessons learnt from the Mana and Maccess programmes that the establishment of iwi authorities required an initial setting up budget of $200,000 to $250,000 and that the same organisation would reasonably expect to receive an operational grant of $200,000 to $300,000 per year for at least four years (New Zealand Herald, 19 February, 1990). This raises the issue of how much money has government been prepared to inject into decentralising some of its services, and will be discussed in a later chapter.

There has been frequent media attention on the lack of accounting expertise of Maori organisations (see Appendix 2).[45] Unfortunately ethnic tolerance has not been a priority with the media. This can only be overcome slowly by educating the public on the inequities and institutionalised racism within many bureaucratic organisations. Many of those organisations that in 1987 undertook to administer Maccess and Mana had no previous experience in administering government programmes. They had to create their own administrative infrastructures at the same time as they took on the responsibility for managing government initiatives. The ideal clashed with the reality - the lack of infrastructure and technical expertise thwarted the efficient implementation of programmes, hence the five year period for the Iwi Transition Agency to assist tribal organisations. It should however, be borne in mind that whilst there have been accountability problems, in no way do they reach the magnitude of the corporate failures in the general business sector[46] of the past few years. The difference is, that whilst the Maori Trust Boards have been administering public funds and are accountable to government, the general business sector uses public funds but the public takes the risk. Ironically, the credibility of Maori organisations has been

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[45] eg Waikato Times 25 Nov 1987; 31 Oct. 1988; 9 Oct 1989; New Zealand Herald 31 Oct. 1988; Sunday Times Oct. 22 1989; Oct. 29 1989; Sunday News 16 July 1989

[46] Registered Securities Ltd (RSL) - lost over $50 million of investors funds many of whom were elderly people. Judge Corporation - lost over $400 million through the stock market crash. New Zealand Post Office - in 1987 Government just wrote-off $300 million.

strongly questioned in the media, whilst at the same time the credibility of those making the decisions in major financial organisations rarely make the news.

No-one would expect that the transfer of power and resources to iwi or tribal authorities not to be entirely contingent upon an external audit. Currently the office of the Controller and Auditor-General audits the financial statements of government departments, local authorities and most government-controlled corporations, boards and companies. It also, from time to time, conducts reviews to ascertain whether the resources of the organisation have been efficiently and effectively applied in an appropriate manner (Department of Statistics, 1987:56). Obviously this is an appropriate body for iwi authorities to be accountable to, for government funded service delivery programmes. On the other hand, accountability for Trust Board assets arising from compensation funds should be to the beneficiaries through standard audit requirements, not the government Audit Office. In both instances however, accountability does not mean that government should retain a patronising control over policy formulation and implementation. Moreover, programmes already administered by Maori organisations such as Matua Whangai have very explicit contracts from government which include budgets, monitoring, reporting and accounting procedures. This is not unusual since government makes contract grants to many organisations such as Plunket, the Salvation Army, Presbyterian and Catholic social services and other welfare organisations (CMSR, 1988).

Iwi authorities must also be accountable to their people for the services they provide, be it in health, early childhood education, housing or skills training, to ensure credibility, support and Maori participation. Tribal accountability, combined with financial accountability to government is empowering for the tribes and whilst this dual accountability could create tensions between government and tribal objectives, compromise should be viewed as a start towards a more equitable partnership between tribes and the Crown recognising that

> financial responsibility is at the core of the concept of decentralisation. Without the transfer of adequate financial resources or authority to raise financial resources, administrative decentralisation is meaningless (Rondinelli,1989:86).

(The transferring of adequate resources plus the administration of tribally owned resources to enable tribes to become increasingly self-sufficient and self-determining will be examined a little later on).

Obviously there are very significant differences between administering tribally-owned funds on behalf of the tribe, and administering and implementing government programmes. Problems of accountability for some of the government funds have occurred,[47] and was one of the

47 A report to Parliament by the Audit Office in 1987 acknowledges accountability problems of some Maori Trust Boards. The Te Arawa Maori Trust Board in 1988/89 had the Audit office reviewing the Board's activities with a report being made to Cabinet on its accountability problems.

factors that led to the passing of the Maori Trust Boards' Amendment Act 1988 which enabled Maori Trust Boards to contract with government to administer government-funded programmes, and also to be accountable for the funds of those programmes. The change in legislation was necessary because government programmes were being administered by 25 Maori organisations (Department of Maori Affairs Report to Parliament 1989) and government wanted legislation in place so that accountability issues could be firmly stated as the responsibility of the delivery agents, not government. Once the Runanga Iwi Act 1990 was repealed by the National government, National was able to use the 1988 Maori Trust Board Amendment Act to legitimately contract with Maori Trust Boards.

The Runanga Iwi Act

The emphasis on 'iwi' (tribes) in He Tirohanga Rangapu/Partnership Response, was a considerable ideological shift of policy by any New Zealand government. Governments have always treated Maori as being pan-tribal rather than tribal which has had a considerable impact upon Maori, their culture and their socio-economic position in New Zealand. Therefore, the emphasis on iwi/tribal authorities as "an appropriate means of delivering government programmes to Maori people" (Department of Maori Affairs, Nov. 1988:10) was a radical move of the 1984 Labour government. The policy document said that government would legally recognise a corporate group elected by an iwi and it would be referred to as an iwi authority. This could be a tribal authority already in existence such as those Trust Boards which exist under the 1955 Maori Trust Boards Act or through new legislation. Practical

partnership would be achieved through consultation between iwi and government agencies over policies of concern to the iwi and iwi authorities would be central to the new system and government (Department of Maori Affairs, Nov. 1988:12). Consistent with the 1984 Hui Taumata recommendations that Maori organisations be empowered to deliver programmes to Maori the recognition of iwi authorities and of tribal structures was a significant move away from past Maori policies.

Once government decided that aspects of Maori policy were to be administered by Maori authorities, organisations had to be created to constitute official and legitimate procedures for implementing authoritative decisions. The 1990 Runanga Iwi Act in effect created the entities with which the Crown was to act in 'partnership'. Section 4 of the Act describes the essential characteristics of iwi as follows:

- Descent from a commonly acknowledged tupuna (ancestor):
- Collective possession of a demonstrable cultural and historic identity, based on a shared body of traditional lore:
- A developed political organisation with widely shared aspirations:
- A structure of hapu (sub-tribes):
- A network of functioning marae (meeting places):
- Belonging historically to a clearly delineated rohe (region):
- Continuous existence traditionally and widely acknowledged by other iwi.

The Act set the rules for the registration and operation of iwi authorities but a number of Maori regarded this as government having an undue influence on the structure and operations of their own

institutions. The Act allowed iwi to form a legal body - a runanga or a council of an iwi or of two or more iwi - to represent the iwi's interests and it defined iwi in s4. This increased the possibility of joining together to present a strong case to mainstream departments when applying to deliver social services to their own people. Each runanga was going to be required to write a charter that was to be registered with the Maori Land Court. The charter was to provide details on how the runanga would operate as well as cover various matters such as membership, appointments, accountability, grievance procedures and equity issues although actual requirements were not made explicit in the Act. Some Maori groups argued that not all iwi have a structure of hapu or a network of functioning marae and s4 of the Act was describing the 'ideal' features within an iwi so the requirements of the Act were restrictive and potentially divisive. The Act incorporated runanga so they could enter into contracts with the Crown for the provision of funds and services and it meant they could sue or be sued, purchase and lease property. Once the tribal authorities became incorporated organisations, then government would have been able to legally transfer resources for programmes proposed by the iwi authority and agreed to by government.

The Runanga Iwi Act 1990 laid out the means by which Maori were to be able to provide services to their own people. The Act made each incorporation responsible for its actions, and if any problems were to occur then like other businesses, tribal assets could be dispossessed of (s25), if necessary, to cover any debts. The potential was that if a Maori Trust Board registered under the 1995 Maori Trust Board Act was also registered as an iwi authority then those lands and assets held in

trust for the Boards' beneficiaries could be taken away. Section 27(2) of the Runanga Iwi Act 1990, stated that a contract entered into, between the Crown and a runanga, "shall specify the means by which the runanga is to account to the Crown for the money ... in accordance with the contract". Since there were no provisions for the actual terms of the contracts, it could be assumed that the contracts would have been pre-arranged by the Crown. The Crown if it wished, would be able to unilaterally impose regulations as to review and audit in respect of Runanga handling of funds within the provisions of this clause. Indeed, when the new National government repealed the Runanga Iwi Act[48] only months after it became law, its policy of contracting with iwi to deliver services to Maori soon became apparent (see Ministry of Maori Development, 1991:96-97). Accountability was to the iwi, with the usual requirements of producing an end of year report and appointment of independent, registered auditors. Hence paternalism was not a factor in the legislation. The runanga were accountable to their iwi and if they didn't perform, achieve the aims set out in their charter, or if inappropriate accountability of government funds were to occur then tribal assets were on the line.

By 1990 there were few iwi authorities who would have immediately been able to fulfil government requirements, but some Maori Trust Boards such as the Tainui Maori Trust Board, who come under the 1955

48 Winston Peters, the Minister in charge of Maori Affairs when the Act was repealed described it as "a bill that is fatally flawed and we are appalled over the lack of explanations by the government as to how the provisions will work ... the nature of runanga would make them very expensive to manage ... there will be a need for offices, equipment, skilled staff, salaries, vehicles, running expenses. All duplicated up to 48 different times" (New Zealand Herald, 1 September 1990).

Maori Trust Boards Act did have the appropriate structures in place to allow them to do this. The effect of the Runanga Iwi Act 1990 was recognition of the tribal organisation of Maori society and it sought to confer on iwi the necessary legal authority to enter into formal contractual arrangements. The importance of the Act was that it recognised tribalism and provided tribal groups with legal eligibility for government funding and support.

Ka Awatea: Delegation

However, Maori concerns over government handling of Maori Affairs once again proved to be legitimate. The Runanga Iwi Act was passed only a few weeks prior to the 1990 general election. The Labour Party was voted out of office and one element of the new National government's election campaign was to restructure government's administration of Maori affairs, which it did by immediately repealing the Runanga Iwi Act. The Iwi Transition agency/Te Tira Ahu Iwi, was originally given five years to assist in strengthening the operational base of iwi but was disestablished in December 1991, eighteen months earlier than was the Labour government's intention and eighteen months earlier than iwi (tribes) anticipated. The national government reduced the activities of the Ministry (renamed as the Ministry of Maori Development - Te Puni Kokiri) to policy advice, principally in the areas of education, health, training and economic resource development. It reduced the number of staff working in the regions for the Iwi Transition Agencies and instead set up regional offices, which retain control of affairs pertaining to Maori (Ministry of Maori Development, 1991:72-75).

Under the 1990 National government, government maintained control of Maori affairs by providing services for Maori through mainstream departments and with monitoring and policy advice through Te Puni Kokiri (Ministry of Maori Development) and its district offices. Government had changed course, devolution, whereby some autonomy to determine, develop and implement specific tribal needs was removed from government rhetoric. Empowering tribal organisations to gain control over resources, to be self-determining and to implement services was not explicit National party policy, although the National government has directly negotiated with some Maori tribes[49] and been contracting with various Maori organisations since 1990.

Within six months of taking the Treasury benches, National launched "Ka Awatea" ("It is Daybreak"), its Maori affairs policy which concentrated on economic issues and the socio-economic position of Maori. Ka Awatea reiterated the need to improve Maori education and health. It recommended that Maori youth training programmes (similar to Maccess) be established, and that economic resource development be encouraged through small business employment and natural resource development, especially the efficient use of land. The policy document also recommended further restructuring of the Ministry of Maori Affairs/Manatu Maori and in fact established the Ministry of Maori

49 The Minister of Justice's memorandum for the Cabinet Strategy Committee, 17 March 1992:18, states "The government is committed to the resolution of valid Maori (Treaty of Waitangi) claims through the negotiation of settlement agreements", one example being the negotiated return of the Hopu Hopu military camp, which was surplus to government requirements, to the Tainui Maori Trust Board.

Development/Te Puni Kokiri which further reduced staffing levels, on 1 January, 1992. Ka Awatea reiterated government's commitment to the Treaty of Waitangi "as the founding document of New Zealand", and supported the need to monitor "mainstream" government departments where they affect Maori. Its response to tribal development was that:

> Iwi development as a process should be beyond interference by any government administration. Iwi should be able to use their tribal assets and resources in a manner to be determined by iwi members. ... Where iwi choose to form legal corporate entities, and to use these entities to contract with government to deliver services to their people they should be able to do so (Ministry of Maori Development, 1991:71).

Ka Awatea, recognised the previous government's principle of devolution but only at a tribal level. The National government was only prepared to contract with the tribes and by 1992 the contracting of government services from mainstream departments to various Maori organisations had become government practice. For example, in July 1992 government let eight contracts for Maori health projects including the Maori Womens' Welfare league, and Te Whanau O Waipareira Trust. The government also contracted with the Tainui Maori Trust Board, who by then had ensured that tribal assets were not to be held to ransom, to develop a pilot primary medical care scheme (Dominion, 7 July 1992). The government contracted with the Ngai Tahu Maori Trust Board to monitor and advise other government agencies on their services to South Island Maori. According to a statement from the Ministry of Maori

Development[50] in May 1992 the contract required Ngai Tahu to assist Maori (not only Ngai Tahu) gain access to mainstream government departments and agencies and to monitor the responsiveness of those agencies in respect of their services to Maori. Furthermore, the Board was contracted to provide advice and assistance to those agencies and required to help coordinate information from Maori to use in developing policies (Dominion, 22 May,1992).

What can be observed here is a distinct move away from tribal control over training development programmes and initiatives. The recommendations by the Maori Economic Development Commission were that employment and training schemes be formulated in conjunction with tribal and regional Maori initiatives, rather than being integrated within general based policies (Douglas and Dyall, 1985:26). The Mana and Maccess policies of the Labour governments of 1984 and 1987 moved someway toward this request. The National government of 1990 decided to 'mainstream' these initiatives, a move back to centralising programmes with government controlling who is eligible for training programmes and government determining what programmes are acceptable.

50 The Department of Maori Affairs ceased operation on 30 September 1989 was replaced by the Iwi Transition Agency/Te Tira Ahu Iwi on 1 October 1989. The Ministry of Maori Affairs/Manatu Maori commenced operation on 1 July 1989. The Ministry of Maori Affairs/Manatu Maori and the Iwi Transition Agency/Te Tira Ahu Iwi ceased operations on 31 December 1991 and were replaced by the Ministry of Maori Development/Te Puni Kokiri which commenced operation on 1 July 1992 (New Zealand Year Book 1992:106)

Funding for Mana has been substantially reduced from $13.125 million in its first year of operations to $5 million in the 1993/1994 appropriations (Te Puni Kokiriri, 1993:35). In October 1992 responsibility for Maccess schemes shifted from the Ministry of Maori Development to the Education and Training Support Agency, and funding for this programme ceased after June 1993 and was then integrated into the Training Opportunities Programme,

> giving Maori trainees access to the same qualifications and standards as other New Zealanders ... as long as it (Maccess) continues as a separate programme, Maori will be deprived of the opportunity to gain the qualifications which will help them get jobs (Dominion, 5 August 1992).

This is an assimilationist attitude which has clearly been shown to be detrimental to Maori. The Douglas and Dyall report (1985) clearly showed how centralised control and centralised policies have continued to perpetuate the under-development and dependency of Maori.

The Mana and Maccess programmes were in the area of service delivery, which was part of a devolutionary process that allowed some tribal control over its implementation. Unfortunately, devolution has been adapted by the National government to a process of contracting, with the government as the controlling agent and tribal groups as the agents. Once again there is a central control over policies.

