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Discovering Differences: Maaori-White Relationships in New Zealand

ROBERT TE KOTAHI MAHUTA

No te tau 1863 i hanga ai te Ture Whakanohonoho o Niu Tireni; aa, naa raro i taua Ture me ona whakatikatikanga i raupatutia ai nga whenua o Waikato. Ko nga eka i raupatuia ai i te tuatahi 1,202,172 eka. O roto ienei eka e 314,364 nga eka i whakahokia mai ano ki nga Maaori, ka mahue atu ai nga eka ki te raupatu e 887,808. Engari no te tau 1922 ka whakahokia mai kia uiuia e te Kooti Whenua Maaori nga eka 13,947 mo nga iwi kore whenua o Waikato.¹

INTRODUCTION

In this paper, I will focus on the Tainui people's historic and contemporary efforts to seek redress for the confiscation of their lands in the mid 1860s. The Tainui are my people, and over the past two-and-one-half decades, I have been intimately involved with their case. Thus this discussion is both a personal account of my role as a fifth-generation advocate and a case study in race relations which, as we have come to learn, are primarily concerned with the politics of economics, justified by biological racism. As

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Richard Mulgan has observed in his recent study, "Maaori, Paakeha and Democracy,"

Race relations, for so long on the periphery of national consciousness, at least for the Paakeha majority, are suddenly centre stage, the subject of increasing argument and anger. The issue threatens to polarize the country as the Maaori seek to recover their lost power and land, and as the Paakeha become increasingly intolerant of what they see as unrealistic and impertinent demands. Voices of reason and moderation become harder to hear amid the rising clamour of intolerance and prejudice.²

The Tainui's grievance has existed for 126 years and, like other tribal claims in New Zealand, has had a long and checkered history. Much of it can be attributed to the avoidance by successive governments of treaty obligations and responsibilities and—what amounts to the same thing—of *Paakeha* assumption of control over resources and their belief in their own moral supremacy. It is a familiar colonial pattern which, although tempered in New Zealand history by humanitarian strokes, differs from apartheid only in subtlety. I propose to outline the history of the Tainui's grievance, highlight key events and personalities, and conclude with an update.

As the Maaori text I cited at the start indicates, the lands confiscated under the 1863 NZ Settlements Act comprised one-and-one-quarter million acres of the most fertile and productive lands in New Zealand. Although some lands were later returned (314,364 acres), there has been a continuing dispute over their allocation, because these lands were not returned to the original owners but to those "loyalist natives" (*kuupapap*) who fought with the British.

The nineteenth-century confiscations (*raupatu*) destroyed the Tainui's economic base, technological advancement, and burgeoning role in the settler market. Except in the studies of a few modern scholars, the crippling effect of *raupatu* upon the psyche and well-being of the Tainui has never been fully appreciated by politicians or the general public. Judging from the attitudes of both to treaty issues and the recent court of appeal decision, the Tainui's search for redress could continue to be thwarted.

WHO ARE THE TAINUI?

The Tainui represent the largest tribal confederation in New Zealand and constitute nearly one-third of the total Maaori population. The confederation is composed of the major tribal kin groups of Waikato, Maniapoto, Raukawa, and Hauraki, located on the North Island. These groupings all claim descent from the voyagers of the Tainui canoe, one of several that brought Polynesian colonizers to the country. Today, their descendants live within the boundaries demarcated by Auckland in the north and the Coromandel Peninsula, continuing along the western foothills of the Kaimais to Taumarunui and then in a line running from there to Mookau on the west coast of the North Island and northwards along that coastline to the Manukau harbor.

TRIBAL PERCEPTIONS

Although our old people have been aware that land was lost through war, they have not always been aware of the further losses they incurred through legislative and other questionable means. The subtleties, for example, between *legality* and *legitimacy* or the contrived authorization of such acts by "statutorily authorized land confiscations" have not been part of their consciousness.³ Perhaps this is why *raupatu* has persisted and propelled them to continue in their search for justice, according to the codes laid down by a system that our *tuupuna* (ancestors) believed incorporated the treaty.

For our *tuupuna*, the Treaty of Waitangi was a partnership willingly entered into with the immigrant minority. Our people in the Waikato were in control of their resources and saw advantage in establishing ongoing relations with the *Paakeha*. Within twenty-five years of the signing of the treaty, which professed to protect their lands, forests, fisheries, and other tribal *taaonoga* to their full, exclusive, and undisturbed possession, the Waikato became a dispossessed people, paupers in their own lands.