Measuring Outputs

It is difficult to measure the outcomes of service delivery by Maori Trust Boards because governments' Maori affairs policies are not consistent. The policy of devolution was not clearly defined nor thought through. It was conceived by the Labour government which had two committees (Henare and Mahuta) attempt to determine a devolution policy, followed by a ministerial committee which produced the policy document Te Urupare Rangapu/Partnership Response. The Runanga Iwi Act 1990 was to provide iwi authorities with the necessary legal requirements and status for iwi to be involved in government's cost-cutting measures (restructuring) so that the tribes rather than government would administer various social services to Maori. Then a change in government repealed the tribal legislation.

Ironically, in 1993 Te Puni Kokiri recommended to the Minister of Maori Affairs:

> The now repealed Runanga Iwi Act 1990 provided for the identification and recognition of tribal authorities to allow the Crown to deal directly with iwi. Te Puni Kokiri believes that a similar mechanism may assist iwi to establish mandated authorities who can, as Treaty partners, treat with the Crown (Te Puni Kokiri, 1993:112).

In 1991 government shifted its policy emphasis away from devolution.

> The change of Government in 1990 brought a fundamental change in policy. The new Government did not support the concept of a compulsory tribal delivery system for government programmes and services as prescribed under Te Urupare Rangapu (Te Puni Kokiri, 1993:31).

Instead, it held mainstream departments accountable for delivering services to Maori. But the 'Post-election Briefing to the Minister of Maori Affairs' report of November 1993 states that current funding arrangements are being evaluated to determine their impact on the delivery of services to Maori (Te Puni Kokiri, 1993:64). In other words, the Ministry is evaluating a range of monitoring procedures rather than monitoring the mainstream responsiveness to Maori requirements. The report says that "... Government continues to devolve responsibility for funding and provision of educational services ..." (Te Puni Kokiri, 1993:51) but it is not actually apparent that the devolution is to Maori. Indeed Maori still face barriers in accessing education services and Maori believe current education strategies for Maori are insufficient (Te Puni Kokiri, 1993:52).

Te Puni Kokiri may be in the process of identifying barriers to Maori becoming health service providers, but Maori health statistics have not improved. Government has entered into some contracts with Maori organisations on health related projects but the funding formulas for Regional Health Authorities still fail to reflect the disparities between Maori and non-Maori health; there is still an extreme shortage of Maori

health workers and data relating to ethnicity is still haphazardly collected. (Te Puni Kokiri, 1993:71-72). It was also recommended to the Minister that Maori be encouraged and trained to enter the mainstream health system even though it will be,

> a less than comfortable environment for Maori until such time as there are greater numbers of trained Maori health workers within the system (Te Puni Kokiri, 1993:80).

This is an assimilationist attitude, certainly it is not one of devolution.

The mainstreaming of services from the Ministry to other government departments continues without adequate monitoring of delivery to Maori.

> There has been considerable lack of progress on the development of policies for the approval and funding of iwi based social services, [and] contracting for social services has also meant that funding is tightly tied to outputs set by central government where non-government social services are effectively sub-contractors for DSW outputs (Te Puni Kokiri, 1993;124).

Clearly it is difficult to assess the effectiveness of iwi authorities in the current climate when government policies for Maori are not consistent. Policies tend to be incremental, ad hoc and currently driven by a trend amongst government agencies to be "cost-effective' (user-pays).

Chapter Nine
Representation

Divide and Rule

Iwi or tribal authorities must be legally defined and recognised by law, in order to administer government funds. The Labour government emphasised that iwi should define their own structures or political organisations.

> Some iwi already have structures such as trust boards or runanga, that they wish to use. If these structures meet the criteria agreed upon by iwi and the government, then the government will recognise them as iwi authorities (Department of Maori Affairs, Nov. 1988:11).

Maori Trust Boards which come under the umbrella of the 1955 Maori Trust Boards Act are body corporates with perpetual succession, able to acquire and dispose of land, borrow money or guarantee loans. Trustees are elected to office by their beneficiaries and their traditional function has been to administer money paid by the Crown in compensation for confiscated or compulsorily purchased lands, and lake beds. Recently a framework was put in place which government considered adequate and appropriate to administer government Mana and Maccess programmes. In recent years Trust Boards have also been a political vehicle for various tribes (see Lynn, 1987 for an account of the political activism of the Tainui Maori Trust Board in the 1970s).

Some tribal organisations such as Te Runanga o Ngati Porou, have also become body corporates under the Maori Trust Boards Act 1955. Politically and administratively they must operate under the same terms as the Trust Boards, and they too are technically able to implement government programmes.

But it is as difficult for Maori tribes to agree on who should be representing them as it is for local government to be restructured into more responsive, democratic, and economically cohesive units (Elwood 1988:109). When government announced its Maori affairs policies in April 1988 and when iwi made submissions on the iwi definition criterion of the Runanga Iwi Act 1989, various factions or groups within tribal regions opted to utilise or restructure existing organisations, or created new authorities, which they saw as being more representative of their people than some of the existing organisations.

The Tainui Maori Trust Board, for example, was established in 1946 to administer compensation funds paid by government to designated subtribal groups who were affected by land confiscations. Over the years the Board however, has operated for and on behalf of the tribes of the whole Tainui canoe region, which extends well beyond the confiscated lands. It has in place, the structures and personnel to implement programmes, initiate policies and meet present demands of administration. It has successfully implemented Mana and Maccess programmes as well as programmes that have been funded by both the private and public sectors.

Nevertheless, the Maniapoto and Hauraki people who in the past have traditionally been represented by the Tainui Maori Trust Board, chose to apply to government for separate Trust Board status. Two new Maori Trust Boards, Hauraki and Maniapoto, were duly constituted in December 1988. This means that the Tainui people now have three Maori Trust Boards who may legitimately contract with government.

In the North, the Tai Tokerau Maori Trust Board has been administering funds in settlement of surplus land claims since 1953, on behalf of the beneficiaries of five major tribes - Ngati Whatua, Nga Puhi, Te Rarawa, Ngati Kahu and Te Aupouri. It has also been administering Mana and Maccess schemes since government introduced them. In 1988 however, Te Aupouri[51] was given consent by central government to receive and distribute Mana and Maccess in the Te Aupouri tribal area. The 'legitimation' of Te Aupouri allows them to meet government criteria to contract as an agent for government services. Additionally the other four major tribes of the North also consider they should represent their people and therefore should be recognised as iwi/tribal authorities and there are also up to twenty subtribes in the North who want to administer their own affairs.

To date, New Zealand governments have been unable or unwilling to deal with Maori as tribal organisations but part of the problem is that there is the potential for a proliferation of tribal organisations whereby the tribes would be competing with one another for limited

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51 The Te Aupouri Maori Trust Board was set up in 1953 to administer communally owned land at Te Kao and the proceeds of sale of other assets on behalf of the Aupouri tribe and their descendants.

resources, not only of government funds but of people with the necessary administrative expertise. If iwi authorities have to compete amongst themselves, then it is possible that their potential strength in collective bargaining with mainstream government departments for funding allocations will be reduced. Some subtribal (hapu) groups have attempted to set up their own iwi authorities[52] and claim iwi status in anticipation of gaining a share of the resources.

Within Maori society there is a diversity of opinion with respect to the type of organisation that should or should not be administering government programmes and services. That diversity can be tribal, urban-rural, geographic or pan-Maori. The expectation that Maori people universally will reach a consensus on tribal representation is as unrealistic as it is to expect territorial authorities to agree on their reorganisation structures.[53] Government said that the tribes or iwi would define their own structures (Department Maori Affairs, Nov. 1988:10). Therefore the onus of definition and responsibility was removed from government. But as Ivor Jennings (1956:56) cynically commented, on the surface it seems reasonable: let the people decide. It is in fact ridiculous because the people cannot decide until someone

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52 Examples of Tai Tokerau have already been discussed. Further examples can be seen in the Taranaki region where the Taranaki Maori Trust Board represents eight iwi/tribes, but in 1989 Nga Iwi o Taranaki took the Board to Court over election procedures and attempted to set up PKW (Paraninihi ki Waitotara) in direct opposition to the Trust Board.

53 In 1989 territorial authorities in New Zealand were reduced from over 200 to 72; 42 united councils and catchment authorities were reduced to 14 regional councils This was not achieved without a lot a dissension (Dixon 1990).

decides who are the people, and it has already been pointed out that there was considerable dissension amongst Maori in trying to determine exactly what characteristics should be used to define an iwi or runanga. In the Waikato region, the Tainui people have three major Trust Boards - Tainui, Hauraki and Maniapoto - representing their interests and tribal definition is not an issue with them. Rather, it is their needs, which they do not wish to be defined by anyone other than themselves and through consultation with their own people. The discussion paper He Tirohanga Rangapu/Partnership Perspectives speaks of programmes appropriate to the needs of the people and according to a senior Tainui consultant, the Trust Board must be the arbiter of what is appropriate if Maori are to be effective in tribal development (Ritchie, 1988, personal communication). Maori people want the autonomy to devise their own programmes which they believe will be effective in addressing Maori needs.

Conflicting attitudes towards devolution amongst the tribes and even subtribes has not been uncommon. Mr Robert Mahuta (Tainui), says devolution is a positive step for Tainui. Sir Tipene O'Regan says the proposed changes are a golden opportunity for Ngai Tahu. Sir Graham Latimer, (Tai Tokerau) Board says it is a recipe for disaster but he was also the Maori vice-president of the National party and chairperson of the New Zealand Maori Council, both organisations that prefer pan-Maori recognition. Rocky Cribb (Te Arawa) sees devolution as reducing negative funding, but at Maori expense, rather than for the benefit of Maori (personal interviews). The Mana Motuhake party opposed the Runanga Iwi Act 1990, believing that the Act allowed the state to interfere in traditional tribal institutions turning them into

agencies of the government (New Zealand Herald, 8 October 1990). Rata (leader of Mana Motuhake until 1994) argued that the Act politicised tribal institutions which have existed without legal definition for centuries (New Zealand Herald, 10 April, 1990).

Nevertheless, if tribal organisations are not able to provide for their own people, then their requirements will have to be met by mainstream departments. Becoming a service provider requires an organisation to have a considerable infrastructure in place otherwise the potential success of delivering devolved programmes could be seriously undermined. Devolution means that there will be a duplication of services at the outset, and this will not be cheap due to economies of scale. Probably the two most important conditions necessary for devolution to take place is that of an ongoing political commitment by government and adequate resourcing.

Maori demands of government to allow tribal organisations to develop and administer government services, have the potential to 'divide and rule'. They have the potential for a proliferation of Maori organisations competing with one another for influence, for funds and for support. However, tribal structures are closer to traditional social organisation than a pan-tribal type of organisation. Competition or rivalry amongst Maori authorities does have the potential for discord and needs to be avoided rather than encouraged. If subtribes compete with one another then there is the possibility that they will only divide and dissipate their strength and unfortunately the potential for this is very real. It was also the concern of Maori people, hence the historic meeting of

representatives of all Maori tribes, hosted by Ngati Tuwharetoa at Turangi, in July 1989, to discuss the need for a collective or umbrella Maori organisation to act on behalf of the tribes if so requested. The outcome was the formation of a Maori Congress in 1990, a pan-tribal organisation to be used or invoked as a collective political voice if the (approximately) 52 tribes affiliated to it, consider it necessary. The Congress has been an attempt by Maori to adapt the pan-tribal concept to become a political instrument of Maori - a united political voice that remains divorced from the economic and social structures of the tribes. Hence one of its roles is to try and prevent potential tribal conflict, if iwi authorities must compete with one another for finite resources.

Regional and tribal representation

Decentralisation, it has been argued, refers to varying degrees of autonomy and the simple delegation of administration and programmes can be carried out by many tribal authorities providing they have or are given the necessary resources. Mana and Maccess were typical of this process in operation.[54] Devolution, or Maori control over policy initiation and implementation requires considerably more autonomy over resources, although at the same time providing the possibility of a fragmentation of organisations which is at variance with the consolidation processes that have recently taken place with territorial authorities.

54 Maccess programmes ceased in October 1993 and training programmes are now administered by the Education and Training Support Agency which works under a charter to the Minister of Education. Mana was terminated.

Smith (1985:67) when discussing local government, argues that it is widely accepted that authorities need to be of a minimum size if they are to be financially viable, avoid central control and satisfy the local community. He puts forward the argument that the more specialised the service the larger the population catchment area to support the staff and institutions required.

> Small authorities are thought to be unable to attract staff of sufficient calibre because of the lack of career opportunities. Enlarged jurisdiction should permit a unit of government to provide a greater range of functions by crossing thresholds in population ... and workloads, or because of economies of scale (Smith, 1985:67).

Attempts to relate the functions of local authorities to the minimum population believed necessary to support efficient administration, have, according to Smith (1985), produced increases in population size for basic units of local administration. Smith (1985:69-72) quotes local government examples in Western Europe of Sweden, Finland, Norway, France, Italy, the Netherlands, Belgium and West Germany. The European trend, according to Smith (1985) is towards fewer, larger units although there are some considerable differences in prescribed minimum levels. Denmark for example in the 1960's had 1,387 municipalities but by the 1970's this figure was reduced to 275. Sweden in the 1960's had 1006 local authorities which were substantially reduced to 279 by 1980, with an average population of 29,000. The average population size of eight European countries in

Smith's (1985) study was 12,442. This is in marked contrast to the population size of local governments in Britain and Wales which in the 1970's had an average population of 122,000. The number of local governments in Britain, had in fact condensed from 1,349 in 1960, to 521 in 1975. It is from this evidence that Smith (1985:68) says the 'service-efficiency' argument has been influential within administrative reform processes and has had considerable impact upon fragmented jurisdictions of administering bodies in Western Europe. Rowat (1980:599) estimates that the minimum population for the efficient operation of a multipurpose unit of local government should be approximately 50,000. He does concede however, that an organisation representing a population of this size could become remote from its people.

This of course raises the argument that fewer, larger organisations may make central control easier, allow for easier and more effective supervision from a higher level and thereby have the effect of reducing autonomy. It is also assumed that larger organisations will be more powerful when dealing with central government by virtue of political leadership and professional expertise. Smith (1985:72) also comments that other factors that may arise in 'efficiency' arguments in small organisations are: small communities tend to be conservative, oligarchic, enforcers of social conformity and suppressors of political dissent.

Bennett (1980:309) on the other hand, argues that small units can produce more responsive leaders precisely because of their close involvement with the community, and that this community of interest in

turn makes participation easier. Furthermore, locally elected officials are invariably inhabitants of the community hence the potential for local influence is greater than in a more centralised system. According to Smith (1985) however, the British evidence suggests that the larger British counterpart to the smaller European unit, has a social composition more representative of the population and that more opportunities arise for people to participate and influence policies than their rival counterparts in Western Europe precisely because of their much increased size.

Nevertheless, conventional thought tends to take the attitude that the more dependent smaller units are upon central government for financial allocations, the more centralised the whole system is bound to become. In this situation, accountability to the community or local electorate becomes undermined since locally elected representatives no longer control the spending for which they are ultimately held responsible through the ballot box (Smith 1985:114).

Boston (1988), in referring to local government restructuring, states,

> If you want to transfer significant functions of central government, such as housing, education, health, resource management and so on to a lower level, you certainly couldn't do it to the very small local authorities found in many parts of New Zealand.... They simply wouldn't have the administrative structure to do it (Boston, 1988:70).

He further states that in his opinion authorities need to be at least city size (population minimum of 20,000) to adequately implement such policies. Maori subtribes do not have such numbers and therefore according to the reasoning of Smith (1985), Rowat (1980), and Boston (1988), a proliferation of Maori authorities at the subtribal level with limited populations would fail.