THE SEARCH FOR VALIDATION

The Tainui maintain that their view of colonial history and its effect on them has never been taken into account. Consequently,

a major thrust of their claim is a search for balance in the official record and for validation of their point of view. The people's own history is important for other reasons, including the need to explain to our young people the reasons for our historic and present stance towards political, economic, and social issues. As Sir Apirana Ngata once explained to Parliament when referring to confiscations, "The Waikato people have always been good farmers, *working on other people's land*" (my emphasis). Ngata's reports to Parliament during his time as native minister provide some critical insights into how government policy might have been formulated more effectively. They provide also a useful commentary on tribal attitudes at the time:

[I]n the aftermath of the Waikato War and [r]esulting confiscation of Waikato lands successive Governments have found a real barrier to that goodwill and friendly co-operation without which no progress can be made, whether it be in education or hygiene or the cultivation of lands or other adjustment to the economic and social system of today. No earnest student of native affairs in any part of the Dominion can overlook this historical factor and implications both material and psychological that flow from it. There is still bitterness and resentment; there is suspicion and distrust; there is an attitude of contemptuous skepticism toward law and government, which though not broken in the letter are avoided as things that formerly were associated with force and oppression.⁴

In 1983, a needs survey conducted among the Tainui people showed that the attitudes referred to by Ngata had not changed significantly:

For the Tainui the major loss was the confiscation of their lands following the Land Wars. This loss of land, land which is now some of the most economically productive in New Zealand, has led to an almost landless proletariat which still broods over the manner of their dispossession. The elders in particular give essence to this brooding when they argue that the Treaty of Waitangi, drawn up prior to the Land Wars, should be interpreted according to their rights and should be honoured with a restoration of their lands.⁵

THE SEARCH FOR JUSTICE

The search for justice began when the *ariki* (paramount chief) of the Tainui, Te Wherowhero, was asked to become the first Maaori king. The aim was to find someone to unite the people, stop the bloodshed, and prevent the land from being lost. Until then, relationships between Te Wherewhero and the governor, Sir George Grey, were amicable. Indeed, Grey had made a point of cultivating relationships with powerful chiefs like Te Wherewhero for his own ambitions and for settler ends. For example, Grey sought Te Wherewhero's help to defend the fledgling capital of Auckland against invasion by the northern tribes. It was Te Whereowhero's warning,

Kia tuupato ki te remu o taku kahu
Beware of the borders of my cloak,

that constrained Hone Heke and other northern chiefs from attempting to sack the early settlement.

Later, concerned at the mounting tension between settlers and Maaori, Te Wherowhero sent a letter to Queen Victoria:

*E Whaete Kuini Whakarongo
mai ki a maatou koorero ki
ngaa koorero a ngaa rangatira
o Waikato. Maa te Atua e mea
kia uu taau pupuru i taa
maatou kup, me maatou hoki
taau kupu moo ake tonu atu.*

*E Whae, whakarongo, teenei
ngaa koorero kei te haere i
konei teeraa oo Minita kei te
koorero ka tangohia noa tia
atu te whenua oo te Maaori
moo te kore take, ko eenei
koorero hei whaka pouri i oo
maatou ngaakau. Engari
kaaore maatou e whakapono
ana ki eenei koorero no te mea
i rongo maatou ki te Kaawana
tuatahi ko te tuku i oo maatou
whenua kei a maatou anoo te
ritenga. Ma te Kaawana*

O Madam the Queen
hearken to our words, the
words of all the chiefs of
Waikato. May God grant
that you may hold fast our
word and we your word
forever.

Madam, listen; news is
going about here that your
ministers are taking away
the land of the Native with-
out cause, which makes
our heart dark. But we do
not believe this news, be-
cause we heard from the
first Governor that the dis-
posal of the land was with
ourselves. And from the
second Governor we heard
the same words, as from
this Governor.

*tuarua peeraa anoo ngaa
koorero i rongo ai maatou, a
mo taa teenei Kaawana hoki.*

*Raatou katoa rite tonu te
koorero. No reira maatou a
tuhi atu ki a koe kia aroha koe
ki a maatou ki ouu hoa e aroha
atu nei ki aa koe. Tuhia mai
ouu whakaaro ki aa maatou
kia mau ai te rongo ki Ngaa
Maaori oo teenei Motu.⁶*

Her Royal Majesty did not respond. Tensions increased between *Paakeha* and Maaori with the growing resistance of the King Movement to land alienation in the Waikato. The following extract from the King Movement newspaper portrays the deepening suspicion of the treaty as a charter for race relations:

*Kote kawenata o Waitangi
taaku e whakahee tuuturu
ana nootemea kua moohio
anoo taatou katoa he ran-
gatira tokomaha o Niu
tiireni.*

*E kore epai kia riro nga
rangatira tokomaha i te
whakaaetanga o te ran-
gatira kotahi.*

*Ko te tuarua teenei a aku
reta whakahee mo teena.
Te kupu raa ko 'te ka-
wenata o te maataapoo-
tanga' i kiia ai e au ko te
kuuwre ana ngaa taan-
gata.*

*i toona takiwaa, kaaore he
whakaaro tangata epeeneiana
me te kurii e whakaaria atu
nei ki te kai pai, he kitenga
mai rere tonu mai ki te kai. Ka*

They have all said the same. Therefore we write to you that you may be kind to us, to your friends who love you. Write your thoughts to us that peace may prevail among the Natives of these islands.

It is the covenant of Waitangi I expressly object to, because we already knew of the many chiefs (of the tribes) throughout New Zealand.

It was not right that the authority of these chiefs should be decided by just one (or a few).

This is the second letter objecting to that issue. That is why I used the phrase "the covenant of the blind" to say again that it (the treaty) is a blind covenant.

Because the people from that district were ignorant and disregarded the other tribes, they were like dogs being

*hua he tino pai tana kai.
 No tana kainga ka mau i toona
 kakii kaatahi ka moohio,e,he
 mate teenei.
 Ka tae atu toona Ariki ka kitea,
 he wheua kitea, he wheua e
 mau ana i toona kaki. Kaatahi
 ka tangohia ka riro.
 Naa ka hoki mai te waiaora ki a
 ia. Naa e rite ana teena ki te
 kawenata o Waitangi.
 Peena ki o koutou whakaaro
 ko ia ko te kuurii i hee. Kaao
 ko te tangata anoo i hee, ko te
 mea whaimahara, ka huri
 teenei.⁷*

tempted with succulent food and thus scam thought the food would taste good. When they ate it stuck in the gullet and they realised something was wrong. When their leaders came upon them, they realised there were bones stuck in their gullets. Thus the bones were removed. Only then did they begin to revive. Now that analogy is similar to the Waitangi past. Now then as far as you may be concerned dog was wrong. But it wasn't so the people were wrong, those who sought their own benefit. This is enough.

THE SEARCH FOR REDRESS

Later attempts to seek redress saw Te Wherowhero's son and successor Taawhiao lead a deputation to England in 1884. His aim was to present a petition to Queen Victoria asking for confirmation of Crown guarantees under the treaty. The general response of the Crown to this and later deputations was,

*Ko te rongoa mo o koutou mate kei a koutou anoo. Hoki atu ki too
 koutou Kawanatanga kei a raatou te mana whakahaere o Aotearoa.
 Kei a raatou kee, te rongoa.*

The solution to your grievances lies within yourselves. Go back to your government. They now have the authority for Aotearoa. They have the solution.⁸

In 1913, Taawhiao's grandson Te Rata led another deputation to England to appeal to the Crown to rectify breaches of the treaty. Despite these deputations and petitions to the colonial government and the Privy Council, the Tainui's grievances remained unsettled. The Maaori search for justice was not to be found in England nor in New Zealand, as Taawhiao's successor Mahuta discovered.

Mahuta agreed to become a member of the Legislative Council in 1903, in the hope that the confiscation issue might finally be addressed. But he was to be disappointed. His son Tumate continued in the cause, but it was not until Te Puea's time that some recognition was accorded the Waikato's claim, with the establishment of the Tainui Maaori Trust Board for the purpose of administering "compensation" monies. Contrary to the Crown's belief, this has never been seen by the Tainui as full and final settlement of the claim. As they have constantly reiterated, "How can anyone pay in money for the loss of land and the spilling of the blood of our ancestors?" Hence the constant exhortation to the generations, "*I riro whenua atu, me hoki whenua mai*" ("As land was taken, so land must be returned").

TRIBAL ORGANIZATION AND BICULTURALISM

Since my appointment to the Tainui Trust Board in 1970, I have attempted to direct the board towards finding ways and means for improving the lot of our people. The major emphasis is on community development and establishment of a stronger tribal economic base. Despite efforts to cooperate with local and central government organizations, we have come to the realization that, without appropriate education and training and an adequate capital base, we will not progress as quickly as we would like. The situation has not been helped by bureaucratic constraints on what the board can do. For example, the board cannot expend more than \$200 NZ without ministerial approval. If the Tainui are to advance and become a positive force in the development of the nation, they must be able to marshal all their resources and assets for the benefit of the people.

Unfortunately, the resource and asset base of the tribe was seized by the Crown through *raupatu* and its benefits dispersed to the wider community in the "national interest." There is no doubt that, had these resources remained in tribal hands, the Tainui would not be in their present underdeveloped state.

The corporatization process, initiated by the second Labour government in 1984, and its impact on the *raupatu* claim will further weaken the Tainui's position if steps are not taken to protect their rights. The proposed sale of Coal Corporation is not just about the sale of Crown shares, assets, and mining rights but goes right to the heart of *raupatu*. If confiscation had not occurred

and all of the land had remained in tribal ownership until the present day, resource development would require a cooperative rather than a confrontational approach between Maaori and *Paakeha*. Apart from coal, other valuable mineral resources like ironsands lie within Tainui territory.

An example of bicultural cooperation is provided in the Taharoa ironsands case, wherein NZ Steel Mining Company and the tribal incorporation came to a modus operandi acceptable to both parties. The major reason for this arrangement was that the local people had managed to retain control of the ironsand resource at the time it was needed. As a tribal commercial enterprise, its commercial management and operational functions are the equal of any of the major companies in New Zealand.

A further example is the Tapuwaehounuku Farm Trust, which receives mining royalties from Glen Afton Collieries for coal that is being mined on its property. Again, the Maaori trustees and the *Paakeha* developers have come to an agreement that satisfies their mutual needs.

WHO IS THE CROWN?