Aside from the 'economies of scale' argument, little justification has been provided for dismissing organisations that represent a population of less than 20,000 people. It is effective, however, in making Maori organisations invisible in local decision making even though tribal populations, as illustrated in Table 9 (page 216), are considerable. The general attitude of many Maori is that representation can only be fair, adequate or just, through tribal autonomy which is why there was considerable support for the Runanga Iwi Act 1990. Extensive debate still surrounds the issue of representation within a tribe but Table 9 does show that there are a number of tribes under the 'recommended' figure of 20,000 who are likely to prefer a tribal restoration of control rather than geographic.

The geographic distribution of Maori would provide the minimal base which Boston (1988) argues, is necessary to form a viable organisation, able to efficiently administer various functions of government. Using the 1986 census data, the government statistician divided Maori into ten geographic districts as demonstrated in Table 10 (page 216) and accordingly, the earlier arguments of efficiency and accountability can be applied.

Table 9 **Maori Population by Primary Iwi Affiliation***

Iwi/Tribe	Main Affiliate
Te Arawa (excluding Waitaha Bay of Plenty)	22,257
Te Atihaunui a Paparangi	3,321
Te Atiawa	8,865
Te Aupouri	3,459
Ngati Awa	7,062
Ngati Haua	5,319
Ngati Kahungunu	33,771
Ngaiterangi	4,404
Ngapuhi	75,315
Ngati Porou	36,198
Te Rarawa	3,462
Ngati Raukawa	12,128
Ngai Tahu	17,052
Tainui (excluding Ngati Haua, Hauraki & Ngati Raukawa)	40,062
- Ngati Maniapoto (15,531)	
- Waikato (14,145)	
- Tainui, iwi not specified (10,386)	
Tuhoe	16,812
Tuwharetoa	16,899
Whakatohea	3,636
Te Whanau a Apanui	4,242
Ngati Whatua	6,078

Source: 1991 *Census, Iwi Population and Dwellings*, Department of Statistics New Zealand p: 15.
*Only iwi populations over 3,000 are listed.

Table 10 **Maori Population by District***

Whangarei - Tai Tokerau	23,664
Auckland - Auckland	32,769
Wiri - Wiri	36,462
Hamilton - Waikato, Maniapoto	39,609
Gisborne - Tairawhiti	18,639
Rotorua - Waiariki	37,467
Hastings - Takitimu	22,440
Wanganui - Aotea	22,899
Wellington - Poneke	34,617
South Island - Te Waipounamu	26,751

Source: New Zealand Census of Population and Dwellings. Dept Statistics, 1986 Series C Report 9.
* It should be noted that these population figures are not tribal, they include all Maori living in a particular region.

Table 11 uses the 1991 census data to show the distribution of Maori living in regional council districts. It can be seen that there are considerable populations of Maori in the northern half of the North Island but a regional population classification has little if any importance or recognition for Maori living within boundaries that have no traditional significance. Arbitrary boundaries such as those provided by the electoral Representation Commission for the Maori parliamentary seats, serve no useful purpose for Maori social organisation or development. A regional classification of Maori is less appropriate for the promotion of Maori organisational structures than that of a tribal structure, particularly because cultural and traditional influences still endure.

Table 11 **Maori Population by Regional Council in 1991**

Regional Council	Number	Percentage
Northland	35502	8.2
Auckland	103212	23.7
Waikato	60642	13.9
Bay of Plenty	52488	12.1
Gisborne	17565	4.0
Hawke's Bay	28491	6.6
Taranaki	12657	2.9
Manawatu-Wanganui	34668	8.0
Wellington	41934	9.6
Nelson-Marlborough	6585	1.5
West Coast	2070	0.5
Canterbury	21726	5.0
Otago	7860	1.8
Southland	9105	2.1

Source: 1994 New Zealand Official Year Book. Government Statistician, Statistics NZ p133.

Maori social, political, economic and cultural organisation is predominantly tribal and attempts to promote structures that are not tribal tend to generate considerable suspicion and debate, with little improvement in Maori socio-economic statistics. Much of the dissension surrounding the Runanga Iwi Act 1990 related to the

problems associated with taurahere and tangata whenua - that is, how would 'migrant' Maori be adequately represented by 'host' organisations? The repealed Act addressed this issue by including a clause (28) that required special consideration to be given to the rights of the manuhiri and taurahere (visitors and foreigners), so that Maori living outside their own tribal boundaries would have access to government funded services administered by tribal authorities.

The objectives of local government are to make 'efficient' use of resources under their control, so that services are performed economically and with technical competency (see Smith, 1985, McKinlay, 1990) servicing a population of at least 20,000 but preferably at least 50,000. These objectives can differ from those of communal or ethnic groups whose primary objective may be to involve the community or tribe in the decision making processes, servicing populations much less than those of most local governments. According to the local government experts such as Boston (1988) or Rowat (1980), administrative decentralisation should not be possible in a political and ethnic communal context as desired by Maori tribes. But Maori tribes are proving that it is possible to provide services in a meaningful way to their people. The Tainui Maori Trust Board has contracted with government to provide Maori health services for Maori (not only Tainui Trust Board beneficiaries, but all Maori) in their region and their policy has allowed them to provide medical services and pharmaceutical requirements to their people at a much lower cost than they had previously been paying to mainstream health professionals. It is too soon to determine the effectiveness of this scheme but at least the people are able to have some input into their own health programmes

with the Tainui Maori Trust Board using the contracting mechanisms to operate in a manner that they believe will be beneficial for their people. Hence the need for further research into the functional transfer or devolution of power to non-governmental organisations.

Chapter Ten
Maori Sovereignty, Self-government or Self-Determination?

Maori Development

For Maori affairs, the 'radical' or 'revolutionary' policies of the 1984/87 Labour Government were given the title of 'partnership' implying that a partnership was to be forged between Maori and the Crown. Partnership however, can be interpreted in many ways. There was no definition of whether it was to be an equal partnership (50/50) and all that that implies with regard to resources and decision making, or whether it was to be an unequal relationship with government dominating the much less powerful partner.

In 1987 the Court of Appeal[55] established that the principle of partnership inherent in the Treaty of Waitangi required the Maori and Pakeha partners to act towards each other reasonably and with the utmost good faith. The Labour government responded to this by requiring government departments to be responsive to Maori concerns and to consult with appropriate Maori organisations on policy matters. This partnership obliges government organisations to recognise Maori issues but

> [p]reliminary findings indicate some unevenness in institutional responsiveness. Organizational accommodation to date has largely concentrated on

55 New Zealand Maori Council v Attorney-General (1987) 1 NZLR 641, p. 693.

> sensitivity exercises through in-house training packages or sessions held at Maori ceremonial complexes (marae). Issues pertaining to organizational structure, operational procedures, corporate culture, working environment and personnel are rarely addressed (Fleras & Elliott, 1992:194)

One review of the responsiveness of the State Services Commission (Manatu Maori, 1991:5) found that "Maori advice is sought when SSC feels it is appropriate and not necessarily when it is needed". An evaluation of Manatu Maori's (Ministry of Maori Development) monitoring and review functions concluded that the Ministry did not have the expertise to evaluate other government departments - it was inadequately funded to perform a credible monitoring role, there were no adequate guidelines as to how the monitoring process should function and little cooperation from other government agencies (Johnston, 1991:5). Maori priorities such as the transfer of resources to Maori organisations, the devolution of decision making to iwi authorities, and advancement on socio-economic concerns do not appear to be of primary importance. Partnership in this context is certainly not the equal sharing of power and resources.

The strategic plan of the fourth Labour government was to promote a partnership between government and iwi by transferring the delivery of programmes from government to iwi authorities. The 1990 National government not only abolished the legislation recognising iwi authorities, it also abolished the Iwi Transition Agency in 1992 instead of 1994. Yet the sole function of this agency was to help iwi

get their infrastructures in place so they would be viable organisations to deliver, implement and design programmes suitable for Maori. Devolution, in the sense of adequate recognition of tribal authorities to facilitate change was not forthcoming.

The Ka Awatea policies of the 1990 National government had a strong economic focus and were a continuation of the economic reforms of the previous government. The budget and size of the restructured Ministry was further reduced. In the 1992/93 year $154.5 million was administered by the Iwi Transition Agency and the Ministry of Maori Development in areas such as education, housing and vocational training. In 1993/94, $14.6 million was allocated for services and in the 1994/95 budget the only funds administered by the Ministry outside the policy advice area was $3 million allocated to provide for specific grants that included $220,000 to the New Zealand Maori Council, $2 million for marae subsidies and $500,000 for Rangatiratanga grants[56]. The National government has placed less emphasis on the resourcing of tribal development than the Labour government of 1984 and 1987. Tribal development it was stated,

> belongs to the iwi and should be the sole prerogative of the iwi. Iwi development as a process should be beyond interference by any government administration (Ministry of Maori Development, 1991:71).

56 See the Estimates of Annual Appropriations and Departmental Budgets of the Government of New Zealand, years ending 30 June 1993 & 30 June 1994. For the year ending June 1995 see Estimates of Appropriations for the Government of New Zealand.

In other words tribal development was to be encouraged but it would not be funded by government. Ka Awatea, the 1991 policy document was promoting the Tu Tangata, community approach of the 1970s, rather than the empowering and resource funding approach of the 1980s. Partnership could still be defined as the 'Pakeha and Maori partners acting towards each other reasonably and with the utmost good faith' (Treaty partnership principle) but it is an unequal relationship whereby government dominates a much less powerful partner.

Since 1984 the pace of change in New Zealand, has been rapid. The public sector has undergone structural, organisational and managerial changes. Maori organisations, like other sectors of society, have had to try and keep abreast of those changes. If governments' are sincere in their intentions to improve the position of Maori in New Zealand society since "empirical analysis would indicate that Maori have been marginalised and currently occupy a peripheral place in society" (Ministry of Maori Development, 1991:12), then both partners (government and Maori) need to work together.

The pace of change should not be accelerating for one to the detriment of the other. Failing to legally recognise Maori organisations and mainstreaming services at the same time as government restructures its own agencies, only reinforces the fears of some Maori that government is not sincere when it says that it is strongly committed to ensuring "iwi become active in the control of their affairs ..." and "iwi (will) acquire the means to determine their affairs" (Department of Maori Affairs, Nov. 1988:12,15). To date there has not been an

adequate resourcing of Maori developments to enable a devolution of services to Maori. What has happened is that the dominant Treaty partner (government) is inhibiting the development of the 'other' partner's operational base, and whether or not that is the intention of government's actions, it appears to be the effect.

Past experiences of the Maori lead some to believe that the reforms are designed to break up existing Maori organisations that are politically and economically very strong. This attitude tends to be based on experiences such as those of the Te Arawa Maori Trust Board which had financial difficulties due to the mismanagement of government Mana and Maccess programmes although some of the Te Arawa tribe believe that many of the problems relate to the fact that government gave the Board funds, without adequate administrative resources. What they are saying is that government set them up to fail, by providing them with a large amount of taxpayers' funds, but no real assistance in administering those funds. Hence there is a little cynicism about the direction of the current reforms, because if Maori organisations are discredited then policies and services for Maori will be provided by mainstream government departments.

At the same time however, most Maori would like to believe that the reforms of government will genuinely accommodate the social and economic needs of the indigenous people of New Zealand. Accommodation means acceptance of culturally diverse reforms, that will allow Maori people to develop more equitably with the people of the dominant Pakeha culture. This means a system formulated on Maori terms, that will allow Maori some autonomy over policies and

programmes. This too, is fraught with misunderstandings.

A not uncommon non-Maori view is that the reforms will result in separatism or even apartheid. Separatism, in so far as wanting to be totally alienated from the prevailing form of government, is not the intent of most Maori people, although wanting to be accommodated within the present system is. Separate development is not a form of apartheid when it is development within a system responsible for the general development of all the population. The Treaty principle of partnership within the present system allows for choice between Maori initiated and implemented developments or mainstream services and programmes. These developments in fact work in the opposite direction to apartheid. The purpose of accommodating separate Maori development is to prevent Maori people being discriminated against by the policy and decision making procedures of the dominant culture. It would ensure Maori people are given development alternatives that are beneficial to them, as well as giving them some autonomy to develop both economically and politically.

Government's policies regarding the education system have seen school Boards of Trustees take over substantial administration activities that had previously been performed by a government department. Today, schools have some autonomy in determining their direction, but this is not perceived as separatism. Therefore it is possible to speculate that those who perceive reforms that accommodate separate Maori development as a form of apartheid, are still locked into ethnocentric attitudes which have dominated ethnic

relations in New Zealand for many years.

To reiterate an earlier statement, past government policies have discriminated against the Maori, therefore reforms need to be encouraged whereby Maori are given the opportunity to try and improve their position. The 1984 Hui Taumata promoted separate development without the interference and control of central government. Devolution does provide a framework that is flexible enough to allow decision making to be based at the local/tribal level, but which includes accountability procedures that are acceptable to the central organisation.

Separate development needs to be viewed in a tribal context. Each tribe has its own priorities and there is no 'one' Maori opinion. Functional devolution allows tribal organisations to design, initiate and implement programmes without strong centralist controls. It provides for the separate autonomy of each tribe and assumes each organisation will have its own budget, a separate legal existence, and authority granted to it by central government to allocate resources for a range of different requirements. Separatism through devolution provides the opportunity for diversity and self-determination within the New Zealand political system, rather than outside it.

Sovereignty

"The will of the people is the basis of the authority of government" (Article 21 of the Universal Declaration of Human Rights), but in a

democracy what happens to the will of the indigenous people if they are outnumbered? Government makes it clear, there is undivided sovereignty in New Zealand, sovereignty which belongs to the Crown.

In his book Justice and the Maori, Sharp (1990) asserts that many aspects of Thomas Hobbes' sovereignty theory underlie the doctrine that is accepted by the political and legal leaders of New Zealand today. Hobbes, according to Sharp (1990:250) defines sovereignty as providing government with the powers to make and administer laws, to make war and peace, appoint government officers and to regulate "what opinions are allowed to be propagated in public". Hobbes's doctrine provides the state with the powers to coerce its subjects and to define "the content of justice for the territories over which it rules". Modern government and its leaders in New Zealand, according to Sharp (1990:251), also adhere to the premise that ultimately all legal power comes from the state and can be recalled by it, that the state has an indefeasible right to make use of whatever means necessary to ensure order is maintained. The underlying assumption is that "without sovereignty there would be chaos". Sharp (1990) argues the sovereign power in New Zealand is considered by the state to be non-divisible, that there is only one source of power - the Crown. Indeed, confirmation of this can be found in the 1989 government document "Principles for Crown Action on the Treaty of Waitangi" which says "The Government has the right to govern and to make laws" (Department of Justice, 1989).

Mulgan (1989) agrees with this and argues that the legitimacy of government in New Zealand needs to be accepted as given regardless of whether people believe that sovereignty passed from Maori to the

British Queen in 1840, because

> it is not that the wrongs of the past cease to be wrongs. ... Given the passage of time, there is now no practical possibility of removing colonial settlement and the government it brought (Mulgan, 1989:386).

Prominent Maori lawyer, Moana Jackson does not disagree that the legitimacy of government has arisen over time, although not by Maori ceding sovereignty to the Pakeha but by Pakeha claiming sovereignty and stating that this 'is mine', giving rise to the challenge that a right is not a right until you take it (Jackson, 1992, public seminar at Waikato University, 27 March, 1992).