The belief that the Crown and the government were synonymous was the underpinning of the several depositions our ancestors made to England. The response they received clearly placed the responsibility of settlement with the colonial government. Mahuta's time in Parliament saw the buck being passed from government to Crown. Little wonder, therefore, that our people were, and continue to be, confused over whom they are to deal with and who should be accountable for *raupatu* and the breaches of the treaty it entailed.

Crown involvement in decisions surrounding the treaty today is unclear. Our *kaumaatua* (elders) now maintain that there should be some clarification of the use of the term *Crown*, which, at the time of the signing of the treaty, Maaori tribes understood to represent the monarch herself. In other words, Maaori people believed that the treaty had been between themselves and the person—not some disembodied entity or abstraction, as is currently conveyed. The Crown (Victoria and her descendants) has been powerless in ensuring that its elected representatives abide by the understandings entered into. It is somewhat ironic, in contemporary New Zealand, that the Crown's representative, the

governor general, is a Maaori who belongs to Taranaki and that the responsible minister advising him on Maaori matters belongs to the Tainui. Both Taranaki and Tainui are major victims of nineteenth-century confiscation policies.

Whatever the statutory position, the Crown is a slippery entity in New Zealand, more abstract than real. The New Zealand queen (Elizabeth II) is the head, represented by the governor general, who sits in executive council to govern. The state, cabinet, and ministers reflect the administration that constitutes the arm of the Crown. The judiciary, who swear allegiance to the Crown and not the state, represent a by no means disembodied soul or conscience. But they also interpret statutes and thus are a seeing eye of the body corporate. The Crown pretends that its treaty partner is divided and difficult to understand and deal with. I can assure you that my people find the Crown/government no easy partner to identify, except in that simple primary sense of the sovereign herself. As one early Maaori parliamentarian stated, "The policies of Government are like an eel. They twist and turn and leave you covered with slime."⁹

GOVERNMENT POLICIES

In 1987, the Tainui Trust Board received letters of undertaking from the government which, since then, the government has sought to circumvent. There have been several abortive attempts at direct negotiation. A claim has been filed with the Waitangi Tribunal. To date, all of these efforts have been nonproductive. As a consequence, our people, distrustful of government actions, are now asking, "Is history repeating itself? Are we witnessing a replay of the nineteenth-century drama albeit with different players? Is this *raupatu* number 2?"

Since March 1987, the tribe has attempted to seek protection for its position as outlined in the letters of undertaking. It has been some two years since we first obtained these undertakings to enter into consultation and negotiation. We have been patient and cooperative and only decided to go to court when the sale of Coalcorp threatened the rights embodied in our Waitangi Tribunal claim.

The Tainui remain ready and willing to enter into negotiations with the Crown on all issues. We have looked at models of issue resolution in other parts of the world and are committed to using similar channels of conflict resolution. The response has always been the same—negative.

The wider opportunities for such cooperation can be gauged from what is currently happening with NZ Steel. The company is in the process of being purchased by overseas interests. A condition of the purchase is an assured supply of raw materials to run the mill. The ironsands required come from North Head, part of which is under claim by a section of the Tainui, Ngaati Te Ata. The ironsands at Taharoa mentioned earlier are just beginning to be exported to China, which eventually could well match the Japanese as the major buyers. The coal required for the steel mill is supplied by the Waikato coalfields (all of which is subject to claim under *raupatu*). With a little imagination, a cooperative solution could be worked out following models already operational in other parts of the world. But the government to date continues to avoid the issue.

THE SALE OF COAL CORPORATION

The Tainui Trust Board currently is preparing a proposal to the government in respect to the sale of Coal Corporation. The proposal is for a partnership in the industry and in the incomes and livelihood derived from it. In essence, the proposals simply ask that a policy be developed, in consultation with the Tainui, to ensure their active participation in the industry and its management.

CURRENT ATTEMPTS AT NEGOTIATION

For the Tainui, the way forward must involve the settlement of their claim as well as government support of Tainui plans for determining their own destiny. This section outlines the methods whereby the confiscation grievance might be addressed, including the types of outcome that our tribal authority wishes to achieve through direct negotiations with government, in the spirit of the partnership established by the Treaty of Waitangi.

The first thing that must happen is that the two parties must agree to sit down and talk seriously. They must have an agreed agenda, timeframe, and budget for the negotiations. In order for progress to be made, both parties must be committed to seeking resolution. Of course, there will be criticism of any eventual agreement; hence, such an agreement should not be viewed as "full and final" but rather as another step in the search for redress.