This Hobbesian notion of sovereignty is recognised by most people in New Zealand (grudgingly or otherwise) but Sharp (1990) does cite the views of several respected Maori leaders[57] who clearly believe that there are two separate sources of authority in the state. They base their arguments on the opinion that Maori signed and agreed to the British Crown having 'governing' rights (kawanatanga) in New Zealand, that the cession of Maori sovereignty was never agreed to and that rangatiratanga (authority, sovereignty, power and control) over lands, estates, forestries, fisheries and other properties was never extinguished nor relinquished. But as history has shown, sovereignty was taken by the British Crown, and whilst there are some who demand

57 eg Kawharu, Fox, Williams, Jones, Walker and others. (Sharp, 1990:252).

absolute Maori sovereignty[58] the calls for Maori sovereignty have become obfuscated with the linguistic and conceptual issues of self-government and self-determination.

The philosophical arguments surrounding sovereignty are not the point of the discussion here. The legal and philosophical issues as they relate to New Zealand have been extensively discussed by writers such as Sharp (1990), Brookfield (1989), and McHugh (1989). Rather, it is the asserted right by Maori to self-determination, the meaning of which is ambiguous, ill-defined and controversial, that needs to be discussed.

Self-Government

The achievement of self-determination is inextricably linked to self-government. And even then the concept of self-government has generated widespread debate, enlightenment and confusion amongst writers on and about indigenous peoples.

Frideres (1988:344), who tends to concentrate on the theme of self-government rather than self-determination, provides a list of some of the common, identifiable elements of self-government - the group has control over matters internal to the group; boundary setting is done by the group; the group has control over change brought about by external forces; and control over the determination of relationships with external groups. Beyond this political definition however, Frideres (1988:359) does go further and says that embodied in the concept of self-government is the right to determine one's own political future

58 see Sharp (1990) pp 253- 265.

and to pursue freely cultural and economic development. This statement suggests that self-determination is an extension of self-government and that it is a right of the people, but those rights do not go as far the right to a separate, sovereign nation.

Deloria[59] and Lytle (1984:264), argue that the notion of self-government is limiting and has been superseded by issues pertaining to self-determination. Self-government, they assert, is primarily concerned with political institutions, implying the recognition of a superior political force that allows some measure of local decision making. It is a term that suggests

> the people were previously incapable of making any decisions for themselves and are now ready to assume some, but not all, of the responsibilities of a municipality. Under self-government ... the larger moral issues that affect a people's relationship with other people are presumed to be included within the responsibilities of the larger nation (Deloria & Lytle, 1984:13-14).

Self-determination on the other hand, extends into the cultural, religious and sociological areas of activity. Self-determination does not separate political and economic development from cultural, religious and emotional experiences (Deloria & Lytle, 1984:264).

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59 A prominent and respected Native American political scientist and lawyer.

Self-Determination

In the United States

> the U.S. Courts have more or less recognised that First Nations' sovereignty survived the Treaty making process and they have granted to First Nations a large degree of self-determination within what they call 'Indian Country'[60]. ... the tribal governments have their own courts, environmental protection laws, police forces, child and education legislation, and powers of taxation over everyone who lives in their jurisdiction. In short, the tribal governments have come to be recognised as having virtual parity of powers with the fifty state governments, and are included whenever a new federal-state relationship is being formulated (Erasmus, 1989:3-4)

This statement oversimplifies the American Indian situation somewhat since the tribes do not have true self-determination, nor do they have parity of powers with the fifty American states since state powers are constitutionally defined whilst tribal powers are determined by the courts or federal legislation. Nevertheless, the legal situation of American Indians does differ to that of Maori and not only because most

60 Indian country has been identified as the reserve lands set out in the treaties (Erasmus, 1989).

North American treaties delineated tribal boundaries and provided for reservation lands. The era of treaty making in North America (1787-1871), saw hundreds of agreements entered into between the federal government and Indian tribes. In 1831 Chief Justice Marshall provided the foundation for tribal self-determination when he wrote that tribes were a distinct political society, capable of managing their own affairs and governing themselves, but denominated as a "domestic dependent nation" rather than a foreign nation (Canby, 1988:14). This important distinction denied the tribes the right to treat with foreign nations.

Hence sovereignty and ultimate power resides with the federal government, tribal autonomy is limited because the United States Supreme Court holds that tribes are 'dependent' with exclusive jurisdiction only in certain areas. Tribal governments are able to define tribal membership, regulate such things as marriage, divorce, inheritance and welfare of children including adoption and foster care. Tribes have autonomy to regulate economic activity on their reservations including the right to levy taxes, license, and develop (or otherwise) resources and most treaties guaranteed hunting and fishing rights. But this autonomy is limited to jurisdiction within reservation land.

Additionally, tribes administer justice within their own courts operating on reservations, but they lack criminal jurisdiction over non-Indians. For all practical purposes they are limited to misdemeanour jurisdiction in Indian criminal cases since the maximum sentence a tribal court can impose on a criminal case is a $US5,000 fine and one year in jail for any one crime (O'Brien, 1989:207). American Indian

tribes have land as well as the freedom to regulate many of their own affairs without interference from outside. This does enable them to determine and control their social and economic development within the confines of their defined territory and the parameters that are defined by the courts and federal government. On many reservations much of the land is unable to sustain any form of economic development, unable to provide the people with a subsistence living, and no formal economy to generate capital, thereby making many dependent on federal assistance. Nevertheless, some tribes in North America have the autonomy to be self-determining in a limited manner, greatly facilitated by having land owned by the tribe or land held in trust by federal government. The Maori are yet to be afforded this limited right.

The principle of self-determination, or the 'right of people to self-determination' is now generally recognised in international law[61] and New Zealand has ratified the International Covenant on Civil and Political Rights which acknowledges self-determination. The Covenant states:

> All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

This is also repeated as Article 3 of the Draft Declaration of the United Nations Working Group on Indigenous Peoples at its eleventh session in July 1993 except that 'Indigenous' is substituted for 'All'. However, the

61 See Brownlie, I., Principles of Public International Law, pp 593

extent of autonomy inherent in this concept ranges from individual freedoms up to and including secession. Primarily, self-determination involves the right to be independent and for Maori, taken to its ultimate outcome, the right to autonomy would necessitate the secession of Pakeha who would form their own separate state. For secession to take place self-determination requires territory, sovereignty and the non-intervention of external forces. Secession is not an option that is promoted by many Maori. Indeed a nation which accords equality, equity and need as the rationale for social justice, coupled with a political system that ensures the collective rights of the indigenous people as well as those of the individual, would go a long way towards avoiding the need for secession.

Political scientist Richard Mulgan (1989:387), argues that "full self-determination, in the sense of complete independence from the dominating people and government, is simply not possible" in New Zealand, one of the reasons being that boundaries cannot be redrawn to provide the indigenous people with a 'new' state (one could question why he assumes it would have to be the indigenous people who must find the 'new' state!). Mulgan (1989) defines self-determination as

> the right particularly associated with decolonisation, with the quest by colonized peoples for their political independence. Beyond that its scope has been extremely restricted its main practical effect has been conservative, to protect the rights of the existing governments ... Just because a group within a state may consider itself ethnically and culturally distinct, it is

> not thereby given the right to secede from the larger state (Mulgan, 1989:48).

In other words self-determination is extremely limited insofar as it is dependent upon the goodwill of a superior power. Certainly this is the view given in the Blackwell Encyclopedia of Political Science (1991) which states "it offers more coexistence orientated form of autonomy as opposed to the concept of absolute autonomy", and is supported by the Fontana Dictionary of Modern Thought (1988) which contends that self-determination is "a doctrine justifying the autonomy and the independence of an individual or group conceived as possessing a distinctive identity or free will" but it does not necessarily mean independence. The philosophical issues regarding self-determination are complex and varied but the literature pertaining to the politicisation of indigenous peoples is rather sparse. However, some of the conceptual issues are starting to be defined and are beginning to provide the grounds for future analysis and debate. Twining *et al*, (1991) have provided a start by looking at whether there is a human, moral and political right to collective self-determination; or is it just a myth that can be effectively used for particular purposes? They question whether the emphasis of western social and political philosophies has ensured that 'justice' cannot be afforded the collective, and debate the effect of decolonisation on self-determination demands of ethnic groups.

The importance of the need for clarification and understanding of ethnic group demands is highlighted by the breakup of the Soviet Union, the union of East and West Germany, the reassertion of national identities

in former Yugoslavia and the peace agreement between Israel and the Palestinian Liberation Organisation in recent times. These issues however are beyond the scope of this thesis, suffice to say that self-government is a more restrictive term than that of self-determination which is an extension of self-government, but clearly subservient to the ultimate force or authority of the sovereign state.

Maori Diversity

Maori aspirations for self-government and self-determination are tied to Article Two of the Treaty of Waitangi which guarantees the tribes "the full exclusive and undisturbed possession of their Lands and Estates Forests Fisheries and other properties so long as it is their desire to do so". Article Two provides the base with which to exercise control over economic resources which then provides the means, politically, culturally, economically and socially to determine Maori affairs.

Like any other sector of the population, Maori opinion varies as to the appropriate means to achieving self-determination. The secessionist argument has been used by Awatere (1984:10) who defined Maori sovereignty as the ability to determine Maori destiny which could only be achieved with Maori having control of their lands and fisheries, "...without sovereignty we are dead as a nation. It is not sovereignty or no sovereignty. It is sovereignty or nothing ..." Implicit in Awatere's definition is recognition that the concept of sovereignty requires a political state to exist but in order for that state to exist there needs to be, as Nadeau (1979) points out, a population, a territory, and a

government. While Maori have the population and the potential for tribal governments, they do not have the territory. Until Maori have that third element required for independent existence, demands for a separate state or an autonomous state within the state remain unrealistic. Hence a major condition necessary for Maori sovereignty is missing. Nevertheless there are sporadic calls for full Maori sovereignty and the emotive force of the concept was demonstrated in October 1990 when a Maori group claimed sovereignty over Mayor Island in the Bay of Plenty and made a symbolic occupation of the island. In 1993 sovereignty was the foundation upon which Eva Rickard formed a new Maori political party, Mana Maori.

Mana Motuhake, the Maori political party guided by Matiu Rata seeks "recognition of the Maori nation within the sovereignty of New Zealand the same way Scotland, Ireland and Wales are recognised within the United Kingdom" (Rata, personal communication, 1993). Mana Motuhake is promoting a separate Maori assembly based on provincial or geographically elected assemblies that would allow Maori living outside their traditional tribal area to participate. The assembly would work with parliament on matters affecting Maori, consequently, the implication is that Maori must have some input into the decision making processes but not self-government nor Maori sovereignty in terms of a separate, sovereign Maori nation.

Anglican priest Canon Hone Kaa is an outspoken proponent of Maori self-determination and he advocates, like Moana Jackson, a separate form of justice for Maori believing that Maori must solve problems that are Maori, and that Kohanga Reo (Maori language nests for pre-schoolers)

provide an example of how Maori are able to find their own solutions (New Zealand Herald, 20 April 1990).

Dame Whina Cooper, an elderly and respected kuia and political activist from Northland, however, was an outspoken advocate of working within the system, criticising calls for a separate justice system "We have one law for everyone and this is how it should stay. If you are naughty you should go to jail. That is the law of the land and Maori people should not dispute it" (New Zealand Herald, 8 March, 1990). According to her, traditional law would not work in today's society and it is essential that New Zealand retains one legal system in which every one is equal under the law. In other words, self-determination can be achieved within the existing political and legal framework that was put in place by the colonisers.

Whetu Tirakatene-Sullivan, member of parliament for Southern Maori, says that calls for a separate Maori system, like that operating in 1840 are totally unrealistic and not the answer to contemporary Maori problems (New Zealand Herald, 17 January, 1990). Again, justice for Maori does not require a separate state, nor sovereignty.

Wira Gardiner (Chief Executive of the Ministry of Maori Development) appears to support Frideres (1988) in that the tribes should have the right to pursue economic and cultural development, that is, limited self-determination. He says the expertise tribes have gained through administering Mana and Maccess schemes was a positive gain for the strengthening of Maori tribes and the experience has furthered Maori desire to determine their own destiny and their drive for self-

determination. "(It) has nothing to do with separatism, or wanting to go and live in your own half of the North Island" (New Zealand Herald, 14 February 1990).

Apirana Mahuika (Dominion, 4 September, 1992), chairperson of Te Runanga O Ngati Porou and a past chairperson of the National Maori Congress, advocates self-government which he believes can be achieved through constitutional change. He suggests that this could be done by the setting up of a separate Maori Parliament, parallel Maori and Pakeha Parliaments, or through an upper House or Senate that is Maori dominated. Change, Mahuika believes, is necessary because the current system is non-flexible and fails to adapt. "Three generations of Maoris had suffered being the lowest on New Zealand's socio-economic scale" and the system is unable to accommodate changes that will work for Maori (Dominion, 30 January, 1992). Self-determination appears to be implicit in Mahuika's comment rather than the more narrowly defined concept of self-government.

Tamati Reedy, convenor of the National Maori Congress's constitution committee (and ex-Secretary of the Department of Maori Affairs), says "that to restore tangata whenua rights and objectives, Maori need to be able to manage their own affairs, exercise sovereignty and remove Maoris, if not New Zealand, from the Commonwealth" (Dominion, 14 July 1992). Reedy clearly promotes full self-determination and sovereignty - tino rangatiratanga.

Aside from Awatere and Reedy, the consistent theme that runs through the above statements is that of self-determination rather than self-

government, the right to develop politically, economically and socially according to Maori needs, coexistence rather than absolute autonomy and secession. Whilst attitudes are changing whereby the potential for limited self-determination does now exist through organisations such as Maori Trust Boards, enforcement of the notion that 'all New Zealanders are equal before the law', (see Sharp, 1990:197-204), hinders the self-determining rights of the collective such as the tribe.

The reality is that Maori are governed by the Westminster system of government, imposed upon them after the signing of the Treaty in 1840. New Zealand is a democracy and democracies require "that decisions go with the majority, majority rule, however, may not be democratic" (Mulgan, 1989:77). Maori do not have any legal powers that would allow them to be self-governing in the sense that they have little control over external forces. Until the passing of the 1991 Resource Management Act it was not mandatory for local councils, regional or territorial councils and their planners to consult or include Maori in their policy making decisions. Hence, in the past, government has built a power station and strategically placed it in the middle of three Maori communities, directly adjacent to a very symbolic marae with little regard for the social impacts upon those Maori communities (see Lynn,1987). Today, under the 1991 Resource Management Act, local and regional governments have a duty to take into account the principles of the Treaty of Waitangi (s8). They are also required to consult, and listen to the views of the local Maori on how certain resources should be managed. Changes have been made to accommodate Maori demands for representation on resource management issues but this does not suggest a fundamental shift in government policy to assisting Maori

self-determination or autonomy over resources. It is incorporating Maori opinions within the existing institutional structure. Boundaries that are culturally and socially significant to the tribes and recognised by other tribes are not recognised by Pakeha, regional and local councils, government nor the law makers. Electoral boundaries are defined by a Representation Commission that allocates electoral boundaries on the basis of population. The parliamentary seats that are 'reserved' for Maori cannot possibly be representative of Maori tribally, illustrating the lack of control over boundary setting.

Self-determination using Deloria's (1984) understanding of the concept, means that Maori tribes need to have control over political, religious, cultural and all aspects of social organisation. Included in this is the right to be self-governing, which Maori are not. But Maori do have limited self-determining authority. Maori Trust Boards have provided services to their people under the auspices of central government. Mana and Maccess programmes were employment retraining and employment initiative schemes that were funded by government but administered at the local flax roots level. The administration of these schemes allowed the tribal trustees to a large extent, to determine specific criteria for eligibility to the schemes. Today, tribes are seeking funds from government and contract with government to provide basic social welfare services to their people and this can only be achieved within the existing polity.

Maori have not been influential in incorporating Maori concepts into the Westminster system of governance even though there is, and has been, considerable Maori social and economic disorder. This is not a recent

phenomenon, indeed Maori have been in this position ever since New Zealand was colonised. The 1984 Hui Taumata or Economic Summit between tribal representatives and Government, recognised the poor socio-economic position of Maori and it was acknowledged that there was a need for policies to more adequately address social and economic inequalities between Maori and Pakeha and for Government to provide a more equitable means of justice for the Maori. To have limited self-determining authority, Maori tribes need not only an economic resource base, but also an improved standing socio-economically. Are preferential policies an appropriate means to overcome injustices and inequalities between Maori and Pakeha? Why should one group be afforded preferential treatment over all other sectors? Are there any claims that have an inherent or natural priority?

Preferential Policies

Preferential policies are not a recent phenomenon. In the United States laws were passed towards the end of the nineteenth century to segregate blacks from whites. In South Africa apartheid policies ensured preferential treatment for whites. In Malaysia preferential policies for Malays are justified quite simply on the grounds that the Malays, the indigenous people, cannot compete with the immigrant Chinese (see Sowell, 1990). And in Fiji legislation has been passed to ensure Indo-Fijians cannot dominate and control the political arena.

Until 1993 New Zealand has had four parliamentary seats reserved exclusively for Maori since 1867 although they have not given Maori representation in terms of population percentage as is the rest of the

general population. It is socially acceptable to have statutory measures to prevent discriminatory behaviour. Under the Race Relations Act 1971 and the Human Rights Commission Act 1977, it is against the law to discriminate on the basis of gender, race, ethnicity, national origin, religious or ethical belief, disability or marital status. The Maternity Leave and Employment Protection Act 1980 and the Parental Leave and Employment Protection Act 1987 improved employment conditions for women and were based upon issues of equality. The State Owned Enterprises Act 1986, State Services Act 1988, Local Government Act 1989 and the repealed Employment Equity Act 1990 require the implementation of equal employment opportunity programmes with the aim of limiting discrimination against certain groups. The Employment Equity Act included in its EEO requirements that action be taken to identify and eliminate policies, procedures and other institutional barriers that tend to perpetuate inequality in a designated group.

Implicit in such legislation is recognition that

> individuals not all be judged by the same criteria nor subjected to the same procedures when they originate in groups differentiated by government into preferred and non-preferred groups (Sowell, 1990:14).

Clearly it is socially acceptable to have statutory measures to prevent discriminatory behaviour but this does not prevent social and economic injustice occurring. Unfortunately policies, procedures and institutional barriers continue to maintain Pakeha in socio-economically advantaged positions relative to that of Maori. To some

extent this is recognised by government insofar as legislative references to equity issues have the overt intention of reducing social and economic differences between Maori and Pakeha and to provide some compensation for historic wrongs.

Proponents of preferential policies argue that as the socio-economic position of disadvantaged groups improves, so the burden on society from high welfare payments reduces (see Fullinwider, 1980; Goldman, 1979). Proponents also argue that, as a result of preferential policies, additional role-models are visible in the community, and hence provide a means of helping to break down negative stereotyping of a particular group of peoples. Additionally, in situations where disadvantaged group members become trained in various professions such as health, law, administration and education, it is argued that many will choose to work with their own people thus benefitting the whole community. Sowell (1990) insists that there is no evidence to support these claims, that the 'benefits' are based upon assumed and projected results and that in fact the implementation of the policies only increases the socio-economic differentials within the 'disadvantaged' group itself. Both Fullinwider (1980) and Glazer (1975) make the point that it is difficult to define progress through preferential policies because of the complexity and diversity of defining success, achievement and progress, which does, of course, highlight the problem of deciding when these temporary or preferential policies are no longer required.

Brooke, writing in the Dominion, 14 May 1992 articulates many of those arguments in a New Zealand setting. She claims that special policy

developments for Maori in New Zealand universities, indoctrination courses on the Treaty of Waitangi, Maori input into the making of academic staff promotions, adjustment of the content of courses in the light of the Treaty of Waitangi, special placement work, fees waived for Maori students, the opening of graduation ceremonies in Maori and the option of wearing Maori cloaks instead of traditional academic gowns, are effectively

> devaluing our democracy ... some New Zealanders are now seen as more equal than others, demanding preference, special funding, compensation, fellowships, scholarships, on the ground of race alone ... Before we further follow the now-regretted lead of the United States and Australia in professionalising and bureaucratising racism, an investigation needs to be made into the growing social, political and economic advantages accruing those whose professional future lies in perpetuating racial separatism (Brooke, 1992).

Unfortunately Brooke refuses to acknowledge that the policies of the past, which profess to provide equal opportunity, access and representation, have failed Maori and continue to fail Maori. If separate policies are designed specifically for Maori in an attempt to reduce the Maori prison population, reduce the number of Maori on welfare or reverse the dependency mode in to which so many have been forced, then why do people such as Brooke have such irrational fears? The implementation of preferential policies is to try and ensure that Maori won't have an unfair disadvantage. There are always trade-offs

and affirmative action policies are generally designed to give greater accessibility to disadvantaged peoples, to the 'starting line'. However, in order to graduate from a university, become a doctor, lawyer or what ever, those people must perform to the same standards as everyone else.

Perhaps the case for promoting preferential policies to further self-determination demands can be more persuasively argued on the grounds of justice since that does not depend on projections or speculations, but rather, moral principles that seek to provide benefits to members of groups who were previously unable to acquire those benefits (Fullinwider, 1980) .

Equity, Equality, or Need?

> Human beings are not equal by nature, attainment, circumstances and conditions. Their needs vary and their problems require separate treatment (Huang-Thio, 1963:423)

If, as Deutsch (1975:137) argues, justice is concerned with the distribution of the conditions and goods which affect individual well-being, is justice being afforded the Maori? Especially when justice has conflicting values. Is it just if all people are treated as equals or is justice better served if people are treated according to their needs, ability, or effort? Equal opportunity does not necessarily lead to equal reward nor does treating everyone as equals necessarily maximise the common good.

Deutsch (1975) reasons that if equity is considered to be the central principle of justice then the usual argument is that input should be relative to the share of output received. From this, it follows that if economic productivity is considered a primary goal then those who achieve the best results should receive the largest input of resources. Similarly, Deutsch (1975) argues if maximum production is the end to be achieved, then the highest return achieved from a given means should be assigned that means. This reasoning therefore argues that a person or group which can achieve the best return on a scarce resource should have greater claim of its use. Accordingly, social equity is achieved

> in the sense that those who receive the largest input of resources from a cooperative system should be the ones who produce the largest amount for the system (Deutsch, 1975:144).

Legislation that was passed in New Zealand in 1990 used this equity argument rather than that of equality as its central principle of justice. In October 1990 the Employment Equity Act came into force. The equity justification for the passing of The Employment Equity Act 1990 was that the input should be recognised in terms of output. In other words, the skills, effort and responsibility of women's occupations should receive remuneration comparable to similar male occupations; women should receive equal pay for work of equal value.

Unfortunately the legislation was repealed later in 1990 so the pay

equity position is that which prevailed prior to the legislation being passed. There remains considerable inequality of remuneration between men and women, and traditional female occupational groups continue to have their skills undervalued compared with comparable traditional male occupations. Equity in employment remuneration therefore, has to be achieved through the operation of the free market even though evidence shows that labour market flexibility has been particularly detrimental to low-paid women (Wilson, 1992:129), and Maori are particularly likely to suffer since they are over-represented among the low paid (NACEW, 1990:178).

Justice could be more appropriately met if rewards were distributed equally. For instance, if it is more important to maintain cooperation and social relations in a society, then equality rather than equity should be the dominant value of justice. Deutsch (1975) argues that ideally, to achieve social harmony or mutual congenial relations, everyone needs to receive similar resources. An equity allocation giving more resources to those who produce the most is not necessarily appropriate if people are to live harmoniously with one another. Hence part of the basic philosophy underlying welfare policies is more likely to be that of equality rather than equity. In the 1960s and 1970s New Zealand paid a pension to all people over the age of 65 years, regardless of their income (or lack of income), assets, ethnicity or any other criteria. Likewise, a 'family benefit' was paid to the mothers of each child under eighteen years of age without any means-testing.

Welfare policies in New Zealand have also been tempered with Deutsch's (1975) third principle of distributive justice, the principle

of need. Justice, he argues, may be better served if personal welfare and development are of primary importance in a society. If the people are of the belief that it is the natural duty of one to help another in need, providing there is no excessive risk to oneself, then justice is served by allocating resources on the basis of need.

The nature of society is such that there is not a single guiding principle for determining what is just. Justice, based solely on equality, equity or need comes into conflict with various sectors of New Zealand society and particularly between Maori and Pakeha. Maori are tribal in nature and part of belonging to a tribe means that individuals rely upon the knowledge that the collective group will ensure that the individual will be assisted in terms of need since the personal well-being of the individual is necessary for the development of the tribe as a whole. This is clearly illustrated by the migrating process that took place when the welfare state was restructured in the 1980s. Many of the unemployed Maori returned to their rural homelands, preferring to be unemployed at 'home' rather than in the cities. A number of marae were placed under considerable pressure to provide shelter and food for their people, as well as having to cope with the 'city problems' that a lot of the young people brought with them. The tribal concept is such that the individual is the responsibility of the tribe and basic needs will be provided by the tribe - a redistribution of resources based on need. The liberal philosophy of the market driven economy post-1984 however, emphasises the principle that all people are equal and have equal opportunity to resources, that the return for the individual is dependent on the effort or use the individual makes of those opportunities.

If equity and equality are to be achieved for all sectors of New Zealand society and Maori are an identifiable sector that socio-economically underachieves, then the primary value of justice must be need. One means of affording justice to those Maori who are part of the underclass in New Zealand society, is to implement preferential policies based on need rather than equality or equity.

Jackson (1988) has demonstrated that the criminal justice processes in New Zealand are inadequate in preventing young Maori offending and re-offending, hence his recommendations that the needs of Maori could be more adequately met by changing the monocultural approach currently taken when reviewing and developing laws. Policies, he argues, should be developed specifically for Maori and should be based on the 'needs' of the Maori population. Jackson's report (1988) highlights the urgent need for change, for policies to be formulated that will respond to the reality of the prison and mental hospital populations whose clientele are disproportionately Maori. Jackson (1988:277) for example, recommends the development of a parallel system of criminal justice that incorporates Maori-based judicial structures in an attempt to try and deal positively with the consequences of Maori offending. Preferential policies designed to address Maori offending are clearly not going to make the situation any worse, but they may, they just may make some inroads into our appalling criminal statistics.

Not that preferential policies will necessarily result in a positive outcome for the targeted group. For example, a State Services Commission report published in the paper "Progress in the Public

Services", showed that when the State Sector Act was introduced in 1988, with provisions to encourage the entry and progress of various disadvantaged groups, Maori representation dropped from 7% in 1988 to 6.5% in 1991[62] (New Zealand Herald, 27 October 1992).

It should be unacceptable that policies have continuously been pursued which maintain the tangata whenua in a position of economic dependency and have prevented the social development of Maori to the extent that the welfare state must provide basic living requirements for a disproportionate percentage of the Maori population. The provision of quotas for Maori, giving them entry into teacher training colleges, access into medical or law schools and providing education services such as Kohanga Reo (pre-school education) and Kura Kaupapa Maori schools (total immersion Maori schools) are a proactive means of providing equal access and opportunity to all people.

Preferential policies may discriminate or disadvantage an individual when quotas for example, allow persons from a disadvantaged group access using different criteria. But the policies are designed to promote the 'collective' good rather than the rights of the individual. Collectivism and individualism are opposing ideologies and preferential policies prescribe to the tribal ethic that what is good for the tribe is good for the individual and in this instance the collective is in an advantaged position.

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62 These figures do need to be treated with caution however, as public service employment rates in New Zealand were drastically reduced by the government's corporatisation, privatisation and state restructuring programmes starting in 1986, which impacted most severely upon Maori.

Preferential policies attempt to close the gap between the poor and the more fortunate or better off. Preferential policies alone will not solve the socio-economic problems that they are designed to assist but they are an immediate response to the problems. In conjunction with devolution and more effective use of tribal organisations, they are an appropriate means to begin addressing the inequalities between Maori and Pakeha. Currently, preferential policies are an important factor in assisting the self-determination goals that Maori tribes are setting themselves. Indeed, many of those goals are also the goals of most New Zealanders - lessening Maori dependency on welfare, increasing Maori employment, improving Maori health and education and reducing Maori crime and violence.

Conclusion

To date, government has generally viewed the objectives of decentralisation in economic terms. They are seen as the means for improving the efficiency, planning, development and provision of services at a local level. This is by incorporating local participation in the formulating and application of required policies or programmes. Ideally this requires a redistribution of power so political objectives inevitably must be taken into account. It is however, much more difficult to identify the political objectives of decentralisation. The transfer of authority from a higher level of government to an organisation at a lower level does not necessarily mean the relinquishment of power since delegation or deconcentration still allows the centralising agent to retain control. Therefore, there remains a potential for government and the community to misunderstand or talk past each other. The political objectives and/or motivations of government may conflict with those of the subnational or community group.

The explicit objective of the 1984-1990 New Zealand Labour Government in the Maori affairs arena was to improve the socio-economic position of Maori. This positive, developmental objective was also intended to legitimise the government's decentralising programme to the Maori people. This stated objective was implicit recognition that the welfare programmes of the past have failed to meet even modest goals of social equity and equality between Maori and Pakeha. That government's intention was to carry out reforms that would empower Maori to be self-determining, however, is not clear.

Government rhetoric in the 1980s was that it was looking for a new model for decision making, a new structural framework that would more effectively and efficiently, meet the socio-economic needs of Maori. Government restructured the department that traditionally dealt with issues, policies and services pertaining to Maori - the Department of Maori Affairs, and set in place new structures (Ministry of Maori Affairs, Iwi Transition Agencies and Ministry of Maori Development) to deal with its client group. Services, it was declared, were to be 'devolved' to Maori tribal authorities allowing government to reduce the size of the Ministry since it would deal with policy issues only. Transition agencies were to be operational 'in the field' for a maximum period of five years, providing assistance to tribes in setting up the administrative structures necessary to carry out the range of services previously provided by the Department of Maori Affairs. These explicit objectives conformed to overall state restructuring, expenditure reduction and efficiency objectives of government.

The explicit objectives of Maori were also to improve the socio-economic position of Maori, the implicit objective of self-determination was not clearly stated. The message given to government after the 1984 Hui Taumata, was that government had been negatively spending on Maori - that is, maintaining Maori as unemployed, as sickness and welfare beneficiaries, as clients of mental institutions and prisons, as under-achievers and drop-outs of the education system. This, it was argued, was negative spending of tax-payers' money and had to be reversed. Rather than have government continue to set up policies and programmes that perpetuated the status quo, it was argued

that resources, planning and application should be put into the hands of Maori organisations. The assumption was that Maori know better what the needs of Maori are, and that the standard process of policies being made at the top of the bureaucratic hierarchy, then filtering down to Maori at the flax roots level was maintaining Maori in a state of dependency.

Maori started from a premise that differed significantly from that of Government's. Devolution, not delegation, deconcentration or a mixed system of administration, was the essence of necessary change as perceived by Maori to address the inequalities existing in New Zealand society. It was a call not only to shift centralised administration out to the periphery, from government to the tribes, but also for power sharing between the government and the tribes. A devolution of the decision-making processes was sought, not a delegation of power that has specific conditions attached, since delegated power can be repossessed. Maori sought autonomy over programmes and policies that had previously been designed for Maori but not by Maori. This concept is a function of "te tino rangatiratanga" (Article Two of the Treaty of Waitangi) which means Maori control of resources. Devolution, in Maori terms, means having the power to formulate and implement policy without government conditions attached (recognising of course that standard accountability requirements for government provided funds must be provided). Devolution is having the autonomy to implement programmes that each tribe sees as being beneficial to their people, formulated primarily by Maori, for Maori. Devolution is not a delegation of authority that has Maori implementing government-initiated programmes that in the past have tended to perpetuate the monocultural

nature of New Zealand society.