The present attempts by the Tainui Maaori Trust Board to seek redress for the 1860s confiscations follow a long tradition. Apart from deputations abroad, there have been several petitions and commissions of inquiry into *raupatu*, the most significant being the Sim Commission report (1928), the Bentinck-Stokes Commission report (1984), and the Waitangi Tribunal report on the Manukau (1985). As the Manukau report states,

It seems fair to conclude that the significant thing about Grey's invasion of the Waikato was not that it was "defensive aggression" or punitive expedition . . . but that it was the result of Grey's decision to enforce his will on the disaffected Maori since they would not bow to his prestige.¹⁰

Recent research (Dalton 1967; Ward 1973; Belich 1981; Sorrenson 1981; Orange 1984) confirms this view, adding "that the Tainui people of the Waikato never rebelled but were attacked by British troops in direct violation of Article II of the Treaty of Waitangi."¹¹ The Manukau report goes on to state that Waikato were punished by confiscation of their lands for a rebellion that never took place. As Sir Apirana Ngata observed much earlier,

Tribally this was the ancestral territory of the descendants of the crew of the Tainui canoe which formed the most numerous and most powerful confederation of tribes in the country. The history of the trouble and war in the Waikato which led to the confiscation of a great part of the tribal lands is one of the dark pages in the record of New Zealand.¹²

PROPOSALS FOR DIRECT NEGOTIATIONS

The tribe has adopted a three-pronged, integrated approach to relief. Under article 2 of the treaty, it seeks

the return of Crown lands to replace those areas that were confiscated;

compensation monies as payment for the wrongs committed by the Crown[;]

and, under article 3,

alternative relief in lieu of land

THE LAND ISSUE

In general, the lands remaining to many tribal authorities do not provide an adequate basis for development. The return of a substantial portion of existing Crown lands to tribal ownership is required. This could

provide tribal authorities with a physical resource base for development;

provide a substantive *Paakeha* response to Maaori grievances over the Treaty of Waitangi and its aftermath.

In addition, a ceremony for the formal handing over of Crown lands could have provided a key focus for the 150th anniversary of the treaty in 1990. To date, these actions have not transpired, except in a very limited way.

In selling off Crown property surplus to meet present requirements and in transferring assets to state corporations, the Crown already has shown a willingness to part with assets. In the former case, the Crown has adopted a policy of offering first refusal to previous owners. This means that the *tangata whenua* (original owners) would qualify, under their article 2 treaty rights, to be brought into that process and to have land transferred to them.

According to the 1986 statistics of the Valuation Department, some 117,488 acres within *raupatu* boundaries remain in Crown ownership. In presenting his evidence to the appeal court, the valuer general stated that there were approximately 65,027 hectares of Crown land in the Tainui claim area. The land value of these holdings is about \$230 million, and the capital value is about \$950 million.¹³

LAND TRANSFER MECHANISM

The land to be returned could come from a number of different categories:

- unused land;
- land now used for social purposes such as schools, hospitals, universities, etc., where ownership of the land could be transferred and a term contract for its present use could be

negotiated, including provision for either a rental or a Maaori representation in management;

- land held for conservation or recreational purposes, where leaseback arrangements could be made or management transferred to Maaori authorities, with agreement that they would continue to meet conservation or recreational criteria;
- land now used by individuals under lease or license, where the transfer of ownership would need to recognize existing legal rights;
- land used for utilities or development purposes, where ownership is being or could be transferred to state corporations and where leaseback or profit-sharing agreements could be negotiated.

The current cost to the Crown of returning ownership of the land would be relatively small, but the real and psychological benefits to Maaori communities would be significant. In other cases, the costs could be more substantial in terms of the loss of benefit to future government budgets from expected payments by state-owned corporations. But it is the return of these particular lands that would make the substantial difference to Maaori economic prospects and, of equal importance, signal to both the Crown and the *Paakeha* substantial recognition of past wrongs.¹⁴

VARIATIONS OF LAND TRANSFER

The Treaty of Waitangi (State Enterprises) Act of 1987 provides for the return of land. In line with the traditional claim and this act, the Tainui seek an undertaking from the Crown

that the title of all Crown lands within the *raupatu* area as defined by Section 5 of the Waikato Maniapoto Land Claim Settlement Act 1946 be transferred to the Tainui;

that, where it is impossible for land to be returned, appropriate compensation in lieu be provided;

that the annual compensation grant to the Tainui Maaori Trust Board be back-dated to 1947 based on the rate of inflation and Consumer Price Index for the period 1947-88.

The tribe has made it clear that its proposal for the transfer of title does not necessarily include, in all cases, the transfer of use. For example, Crown lands demarcated as reserves or conservation areas, after being vested in the board, may be leased back to the Crown or its agents and may be administered under a partnership management structure consisting of the Crown or its agent and the tribal authority. This could also apply to Crown-owned buildings, depots, workshops, and general recreation areas. In the case of other resources, such as waterways, the Waikato River, forestries, fisheries, minerals, and other tribal *taaonga* (property), it is the recognition of the tribe's *rangatiratanga* (sovereignty/chieftomship) and its role as *kaitiaki* (protector/guardian) that is paramount.

CROWN FARMS

The tribe proposes that the title, use, and management of Crown-owned farms be transferred to its control. It envisages that *hapuu* (subfarms) would be allocated to Crown farms to manage, control, and develop in conjunction with the Tainui Trust Board. The profits from these land-based operations would be used to support *marae* (villages) with that particular tribal division. It is intended that the farm portfolio would provide a training base for young farmers.