Government, on the other hand, has not clarified the degree of decentralisation that would take place. Was it to be delegated or deconcentrated authority, dependent upon the approval of central government, and where resources by inference could be taken away? Or, was it a process of devolution whereby power, autonomy or control over resources is granted to Maori organisations? Devolution and decentralisation are two terms that were used synonymously by the Minister of Maori Affairs[65] yet the delegated form of decentralisation retains control while the other relinquishes it.

Empowering tribal organisations to initiate and implement policies and programmes specifically designed to meet individual tribal requirements means there is less likelihood of changes being viewed as assimilationist. However, unless tribal organisations have adequate funding to implement their policies and to be autonomous from government control, there is little probability of them becoming independent self-determining organisations. Tribal development facilitated by government rather than obstructed by government, is the tribal and political objective of devolution.

The decentralising of government programmes to Maori organisations has been incremental. Responsibility for the administration and

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65 See for example, the press statements of Koro Wetere, Minister of Maori Affairs, 28 July 1989; 2 October 1989; and particularly the "Progress Report on Government Achievements from 1984-1989", presented to the Labour Party Conference 29 September 1989.

implementation of Mana and Maccess schemes (employment and job creation schemes) was generally through the Maori Trust Boards constituted under the 1955 Maori Trust Boards Act. Government funded the programmes, provided very broad guidelines for implementation, but failed to ensure the Trust Boards had an adequate infrastructure with the necessary expertise to 'efficiently' account for the expenditure of the government funds. Most of the Maori Trust Boards up to that point, had only been administering and distributing compensation funds that were providing a very small annual income. To assume they could immediately 'get their act together' and administer hundreds of thousands of dollars was naive (so too were some of the Trust Board executives who did not have access to people with the necessary experience to administer such programmes).

That Maori organisations will be more effective than Government in raising the overall socio-economic position of Maori is still unclear. It is argued, however, that since government has had one hundred and fifty-four years to improve the position of Maori and has to date failed, then at the very least Maori organisations can do no worse than government and should at least be given the opportunity to try. The delivery of Mana and Maccess programmes and others such as Matua Whangai and Te Kohanga Reo have been well received by Maori and considered an important component of Maori development leading to Maori self-determination.

Part of the process of self-determination is to ensure that tribal resources, structures and people are adequately equipped to cope with the development and delivery of services. The delivery of services such

as Mana and Maccess and now the contracting of services by government to Maori organisations has seen many tribal organisations develop considerable expertise in service delivery but they are still financially dependent on government as the funding agent. They are also exercising delegated powers, they are the administrative agent of government, rather than being primarily accountable to the tribe. The implication of contracting is not one of devolution, but delegation since contracts can delimit power and allow substantial government supervision. For example, clause 32 of the Runanga Iwi Act gave the Maori Land Court discretionary powers to interfere with the property, administration and powers of the Runanga "as it thinks fit". This is delegation, with the runanga becoming agents of the Crown rather than organisations that have devolved power and therefore autonomy over services and their delivery.

The government policy of devolution was not fully thought through and not fully implemented. Functional devolution, that is, allowing tribal organisations to design, initiate and implement programmes without strong centralist controls, does assume that the tribal organisation will have its own budget, a separate legal existence and authority granted to it by central government to allocate resources for a range of different requirements. This research demonstrates that the compensation government is paying some tribes for the perpetual lease and exploitation of Maori resources is grossly unjust. Government is unwilling to pay Maori the 'market rate' for resources which government acknowledges, were illegally or unjustly taken from Maori. Compensation that is inflation-proofed and indexed to the cost of living would provide those tribes who currently receive an annual perpetuity

payment (Tainui, Te Arawa, Taranaki, Ngai Tahu and Tuwharetoa) with a resource base that is not dependent upon government for tribal development. Financial independence and accountability to the tribe rather than government is self-determination.

Devolution means that there will be a duplication of services at the outset, and this will not be cheap due to economies of scale. It will not automatically overcome shortages of personnel; it actually creates a larger demand for them initially. It does not itself guarantee that larger amounts of resources will be generated. Initially it may be more costly because it encourages tribes to undertake development activities (see Rondinelli, 1986 and Cloete, 1988). But it is a process that will empower the tribes to take responsibility in deciding the economic welfare of their people rather than the state. Devolution provides the opportunity for tribes to initiate reforms rather than mainstream government departments.

Probably the most important condition necessary for devolution to take place is that of an ongoing political commitment by government. There is a need for the transfer of substantial legislative, policy-making and administrative functions to Maori organisations. If service delivery is improved, the dependency cycle broken and positive benefits accrue, then finally the Maori people will be able to say that the spirit of equality for both partners inherent in the Treaty of Waitangi is being heeded by the 'other' partner.

Deloria and Lytle (1984:264) have stated that as far as North American Indian self-determination is concerned, it is probably too late to put

the genie back in the bottle. For Maori,

> the idea of devolution is like a genie now freed from the bottle in which history had entrapped it. It is out now. No one can now stuff it back into the bottle again (CMSR, 1988).

Maori Trust Board	Year & Compensation	Grievance	Beneficiaries	Enactment
Aorangi	1950 £50,000	Crown aquisition of Aorangi Block	Persons determined by the Maori Land Court 21 August 1925 and their beneficiaries	s62 Maori Purposes Act 1950. s33 Maori Trust Boards Act 1955.
Arawa	1924 £6,000pa & in perpetuity. 1977 £6,000 increased to $18,000pa & in perpetuity.	In perpetuity settlement of Crown control over lakes and lake beds.	Members of the Arawa tribe and their descendants.	s27 Native Land Amendment and Native Land Claims Act 1922. s51 Maori Purposes Act 1931. s4 Maori Trust Boards Act 1955. s8 Maori Purposes Act 1977.
Aupouri	1953 Capital and income from Te Kao lands.	Set up to administer communal farming enterprise & income derived from lands at Te Kao	Members of the Aupouri tribe and their descendants.	s21 Maori Purposes Act 1953. s5 Maori Trust Boards Act 1955.
Ngai Tahu	1944-1973 £10,000pa for a finite period of 30 years. 1973 $20,000pa & in perpetuity. (In 1973 when this payment was to cease government converted it to a perpetuity payment.	In settlement of any claims arising out of land sales in 1848 to the New Zealand Company.	Persons determined by an order of the Maori Land Court, 12 March 1925, their descendants or successors to any such person as determined by the Maori Land Court.	s21 Native Land Amendment and Native Land Claims Adjustment Act 1928. Ngai Tahu Claim Settlement Act 1944. s4 Ngai Tahu Trust Board Act 1946. s6 Maori Trust Boards Act 1955. s16 Maori Purposes Act 1966. s13 & s3 Maori Purposes Acts 1975 & 1977

Maori Trust Board	Year & Compensation	Grievance	Beneficiaries	Enactment
Tainui	1946 £5,000pa & in perpetuity. 1977 £5,000 increased to $15,000pa & in perpetuity. 1946-1991 £1,000	Excessive confiscated land in the Waikato. In settlement of any claims that may be made in respect of and additional until 1991	Such of the Tainui tribes or sections of the Tainui tribes, as were the owners according to Maori custom of the lands in the Waikato district which were confiscated in or about the years 1864 and 1865, and their descendants.	s5 Waikato-Maniapoto Maori Claims Settlement Act 1946. s7 Maori Trust Boards Act 1955. s8 Maori Purposes Act 1977. s5 Maori Purposes Act 1978.
Tai Tokerau	1953 £47,150 lump sum.	In settlement of claims in respect of surplus lands.	Members of the Ngati Whatua, Nga Puhi, Te Rarawa, Ngati Kahu and Te Aupouri tribes of North Auckland and their descendants.	s28 Maori Purposes Act 1953. s8 Maori Trust Boards Act 1955.
Taranaki	1944 £5,000pa & in perpetuity. 1977 £5,000 was increased to $15,000pa & in perpetuity.	In settlement of any claims that may be made in respect of unjustly confiscated lands in the Taranaki area.	Members of the Atiawa, Ngati Tama, Ngati Mutunga, Ngati Maru, Ngati Ruanui, Nga Ruahine, Taranaki and Nga Rauru tribes and their descendants.	s49(5) Native Purposes Act 1931. Taranaki Maori Claims Settlement Act 1944(no32). s9 Maori Trust Boards Act 1955. s8 Maori Purposes Act 1977.
Tauranga Moana	1981 $250,000 lump sum.	In settlement of claims in respect of confiscation of lands after the battles of Gate Pa and Te Ranga 1864.	Descendants of the members of those tribes who took up arms against the Crown at the battles of Gate pa and Te Ranga, or which were dispossessed of any lands as a direct result of those battles.	Tauranga Moana Maori Trust Board Act 1981.

Maori Trust Board	Year & Compensation	Grievance	Beneficiaries	Enactment
Tuhoe-Waikaremoana	1958 £100,000 lump sum.	In settlement of claims for land allotted to the Crown and for roads not constructed in the Urewera and from leasing Lake Waikaremoana.	Persons to whom land was allotted under s7 of the Urewera Lands Act 1921-22 and their successors (being Maori and those persons comprised in the Tuhoe portion of the list of owners of Lake Waikaremoana and their descendants).	s9 Maori Purposes Act 1958, constituted as Tuhoe Maori Trust Board. s9a Maori Trust Boards Act 1955 and renamed as Tuhoe-Waikaremoana Trust Board.
Tuwharetoa	1926 £1,000 1927 £3,000pa & in perpetuity. 1977 £3,000 increased to $9,000pa & in perpetuity.	In settlement of any claims plus a share of fishing licences in respect of Lake Taupo and camp fees and fines, from surrounding waters received for breaches of the Fisheries Act.	Members of the Tuwharetoa tribe and their descendants.	s16 Native Land Amendment and Native Land Claims Adjustment Act 1926 (No 64). s10 Maori Trust Boards Act 1955. s8 Maori Purposes Act 1977.
Wairoa - Waikaremoana	1946 £20,000 lump sum.	In settlement of any claims arising out of the cession of the Kauhouroa Block to the Crown and rentqls for Lake Waikaremoana lease.	Members of the Kahungunu residing in the Wairoa county.	s29 Maori Purposes Act 1949. s11 Maori Trust Boards Act 1955. s15 Maori Purposes Act 1972.

Maori Trust Board	Year & Compensation	Grievance	Beneficiaries	Enactment
Whakatohea	1949 £20,000 lump sum.	In settlement of any claims arising out of excessive confiscation of the lands of the Whakatohea tribe.	Members of the Whakatohea tribe and their descendants.	s26 Maori Purposes Act 1946. Under s2 1946 Finance (No2) Act, Government paid to the Maori trustee £20,000. The Board was not constituted until 1949 to administer these funds. s12 Maori Trust Boards Act 1955.
Ngati Whatua O Orakei Maori Trust Board	1978.	Bastion Point and associated land claims.	Descendants of Tuperiri in perpetuity.	s4 of the Orakei Block(Vesting and Use) Act 1978, to hold, conserve and administer land vested in the Board for housing, recreation, church and burial grounds.

Maori Trust Board	Year	Beneficiaries	Enactment
Hauraki Maori Trust Board	1988.	Descendants of Ngati Hako, Ngati Hei, Ngati Maru, Ngati Paua, Patukirikiri, Ngati Porou ki Harataunga ki Mataora, Ngati Pukengaki Waiau, Ngati Rahiri Tumutumu, Ngai Tai, Ngati Tamatera, Ngati Tara Tokanui and Ngati Whanaunga.	Haurakei Maori Trust Board Act 1988.
Maniapoto	1988.	Members of the Maniapoto tribe and their descendants.	Maniapoto Maori Trust Board Act 1988.
Te Runanga O Ngati Awa	1988.	Nga uri o nga hapu o Ngati Awa	Te Runanga O Ngati Awa Act 1988
Te Runanga O Ngati Porou	1987	Nga uri o Ngati Porou mai Potikirua ki Te Toka a Taiau.	Te Runanga O Ngati Porou Act 1987.
Te Runanga O Ngati Whatua	1988	Descendants of Haumoewarangai, a tupuna o Ngati Whatua.	Te Runanga O Ngati Whatua Act 1988
Whanganui River Maori Trust Board	1988. Board to negotiate claims relating to customary rights and usages of te iwi o Whanganui or any particular hapu, whanau or group in respect of the Whanganui River	Descendants of the hapu of Tama Upoko, Hinengakau and Tupoho.	Whanganui River Trust Act 1988.

Table 1 TE ARAWA

Years	Annuity	CPI	Value of $	Real Value of Payment in 1924 prices	Inflation Proofed Payment of $12,000
1924	12,000	100	1.00	12000	12000
1925	12,000	100	1.00	12000	12000
1926	12,000	101	0.98	11823	12179
1927	12,000	100	1.00	12000	12000
1928	12,000	100	1.00	12000	12000
1929	12,000	100	1.00	12000	12000
1930	12,000	098	1.01	12181	11820
1931	12,000	089	1.11	13400	10746
1932	12,000	083	1.19	14357	10029
1933	12,000	079	1.26	15169	9492
1934	12,000	080	1.24	14888	9671
1935	12,000	083	1.19	14357	10029
1936	12,000	086	1.15	13862	10388
1937	12,000	092	1.08	12967	11104
1938	12,000	094	1.06	12761	11283
1939	12,000	098	1.01	12181	11820
1940	12,000	102	0.97	11652	12358
1941	12,000	107	0.93	11166	12895
1942	12,000	110	0.90	10864	13253
1943	12,000	113	0.88	10578	13611
1944	12,000	114	0.87	10441	13791
1945	12,000	116	0.85	10307	13970
1946	12,000	117	0.84	10177	14149
1947	12,000	120	0.82	9925	14507
1948	12,000	131	0.76	9136	15761
1949	12,000	132	0.75	9033	15940
1950	12,000	140	0.71	8553	16835
1951	12,000	156	0.63	7657	18805
1952	12,000	168	0.59	7115	20238
1953	12,000	176	0.56	6813	21134
1954	12,000	183	0.54	6536	22029
1955	12,000	188	0.53	6380	22567
1956	12,000	195	0.51	6137	23462
1957	12,000	200	0.50	6000	24000
1958	12,000	208	0.47	5742	25074
1959	12,000	216	0.46	5544	25970

Years	Annuity	CPI	Value of $	Real Value of Payment in 1924 Prices	Inflation Proofed Payment of $12,000
1960	12,000	217	0.45	5506	26149
1961	12,000	222	0.44	5395	26686
1962	12,000	228	0.43	5254	27402
1963	12,000	232	0.42	5153	27940
1964	12,000	240	0.41	4993	28835
1965	12,000	247	0.40	4843	29731
1966	12,000	255	0.30	4701	30626
1967	12,000	270	0.37	4441	32417
1968	12,000	282	0.35	4253	33850
1969	12,000	295	0.33	4060	35462
1970	12,000	314	0.31	3810	37791
1971	12,000	347	0.28	3450	41731
1972	12,000	373	0.26	3216	44776
1973	12,000	402	0.24	2977	48358
1974	12,000	447	0.22	2680	53731
1975	12,000	513	0.19	2337	61611
1976	12,000	600	0.16	2000	72000
1977	18,000	686	0.14	2621	82388
1978	18,000	768	0.13	2341	92239
1979	18,000	873	0.11	2061	104776
1980	18,000	1023	0.09	1758	122865
1981	18,000	1180	0.08	1524	141671
1982	18,000	1371	0.07	1312	164597
1983	18,000	1473	0.06	1221	176776
1984	18,000	1562	0.06	1151	187522
1985	18,000	1804	0.05	997	216537
1986	18,000	2043	0.04	880	245194
1987	18,000	2364	0.04	761	283701
1988	18,000	2514	0.03	715	301791
1989	18,000	2659	0.03	676	319164
1990	18,000	2819	0.035	638.5	338280
1991	18,000	2893	0.035	622	347160
1992	18,000	2922	0.034	616	350640
1993	18,000	2960	0.034	608	355200

Table 2 TUWHARETOA

Years	Annuity	CPI	Value of $	Real Value of Payment (1927 prices)	Inflation Proofed Payment of $6,000
1927	6,000	100	1.00	6000	6000
1928	6,000	100	1.00	6000	6000
1929	6,000	100	1.00	6000	6000
1930	6,000	098	1.01	6090	5910
1931	6,000	089	1.11	6700	5373
1932	6,000	083	1.19	7178	5014
1933	6,000	079	1.26	7584	4746
1934	6,000	080	1.24	7444	4835
1935	6,000	083	1.19	7178	5014
1936	6,000	086	1.15	6931	5194
1937	6,000	092	1.08	6483	5552
1938	6,000	094	1.06	6380	5641
1939	6,000	098	1.01	6090	5910
1940	6,000	102	0.97	5826	6179
1941	6,000	107	0.93	5583	6447
1942	6,000	110	0.90	5432	6626
1943	6,000	113	0.88	5289	6805
1944	6,000	114	0.87	5220	6895
1945	6,000	116	0.85	5153	6985
1946	6,000	117	0.84	5088	7074
1947	6,000	120	0.82	4962	7253
1948	6,000	131	0.76	4568	7880
1949	6,000	132	0.75	4516	7970
1950	6,000	140	0.71	4276	8417
1951	6,000	156	0.63	3828	9402
1952	6,000	168	0.59	3557	10119
1953	6,000	176	0.56	3406	10567
1954	6,000	183	0.54	3268	11014
1955	6,000	188	0.53	3190	11283
1956	6,000	195	0.51	3068	11731
1957	6,000	200	0.50	3000	12000
1958	6,000	208	0.47	2871	12537
1959	6,000	216	0.46	2772	12985
1960	6,000	217	0.45	2753	13074
1961	6,000	222	0.44	2697	13343

Years	Annuity	CPI	Value of $	Real Value of Payment (1927 prices)	Inflation Proofed Payment of $6,000
1962	6,000	228	0.43	2627	13701
1963	6,000	232	0.42	2576	13970
1964	6,000	240	0.41	2496	14417
1965	6,000	247	0.40	2421	14865
1966	6,000	255	0.39	2350	15313
1967	6,000	270	0.37	2220	16208
1968	6,000	282	0.35	2126	16925
1969	6,000	295	0.33	2030	17731
1970	6,000	314	0.31	1905	18895
1971	6,000	347	0.28	1725	20865
1972	6,000	373	0.26	1608	22388
1973	6,000	402	0.24	1488	24179
1974	6,000	447	0.22	1340	26865
1975	6,000	513	0.19	1168	30805
1976	6,000	600	0.16	1000	36000
1977	9,000	686	0.14	1310	41194
1978	9,000	768	0.13	1170	46119
1979	9,000	873	0.11	1030	52388
1980	9,000	1023	0.09	879	61433
1981	9,000	1180	0.08	762	70835
1982	9,000	1371	0.07	656	82298
1983	9,000	1473	0.06	610	88388
1984	9,000	1562	0.06	575	93761
1985	9,000	1804	0.05	498	108269
1986	9,000	2043	0.04	440	122597
1987	9,000	2364	0.04	380	141851
1988	9,000	2514	0.03	357	150895
1989	9,000	2659	0.03	338	159582
1990	9,000	2819	0.035	319	169140
1991	9,000	2893	0.035	311	173580
1992	9,000	2922	0.034	308	175320
1993	9,000	2960	0.034	304	177600

Table 3 NGAI TAHU

Years	Annuity	CPI	Value of $	Real Value of Payment (1944 prices)	Inflation Proofed Payment of $20,000
1944	20,000	100	1.00	20000	20000
1945	20,000	101	0.98	19743	20259
1946	20,000	102	0.97	19493	20519
1947	20,000	105	0.95	19012	21038
1948	20,000	114	0.87	17500	22857
1949	20,000	115	0.86	17303	23116
1950	20,000	122	0.81	16382	24415
1951	20,000	136	0.73	14666	27272
1952	20,000	146	0.68	13628	29350
1953	20,000	153	0.65	13050	30649
1954	20,000	159	0.62	12520	31948
1955	20,000	163	0.61	12222	32727
1956	20,000	170	0.58	11755	34025
1957	20,000	174	0.57	11492	34805
1958	20,000	181	0.55	11000	36363
1959	20,000	188	0.53	10620	37662
1960	20,000	189	0.52	10547	37922
1961	20,000	193	0.51	10335	38701
1962	20,000	198	0.50	10065	39740
1963	20,000	202	0.49	9871	40519
1964	20,000	209	0.47	9565	41818
1965	20,000	215	0.46	9277	43116
1966	20,000	222	0.45	9005	44415
1967	20,000	235	0.42	8508	47012
1968	20,000	245	0.40	8148	49090
1969	20,000	257	0.38	7777	51428
1970	20,000	274	0.36	7298	54805
1971	20,000	302	0.33	6609	60519
1972	20,000	324	0.30	6160	64935
1973	20,000	350	0.28	5703	70129
1974	20,000	389	0.25	5133	77922
1975	20,000	446	0.22	4476	89350
1976	20,000	522	0.19	3830	104415
1977	20,000	597	0.16	3347	119480
1978	20,000	668	0.14	2990	133766
1979	20,000	759	0.13	2632	151948

Table 3 continued. NGAI TAHU

Years	Annuity	CPI	Value of $	Real Value of Payment (1944 prices)	Inflation Proofed Payment of $20,000
1980	20000	890	0.11	2244	178181
1981	20000	1027	0.09	1946	205454
1982	20000	1193	0.08	1675	238701
1983	20000	1281	0.07	1560	256363
1984	20000	1359	0.07	1470	271948
1985	20000	1570	0.06	1273	314026
1986	20000	1777	0.05	1124	355584
1987	20000	2057	0.04	972	411428
1988	20000	2188	0.04	913	437662
1989	20000	2314	0.04	864	462857
1990	20000	2454	0.04	815	490800
1991	20000	2518	0.04	794	503600
1992	20000	2543	0.039	786	508600
1993	20000	2576	0.039	776	515200

Table 4 **TARANAKI**

Years	Annuity	CPI	Value of $	Real Value of Payment (1944 prices)	Inflation Proofed Payment of $10,000
1944	10,000	100	1.00	10000	10000
1945	10,000	101	0.98	9871	10129
1946	10,000	102	0.97	9746	10259
1947	10,000	105	0.95	9506	10519
1948	10,000	114	0.87	8750	11428
1949	10,000	115	0.86	8651	11558
1950	10,000	122	0.81	8191	12207
1951	10,000	136	0.73	7333	13636
1952	10,000	146	0.68	6814	14675
1953	10,000	153	0.65	6525	15324
1954	10,000	159	0.62	6260	15974
1955	10,000	163	0.61	6111	16363
1956	10,000	170	0.58	5877	17012
1957	10,000	174	0.57	5746	17402
1958	10,000	181	0.55	5500	18181
1959	10,000	188	0.53	5310	18831
1960	10,000	189	0.52	5273	18961
1961	10,000	193	0.51	5167	19350
1962	10,000	198	0.50	5032	19870
1963	10,000	202	0.49	4935	20259
1964	10,000	209	0.47	4782	20909
1965	10,000	215	0.46	4638	21558
1966	10,000	222	0.45	4502	22207
1967	10,000	235	0.42	4254	23506
1968	10,000	245	0.40	4074	24545
1969	10,000	257	0.38	3888	25714
1970	10,000	274	0.36	3649	27402
1971	10,000	302	0.33	3304	30259
1972	10,000	324	0.30	3080	32467
1973	10,000	350	0.28	2851	35064
1974	10,000	389	0.25	2566	38961
1975	10,000	446	0.22	2238	44675
1976	10,000	522	0.19	1915	52207
1977	15,000	597	0.16	2510	59740
1978	15,000	668	0.14	2242	66883
1979	15,000	759	0.13	1974	75974

Years	Annuity	CPI	Value of $	Real Value of Payment (1944 prices)	Inflation Proofed Payment of $10,000
1980	15000	890	0.11	1683	89091
1981	15000	1027	0.09	1460	102727
1982	15000	1193	0.08	1256	119351
1983	15000	1281	0.07	1170	128181
1984	15000	1359	0.07	1103	135974
1985	15000	1570	0.06	955	157013
1986	15000	1777	0.05	843	177792
1987	15000	2057	0.04	729	205714
1988	15000	2188	0.04	685	218831
1989	15000	2314	0.04	648	231428
1990	15000	2454	0.04	611	245400
1991	15000	2518	0.04	596	251800
1992	15000	2543	0.039	590	254300
1993	15000	2576	0.039	582	257600

Table 5 **TAINUI**

Years	Annuity	CPI	Value of $	Real Value of Payment (1947 prices)	Inflation Proofed Payment 0f $10,000
1947	10000	100	1.00	10000	10000
1948	10000	108	0.92	9204	10864
1949	10000	109	0.91	9101	10987
1950	10000	116	0.86	8617	11604
1951	10000	129	0.77	7714	12962
1952	10000	139	0.71	7168	13950
1953	10000	145	0.68	6864	14567
1954	10000	151	0.65	6585	15185
1955	10000	155	0.64	6428	15555
1956	10000	161	0.61	6183	16172
1957	10000	165	0.60	6044	16543
1958	10000	172	0.57	5785	17283
1959	10000	179	0.55	5586	17901
1960	10000	180	0.55	5547	18024
1961	10000	183	0.54	5436	18395
1962	10000	188	0.52	5294	18888
1963	10000	192	0.51	5192	19259
1964	10000	198	0.50	5031	19876
1965	10000	204	0.48	4879	20493
1966	10000	211	0.47	4736	21111
1967	10000	223	0.44	4475	22345
1968	10000	233	0.42	4285	23333
1969	10000	244	0.40	4090	24444
1970	10000	260	0.48	3838	26049
1971	10000	287	0.34	3476	28765
1972	10000	308	0.32	3240	30864
1973	10000	333	0.30	3000	33333
1974	10000	370	0.27	2700	37037
1975	10000	424	0.23	2354	42469
1976	10000	496	0.20	2014	49629
1977	15000	567	0.17	2641	56790
1978	15000	635	0.15	2359	63580
1979	15000	722	0.13	2076	72222
1980	15000	846	0.11	1771	84691
1981	15000	976	0.10	1536	97655

Years	Annuity	CPI	Value of $	Real Value of Payment	Inflation Proofed Payment
1982	15000	1134	0.08	1322	113457
1983	15000	1218	0.08	1231	121851
1984	15000	1292	0.07	1160	129259
1985	15000	1492	0.06	1004	149259
1986	15000	1690	0.05	887	169012
1987	15000	1955	0.05	767	195555
1988	15000	2080	0.04	721	208025
1989	15000	2200	0.04	681	220000
1990	15000	2333	0.04	643	233300
1991	15000	2394	0.04	627	239400
1992	15000	2418	0.04	620	241800
1993	15000	2449	0.04	612	244900

Table 6 TAINUI

Years	Annuity	CPI	Value of $	Real Value of Payment (1947 prices)	Inflation Proofed Payment 0f $2,000
1947	1000	100	1.00	2.000	2000
1948	1000	108	0.92	1840	2172
1949	1000	109	0.91	1820	2196
1950	1000	116	0.86	1722	2320
1951	1000	129	0.77	1542	2592
1952	1000	139	0.71	1432	2790
1953	1000	145	0.68	1372	2912
1954	1000	151	0.65	1316	3036
1955	1000	155	0.64	1284	3110
1956	1000	161	0.61	1236	3234
1957	1000	165	0.60	1208	3308
1958	1000	172	0.57	1156	3456
1959	1000	179	0.55	1116	3580
1960	1000	180	0.55	1108	3604
1961	1000	183	0.54	1086	3678
1962	1000	188	0.52	1058	3776
1963	1000	192	0.51	1038	3850
1964	1000	198	0.50	1006	3974
1965	1000	204	0.48	974	4098
1966	1000	211	0.47	946	4222
1967	1000	223	0.44	894	4468
1968	1000	233	0.42	856	4666
1969	1000	244	0.40	818	4888
1970	1000	260	0.38	766	5208
1971	1000	287	0.34	694	5752
1972	1000	308	0.32	648	6172
1973	1000	333	0.30	600	6666
1974	1000	370	0.27	540	7406
1975	1000	424	0.23	470	8492
1976	1000	496	0.20	402	9924
1977	1000	567	0.17	352	11358
1978	1000	635	0.15	314	12716

Years	Annuity	CPI	Value	Real Value of Payment (1947 prices)	Inflation Proofed Payment of $2000
1979	2000	722	0.13	276	14444
1980	2000	846	0.11	236	16938
1981	2000	976	0.10	204	19530
1982	2000	1134	0.08	176	22690
1983	2000	1218	0.08	164	24370
1984	2000	1292	0.07	154	25850
1985	2000	1492	0.06	132	29850
1986	2000	1690	0.05	118	33802
1987	2000	1955	0.05	102	39110
1988	2000	2080	0.04	96	41604
1989	2000	2200	0.04	90	44000
1990	2000	2333	0.04	86	46660
1991	2000	2394	0.04	84	47880
1992	2000	2418	0.04	83	48360
1993	2000	2449	0.04	82	48980

SUNDAY NEWS — NO. 1 NATIONWIDE

People who were running the schemes were inexperienced. In some cases, they let emotion get in their way, and in some cases — in the extreme, I hope — they were manipulated by people whose primary motive was not to help the unemployed. Some people may argue that Access has worked and there are people who have found jobs thanks to the scheme, but at what price? I remember Winston Peters telling us it cost taxpayers more than $125,000 to find each trainee a job." Today Sunday News details the tragedy of Access.

bright idea haywire...

CASE 7

Fear strikes Otago

TE ROOPU/OTAGO REAC CONTROVERSY

RACIAL tensions between the Te Roopu programme and the Otago REAC committee reared its ugly head last April.

At the height of the controversy, Otago Access chairwoman Pat Harrison resigned following death threats.

Employment Minister Phil Goff was called upon to settle the row, after claims that Access was turning Maori against Maori.

The trouble was believed to have stemmed from the REAC committee's reluctance to give funds to the Mongrel-based group Te Roopu — set up to rehabilitate glue sniffers, drug and alcohol addicts and former mental hospital patients.

The group was told it was not eligible for funds under general Access.

The group claimed it had a mixture of races on the scheme, and so it qualified for general Access.



PHIL GOFF: Asked to settle row.

Peters hits at karate

NELSON KARATE ACCESS SCHEME

THE Nelson scheme came in for scathing attack by Opposition MP Winston Peters in Parliament in June.

Mr Peters said the Government forked out $26,000, plus allowances for 24 trainees to learn karate.

A spokesman for the course refuted the attack, saying the scheme actually helped to enhance the self esteem of trainees.

The spokesman said karate was practised for two hours a day and the scheme also included practical life skills such as budgeting, nutrition and health care.