LOST DEVELOPMENT OPPORTUNITIES

The Tainui have been disadvantaged not only through lost investment opportunities but also through loss of ownership, control, and revenue from physical resources. The effects of land loss on both tribal *mana* (status, spiritual strength) and tribal economy have already been implied. There remain other resources, such as water, fisheries, and minerals, which have been exploited for the benefit of the majority. Such exploitation has been carried out with no reference to *tangata whenua* (original owners) or value pertaining to these resources or the management of them. The following examples illustrate how the Tainui regard their resources and how traditional attitudes and methods of management might be adapted to serve pragmatic and developmental needs.

Water Rights

Ko Waikato te awa, ko Taupiri te maunga, ko Te Wherowhero te tangata.

Waikato is the river, Taupiri is the mountain, Te Wherowhero is the man.

As the tribal aphorism above indicates, water has featured and continues to feature significantly in the life and ethos of the Tainui people. Examples are inland waterways, harbors, and oceans such as the Waikato River, the west coast harbors of Kaawhia, Aotea, Whaingaroa, and Manukau. Inland lakes and tributaries are *taaonga* (prized possessions) whose significance goes beyond the material. These are *taaonga* that have been handed down for generations and that, despite *raupatu* and other circumstances of history, are recognized by the people as belonging to them. The tribe is therefore asking that its *rangatiratanga* (authority) and guardianship be recognized by the Crown.

Currently, control of the Tainui's major fresh and saltwater resources is exercised by the Ministry of Agriculture and Fisheries and a number of other government and local authorities. In a proposition similar to the proposal for the vesting and management of Crown lands, the tribe wishes to negotiate for a partnership management structure.

Fisheries

The Tainui have a strategy for the development of fish as a resource. The proposal contains four principal dimensions that follow the traditional pattern of fishing:

Rangatiratanga—authority over fisheries and the ability to determine structures for use and management. This would be vested in the *tangata whenua* (original owners) and in the tribal authority.

Kaitiaki—guardianship over the fisheries resource, both commercial and noncommercial.

Kaimoana—access to seafood for recreational, community, and traditional use.

Hoko ika—commercial development of fisheries operating in a variety of commercial structures.

The Tainui seek a partnership with the appropriate government agency for the management of their fisheries. Government officers would act as advisors, according to their scientific expertise and experience. *Kaumaatua* or *kuia* would be appointed as consultants, so that their traditional knowledge of the resource would be available to both the government and the tribe. Decisions regarding resource use would be arrived at jointly by consultation.¹⁶

Minerals

From the earliest times, the Maaori were aware of the existence of coal. Maaori at Taupiri pointed out to the missionaries a seam of coal on the surface, which the missionaries were able to use as fuel. At that period, Maaori had no need to utilize the deposits. Furthermore, their concept of the land as the body of Paptuanuku embraced both surface and subsurface, and they would never have separated the two. Nevertheless, their right to the minerals on their land should be acknowledged. Today, other indigenous peoples are recognized as retaining both surface and subsurface rights in their lands whether or not they have utilized the minerals. The act of confiscation, illegal in itself, does not negate ownership of minerals, including coal, under customary ownership.

The Crown's use of the coal resources, as well as the profit made by the Crown from selling confiscated land to private owners, should have resulted in a royalty payment or resource rental to the Tainui. Therefore, the Tainui wish to negotiate

- retrospective resource rental for all coal extracted from Waikato territories;
- current and prospective royalty for all coal extracted by the state or any other agency;
- lands not themselves having coal beneath them but acquired by the state to facilitate mining; lands remaining after coal has been extracted or otherwise no longer useful to CoalCorp or its successors;

- other assets such as houses, machinery and plant, storage, and service buildings.

NEGATIVE FUNDING

Currently, some \$900 million per annum is spent on negative funding to Maori people—that is, government expenditures to address the results of policy failures instead of the underlying causes, such as joblessness, poor schools, and inadequate health services. Of this amount, \$90 million per annum goes to the Waikato. What the Tainui seek through the current negotiations is justice, the achievement of which the government should recognize as contributing to its own policy of tribal devolution and ultimately the “national good.” The Tainui Trust Board believes that, by establishing a tribal economic base, it can, over a period of time, save the government as much as \$90 million.

The settlement issue should not be construed to mean that the Tainui, and the Waikato in particular, are not entitled to article 3 rights, which include a full share of government funding in the fields of education, justice, social welfare, health, and labor. In each of these arenas, the Tainui already have demonstrated their capacity to develop models that reflect the needs and aspirations of the “flaxroots” (pun on “grassroots” of *Paakeha*). To give one example, in the field of education and training, the Tainui have developed a comprehensive education plan for tribal members from birth to death.¹⁷

A TRIBAL EDUCATION PLAN

Endowed University Colleges

The Tainui Trust Board’s initiative for setting up endowed colleges has been received positively by such bodies as the University Review Committee and the University of Waikato. But the concept has not proceeded much beyond this. As part of its educational strategy, the board foresees that each college

would be autonomous; each would act as a physical entity within the university, with its own residential, tutorial, study, and workshop provisions;

would be a place of residence for a number of students, predominantly but not exclusively Maaori, who elect to live within a college environment that will be Maaori in as many aspects as possible, including language;

would have a tutorial staff offering some specialized lecturing to other departments in the university;

would provide, through seminar and research activities, a "think tank" where, in particular, national matters of policy and international matters of scholarship could be pursued at an advanced level;

would be a place where scholars of national and international status would be in residence for varying lengths of time;

would be a place for Maaori activities and workshops, especially in the arts.

International University Networks

To broaden its education network, the board intends to invest in residential properties at Oxford, England, and other university towns to accommodate Maaori students.

Church Endowments

As I indicated earlier, lands generously endowed to the churches by our ancestors were not used for the purposes originally intended. In the Waikato, specifically, the Kohanga, Hopuhopu, Pepepe, and Puniu lands were given for the express purpose of setting up schools for our children. Thus the church is as culpable as successive governments for the underachievement and underrepresentation of our children in educational institutions.

In order to redress this misuse of endowed lands, the board now seeks to renegotiate the terms of compensation, cooperation, and partnership with the Crown and the churches. The board seeks either the return of such lands or compensation in lieu. Any such compensation would be used to address the needs of such private

Maaori schools as Queen Victoria School for Maaori Girls and St. Stephens for Boys.

Primary Schools

Primary schools that are located within the Tainui's boundaries and that have a large number of Maaori students will be encouraged to establish bilingual and *kura kaupapa* (Maaori philosophy and methodology) programs. The board will assist in funding these programs as well as other supportive services.

Te Koohanga Reo

The board also is committed to the program for preserving the Maaori language, beginning at the preschool level. To this end, the board proposes to establish a *koohanga reo* (Maaori language school) on each *marae* within its boundaries—the better to preserve the Tainui dialect—and, where appropriate, to set up “language nests” in those urban centers that contain a large number of beneficiaries.

DEVOLUTION AND THE ESTABLISHMENT OF A TRIBAL ECONOMIC BASE

All these complex negotiations over tribal assets and the efforts to gain a significant economic base constitute the Trust Board's solution to assuring the continuing presence of the tribe on the land and the development of the tribe's most precious resource—its people. The Tainui number almost one-third of the total Maaori population of 404,000, with Waikato tribes constituting the largest number of Tainui. About one Maaori in every eight belongs to the Waikato. When those tribal members living overseas (particularly in Perth, Melbourne, and Sydney) are taken into account, the estimated Waikato population affected by the relief is close to 60,000. Many members now living outside their tribal areas would be willing to return home were they able to find a future there.

Sorely oppressed by both force of arms and legislation, the Waikato have survived. It is a survival honed by the Waikato's own historical experience and by knowledge of what has happened to other indigenous peoples through the history of global colonization.

FUTURE OPTIONS

There is really nothing like a severe grievance to focus the mind and the energy. *Raupatu* has given the Tainui the strength to preserve the structure (through Kiingitanga and the Trust Board), to organize, to sustain loyalty and commitment, to maintain an education and communication system (the Poukai and tribal meetings), to pass on the message to future generations, and to formulate a powerful set of symbols and sayings that provide ideological continuity and power.

The result is that the Tainui movement has maintained and gathered strength in this century. Its most recent form has been research and development. The Tainui tribe has begun to operate like a large corporation: The people set the goals; the Trust Board specifies the work; the board, the university, or the management groups sort out the information for strategic planning. Targets are set, jobs allocated, and progress monitored.

The Tainui tribe has set about assessing its future resources. As land comes back, there will be a need for farm management. Exploitation of coal will require the formation of joint ventures. Fisheries need to be developed. Forests need to be managed. Horticulture will have to be overseen. Real estate, insurance, and investment programs will need to be developed.

From this survey, some important points emerge.

The assets must be managed so that the entire tribe benefits, but assets must not be distributed individually. Profit maximization is an important goal to ensure that there is ongoing funding.

The assets must be managed for the benefit of future generations. Resources must not be squandered or lost again. Therefore, conservation motives enter the equation. The assets must be protected and used in environmentally friendly ways.

We are not constrained by national boundaries or national goals. We can reach across to the postcolonial world and find a history of common interest, understanding, and purpose within the Pacific Rim and internationally.

We will manage our energy assets so that nonrenewables are replaced by sustainable resources. With sufficient capital, we might enter other energy areas—for example, the production of solar cells or the manufacture of cogenerators—and leave what coal is left for future generations.

We know what assets we will get. We have a strategy for their use. Ground so gained is worth more than soil alone, for it uses the

personal and tribal resources of wit and intelligence, "know-how," and "know-more."

CONCLUSION

Throughout this paper, I have tried to paint in broad brushstrokes the Tainui's "collective representation," including their attitudes towards *raupatu* and their attempts to redress the matter. With the establishment of the Waitangi Tribunal and the extension of its investigatory powers back to 1840, and the subsequent reports and recommendations to the government, a whole new scenario is emerging on the national front. From being a "nullity," the treaty and Maaori rights are moving from the periphery of the national psyche to centerpoint. The general population is being forced to face some uncomfortable facts about the history of New Zealand, including its development at the expense of its indigenous people.

There is no justification for oppression, least of all the belief that the position of the Maaori people is due to biological deficiencies. As the rethinking and rewriting of so much colonial history has shown, a deeper analysis of race relations reveals that, most often, people have been treated as subhuman when it has been economically profitable to deny them their humanity.