CASE 8

CASE 6

Skills scheme a 'disaster'

HARBOUR CITY SKILLS EMPLOYMENT TRAINING SCHEME, Wellington.

THIS scheme hit headlines in March when it was revealed to be more than $140,000 in debt.

In what local city councillors described as a disaster area, the scheme's Training Assistance Programmes (TAPS) — used by the Government last year — were more than $54,000 in debt, while the Access programmes were $82,000 in debt.

The massive debt was blamed on a communication breakdown between the Labour Department, council, Treasury and people running the programme.

CASE 9

And there are many others

MISCELLANEOUS

DURING the course of our investigations into Access schemes we uncovered abnormalities in a number of trusts.

Lack of co-operation from Maori Affairs has forced us to pursue these matters under the Official Information Act.

One North Island trust became the subject of numerous allegations concerning the whereabouts of close to $400,000.

There have been other instances — $8000 allegedly missing from a scheme in Auckland and $10,000 from a programme in Northland.

Until the authorities confirm our evidence it would be improper to detail it here.

CASE 4

Talked to Wetere



KORO WETERE: Office didn't act.

MANA/RANGITIKEI MAORI ACCESS CONCERNS first arose over the Manawatu-Rangitikei Maori Access scheme when a number of committee members voiced concerns that hundreds of thousands of dollars in funds were distributed without their knowledge.

Seven of the 11 member board claimed they were appointed without even being told, and they were concerned their names were used to justify spending close to $600,000.

Worried, the group travelled at personal expense to the Beehive on October 13, last year, to voice their disapproval with Maori Affairs Minister Koro Wetere.

But Mr Wetere's office hadn't acted four months later and by early April the allegations had grown — with MP Winston Peters claiming up to $2 million was spent without proper authority.

An Audit office report later concluded there was a serious breakdown in the financial and management reporting functions of the local office.

CASE 3

Pub often beckoned

TAIA MAHI TRUST, Christchurch

TRAINEES on the small Christchurch trust were more inclined to go to the pub once they received their pay than stay in tutorials!

This claim was made in a report by senior Canterbury REAC council tutor Janice Savage.

The report said the situation was compounded by under-age drinking and drug taking.

It also stated that many of the 24 trainees were addicted to glue sniffing and drugs.

Some were illiterate and had numeracy problems.

NZ's BIGGEST SUNDAY PAPER

CASE 2

Awatere in the gun

MANGAROA MARAE COMMITTEE, Hawkes Bay

EARLIER this year the Audit Office launched an investigation into three Mangaroa training schemes after allegations concerning the misuse of Access funds.

It was alleged Access trainees supposedly on welding and brick-making courses were actually picking strawberries and pulling weeds on the Hastings farm of Maori artiyist Donna Awatere.

Allegations also arose during the investigation, concerning threats and intimidation against commercial companies, journalists and others.

Three modules had been running on the Hastings farm owned by Awatere and her husband Wi Huata — two were Maori Access programmes for fitting and welding, the third was a REAC-run (Regional Employment Access Council) course in horticulture.

The investigation was launched after a woman claimed she was picking fruit on the farm, although she was being paid as a welder.

Police then investigated claims that two men were scared off trying to break into her home — the night before her son was alleged to have received a death threat over the phone.

Controversy also plagued the scheme this year, with allegations of racism and Maori bashing.



DONNA Awatere: Her farm fingered..

ACCESS is not working. The Government introduced it last year with a blaze of publicity and a million-dollar media budget — but the project has been dogged by financial and personal conflict. There are those who've endeavoured to make it work — but those who've tried to use it to further their own ends. There've been those who have sung its praises. And those who've aimed to shoot it down. A Maori Affairs officer gave us a telling summary of the Access controversy: "Access, especially Maori Access, went wrong in one important area.

TODAY: A that's gone

CASE 1

Kaeo hits headlines

MATANGIRAU MARAE COMMITTEE, Northland

THE Kaeo-based Access scheme has hit national headlines in the past month following Sunday News revelations it went bust owing more than $150,000.

Two of its tutors, one of whom is alleged to have received a $10,000 personal loan from Access funds, have since been tracked to Paparoa, where they are set to receive another $250,000 from the Government to set up a similar scheme.

The marae committee, complete with an $80,000 handout from the Government, set up two bone carving and greenstone modules in Kaeo. When the schemes folded they had also managed to run up a further $70,000 in debts.

The tutors left the area, and their whereabouts were unknown until last week, when Sunday News tracked them down to Paparoa, where they are staying as guests of the Otamatea Trust.

The Audit Office has confirmed it is aware of the trouble with the Northland scheme but it has declined a specific investigation into the troubled marae, preferring to wait for the overall report to Parliament next year.

Marae swoop...

FROM P1

The axe finally fell in June when the Gisborne Access Committee pulled the plug on the marae's five training programmes, sending all 40 trainees onto the street.

In July, Maori Affairs ordered the local Access committee to resume funding to the marae.

In a letter obtained by Sunday News, Maori Affairs demanded:

- THAT all modules be reinstated and payments resumed from the date they were terminated.
- THAT where trainees have not received the unemployment benefit during the interim, that they be backpaid accordingly.
- THAT trainees be back-paid to date of termination.

Gisborne Maori Affairs training liaison officer Charlie Pere told Sunday News that an audit was being done on the marae's affairs.

The results of the audit were not yet known, but he believed it would find that some funds were "not spent in the areas they had budgeted for".

Mr Pere said the trainees had returned to the unemployment benefit, and two buildings built with Access funds had been empty since June.

CASE 5

Mana gets a going over

MANA ENTERPRISES SCHEME

THE trouble with the Mana Enterprises programme was highlighted in evidence presented to a special Maori Affairs select committee late last year.

The committee was told of numerous Mana schemes which were either in debt, folded, or seemingly the subject of abuse.

At the time of the meeting, three schemes were facing legal action to recover debts, one had collapsed, and four were in arrears with loan repayments.

The committee was told of other problems, such as a $180,000 handout given to fund a scheme even though there had been no previous mention of how many new jobs it would create.

- MORE than $160,000 had been given to a horticultural project — but it creates only one full-time and one part-time job.
- MORE than $45,000 was handed to a company to build a mobile sawmill even though it only created one part-time job.
- ANOTHER company, this time a hairdressing salon, received an unspecified grant to subsidise three new full-time positions — but the three positions were filled by existing staff members.

In another case, a fisherman applied received $25,000 for a fishing boat, creating two full-time and two part-time jobs. The man's own boat had sunk, uninsured.

Tribes told to meet financial deadlines

Dominion Sunday Times 14 Feb 1988

MAORI AFFAIRS secretary Tamati Reedy has told Maori tribal authorities to practise astute financial management, and to get their annual accounts in on time next week.

In a letter to tribal authorities, Dr Reedy says the Department of Maori Affairs and the authorities are increasingly in the public eye, and that they must meet the February 26 deadline for submission of their financial statements and budgets.

The letter from Dr Reedy follows disclosure last year that many trust boards had failed to furnish accounts for several years.

Faults in the department's accountability procedures were also highlighted late last year by National MPs at Maori Affairs select committee meetings.

Dr Reedy has already issued a circular to the department's management, ordering controls on the staff's spending and on communication with other government departments, the Treasury, the news media and the State Services Commission.

His letter to tribal authorities, dated January 13, says he has "recently been made aware of some lapses in the administration of trust boards".

Dr Reedy says the Audit Office recently reviewed the state of the audited financial statements of trust boards.

The office had reported that four boards were up to date with their accounts, eight boards were between one and four years overdue, and one board was six years

The letter says the failure to send the Government audited financial statements and budgets for the year ahead is a "serious lapse under the requirements of the Trust Boards Act 1955".

The issue of accountability also applies to all the interim tribal authorities, Dr Reedy says.

"I am aware that the workload that now faces you to achieve these tasks is considerable, but if work is commenced at once, it is achievable."

The department's district directors had been instructed to closely monitor the situation, and to report progress on the preparation of the 1988-89 tribal authority budgets. Discussions were also under way for the Audit Office to provide help.

"The thrust towards independent Maori development has meant that both the department and tribal authorities are increasingly in the public eye."

"It is essential, therefore, that each tribal authority practises astute financial management and achieves the deadline of February 26, 1988, for submission to the department of its audited 1986-87 financial statements and its 1988-89 budget, in order to maintain accountability to government for its use of public funds."

Chiefs in Marae Swoop?

000 Government-funded train-
ramme has been shut down in
pending an audit probe into
d misapproriation of funds.
News can today reveal today

20 Nov '88 - Sunday News

Peter Richardson reports . . .



in 40 trainees were sent back
and as much as $500,000
cess and TAP (Training As-
gramme) programmes sus-
team of auditors investigate
l affairs of the Te Kuri a
e in Gisborne.
l Maori Affairs training offi-
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EE workers attached to a
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were earning up to $500 a

IOR tutor was sacked from
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● THE auditors are also looking into the outcome, and targeting some courses and the apparent lack of trainees on some modules.

Trouble first began at Gisborne's Te Kuri a Tuatai marae late last year when a senior tutor was fired and a $60,000 forestry Access module shut down over a dual contracting affair.

Claiming unfair dismissal, the tutor took the marae to the Arbitration Court — where he was vindicated and awarded $8500 in damages.

Sunday News has seen a copy of the arbitrator's report, which says trainees on the forestry Access module were also being paid for their work by a forestry company.

The report concluded: "There were many aspects of the hearing (into the marae's affairs) that were disturbing, but in the final analysis cannot be addressed because they fall outside the arbitrator's

Maori board employee on theft charge

A FORMER employee of Rotorua's Te Arawa Trust Board has been charged with theft as a servant.

The arrested man will appear in court on Tuesday.

Rotorua fraud squad chief, Detective Sergeant Bill Scott, said the amount allegedly involved is over $60,000. But emphasised the claimed offence did not involve Board funds, rather it related to a complaint from a man who'd been the recipient of Mana Enterprise money.

Mr Scott said claims raised in the recent auditors' report of the Board's affairs that $30,000 had been misappropriated from the Board, were still being investigated. "Then we have the wider issue of claims that investors' monies involving many $100's of $1000's has been embezzled," he said. "This relates to the running of various approved schemes."

According to the detective sergeant, the board had invited its people to invest through it on the short-term money market. "It's suspected some of these funds weren't used for the purpose they were given for," he confirmed.

Sunday News 10 Jan 88

2 The Dominion Sunday Times, February 14, 1988

POLITICS

Maoris likely to lose devolution

By VERN RICE

THE Government is unlikely to add any more resources and programmes to those given directly to Maori authorities to administer, says a former national coordinator of the Mana Enterprises scheme.

Mr Ross Himona, who was the project team leader of Mana Enterprises till a disagreement with Maori Affairs Secretary Tamati Reedy last year, believes the Government has other plans for devolution.

In a newsletter he has circulated to Maori authorities, Mr Himona says the Government is more likely to form special regional boards to handle devolution, rather than give the money and responsibility directly to Maori authorities to administer.

He says the excuse will be hat Maori authorities cannot ompetently manage governent programmes.

But he believes the Governt should be giving the author- reasonable resources to their management and adration skills so they can apably handle devolution.

Mr Himona, a former major in the New Zealand Army who now works as a management consultant, worked for Mana Enterprises till last May.

As head of Mana's project team, he was responsible for providing support and monitoring progress nationally of the enterprise creation scheme.

The scheme is administered by Maori tribal, urban and regional authorities.

Mr Himona's job with Mana ended when he and Dr Reedy were unable to negotiate a contract for continued employment which suited both parties.

Mr Himona said yesterday he had maintained an interest in Mana Enterprises and the whole issue of devolving government resources and programmes to Maori authorities.

He said adequate sums should be spent on management and administration of Maori schemes to give Maori people working in authorities the skills to handle devolution.

"I can look to the Labour Department, which has a huge percentage of any programme committed to administration and management," he said.

"I can look to Maori programmes which are grossly under-resourced for administration and management.

"What I'm saying is that I acknowledge there are difficulties in the management structure. Those difficulties have never been addressed."

To date, Maori authorities knew very little about how the devolution process was going to take place, he said.

"Those groups believe they're going to be devolved (by the Government).

"I simply believe that they should be consulted. Their expectations are high, and I'd hate for them to be dashed."

Mr Himona said he published his newsletter because there was a lot of information which needed to be passed on to the network of Maori authorities.

The Maori Affairs Department has now taken over responsibility for devolution, he says in the newsletter.

"Judging from the way the department has been acting toward some tribal authorities, my guess is that the department intends to devolve only as far as its district offices.

"At least two district directors are acting as though they own Mana and Access already.

"On the other hand, a very influential member of the Board of Maori Affairs is pushing for the tribal and regional authorities to be pushed aside and Mana and Access handed over to development boards similar to the land advisory boards.

"He has recommended that this happen for the 1988-89 financial year.

"I suspect the Cabinet has an entirely different plan.

"My bet would be that the Government would prefer to deal with no more than a dozen regional boards with appointed board members, and would exercise tight control."

Trust board misused $1.4m, say auditors

Dom 16/8/94, 2

INVERCARGILL

THE Ngai Tahu Trust Board has misused $1.4 million in trust board funds, the board's auditors say in a mid-year report to beneficiaries.

Auditors Deloitte Touche Tohmatsu said the use of the money for purposes other than those designated in the Ngai Tahu trust deed was a breach of section 24(c) of the Maori Trust Board Act 1955.

However, trust board chief executive Sid Ashton said the decision to use the funds for purposes other than prescribed in the trust deed was sanctioned by tribal elders.

Mr Ashton said the board knew it had failed to comply with the Maori Trust Board Act 1955 when it used money set aside mainly for education to present its claim before the Waitangi Tribunal.

An Audit Office spokesman said Maori Affairs Minister John Luxton had been advised about the breach on several occasions. The spokesman said his office had also been assured by the trust board the money would eventually be paid back.

In a letter to the *Southland Times*, Mr Ashton said the accounts were "clean" except for the use of the $1.4 million.

He said the use of such funds breached the trust deed but the funds were used for a specific purpose and with the full agreement of Ngai Tahu.

The decision to use the education money for costs associated with the claim were made by members of the tribe and elders at a meeting four years ago. "In due course the advance from the charitable trust will be repaid by the board."

Trust board chairman Sir Tipene O'Regan said some board members had mortgaged their houses and fishing boats to present the claims to the Waitangi Tribunal and for negotiations with the Crown.

It is estimated that lodging the claim with the tribunal and the present negotiations with the Crown have cost Ngai Tahu between $3 million and $4 million. — NZPA

The white tribe p6

Misuse of Ngai Tahu trust fund denied

Dom 17/8/94, 2

INVERCARGILL

NGAI TAHU trust board chairman Sir Tipene O'Regan denies $1.4 million of trust funds were misused.

The board's auditors were reported on Monday as saying in the recent midyear report that the use of the money for purposes other than those designated in a Ngai Tahu trust deed was a breach of the Maori Trust Board Act.

Sir Tipene said last night that Ngai Tahu trust board accounts had been tagged routinely by the Audit Office each year since 1988 for borrowing $1.4 million from an internal trust to help finance the tribe's claims before the Waitangi Tribunal.

He denied the tribe had misused the funds.

"The board's auditors have never said any such thing. They have simply pointed out each year since 1988 that the board has failed to comply with the relevant section [of] the Maori Trust Board Act.

"To suggest that this sequence of events amounts to misuse of trust board funds is totally misleading and wrong.

"Ngai Tahu has used its own money for its own purposes and its way of doing so has been publicly and openly acknowledged for seven years."

Various Maori Affairs ministers had noted the tag, he said. — NZPA

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