Paakeha, in general, are ill-informed about the history of global systemics and the way economic strategies have dictated ideologies and shaped race relations. *Paakeha*-New Zealanders are even less well informed about the country's colonial history and how, despite the idiosyncracies, that history is a mini-version of the global past. Former New Zealand prime minister David Lange challenged the United States Goliath on the nuclear-free issue, and this small nation has been a leader in other difficult areas as well. Now New Zealand must not lose the opportunity to lead the world on issues of indigenous rights and the creative resolution of historic grievances.

Redress for *raupatu* requires the adjustment of history and reparations for injustices wrought. Avoidance and circumvention through legislation will not dissipate the pain nor erase it from the collective memory. As the Manukau report states,

To begin with we must lay bare the truth of history, for he who does not know the past will never understand the present.¹⁵

Many outsiders wonder at the Tainui's cohesiveness despite all the vagaries of history. They ask how this tribe has survived. The answer lies in a common descent from the voyagers on the Tainui canoe, in *raupatu*, and in allegiance to the Kiingitanga and its present head, Dame Te Atairangikaahu. Historically and to this day, the Kiingitanga is the rallying point, both symbolically and politically, for the Tainui's efforts toward cultural and social sovereignty and economic self-sufficiency. This should not be regarded as a form of separate development but rather as an expression of King Taawhiao's vision of a bicultural society, where

*Kotahi anoo te kohao
o te ngira*

There is only one eye
of the needle

E kuhu ai
- *te miro whero*
- *te miro maa*
- *te miro pango*

- the red thread
- the white thread
- the black thread

NOTES

1. Te Hurinui Jones, *First Annual Report of the Tainui Maaori Trust Board* (Ngaruawahia, NZ: Tainui Trust Board, 1947), 5.

In the year 1863, the NZ Settlements Act became law. It was through the enactment of this bill and its practices that confiscation of Waikato lands was executed. 1,202,172 acres were originally confiscated. Of this area, 314,364 acres were returned to the Maaori, leaving 887,808 acres of Waikato lands confiscated. However, in the year 1922, 13,947 acres were returned to the Maaori Land Court to settle land claims for those people of Waikato who remained landless.

2. Richard Mulgan, *Maaori, Paakehaa and Democracy* (Auckland, NZ: Oxford University Press 1989), vii.
3. F. M. Brookfield, "The New Zealand Constitution: The Search for Legiti-

macy," in *Waitangi, Maori and Pakeha Perspectives of the Treaty of Waitangi*, ed. I. H. Kawharu (Auckland, NZ: Oxford University Press, 1989), 9.

4. See NZ government, *Appendices to the Journals of the House of Representatives*, G10, New Zealand (Wellington, NZ: Government Printer, 1932), 10.

5. K. N. Egan and R. T. Mahuta, *The Tainui Report, A Survey of Human and Natural Resources* (Hamilton, NZ: Centre for Maaori Studies and Research, University of Waikato, 1983), 26.

6. Jones, *First Annual Report*, 160.

7. See *Te Hookioi* (NZ, 8 December 1862), 8-12.

8. Henare Tuuwhangai, personal communication.

9. See Hirini Taiwhanga, *Compilation on Treaty Issues and the Treaty of Waitangi: A Selection of Speeches* (Hamilton, NZ: Centre for Maaori Studies and Research, University of Waikato, 1989).

10. *Finding of the Waitangi Tribunal on the Manukau Claim* (Wellington, NZ: Government Printer, July 1985), 29.

11. See Wai-27 (Hamilton, NZ: Centre for Maaori Studies and Research, University of Waikato, n. d.); James Belich, *The New Zealand Wars and the Victorian Interpretation of Racial Conflict* (Auckland, NZ: Auckland University Press, 1986); B. J. Dalton, *War and Politics in New Zealand, 1855-1870* (Sydney, Australia: Sydney University Press, 1967); Claudia Orange, *The Treaty of Waitangi* (Wellington, NZ: Allen and Unwin, 1987); M. P. K. Sorrenson, "Towards a Racial Interpretation of NZ History: The Role of the Waitangi Tribunal," *NZ Journal of History* 21:1 (April 1987); Alan Ward, *A Show of Justice: Racial "Amalgamation" in 19th Century New Zealand* (Auckland, NZ: Auckland University Press, 1973).

12. See *Appendices to the Journals of the House of Representatives, New Zealand, 1932, G10:10*.

13. See the Calderwood case in Canada cited in *Dominion Sunday Times*, 15 October 1989, 2.

14. See New Zealand Parliament (NZPC), 1988.

15. See *Finding of the Waitangi Tribunal on the Manukau Claim*, 1985:47.

16. Centre for Maaori Studies and Research, *A Management Plan for the New Zealand Maaori Fishing Industry* (Hamilton, NZ: University of Waikato, June 1989).

17. J. R. Dyall and C. Mako, "Negative Funding and Inequity" (Paper prepared for the Maaori Economic Development Commission, 1985).